

MEETING:	PLANNING COMMITTEE
DATE:	14 MAY 2014
TITLE OF REPORT:	P140290/O - PROPOSED ERECTION OF 2 NO. FOUR BEDROOM HOUSES AND 1 NO. TWO BEDROOM BUNGALOW WITH ASSOCIATED LANDSCAPE WORKS AT LAND ADJACENT TO BARBERRY HOUSE, THE ROW, WELLINGTON, HEREFORDSHIRE, HR4 8AP For: Mr Millar per RRA Architects Ltd, Watershed, Wye Street, Hereford, Herefordshire, HR2 7RB
WEBSITE LINK:	https://www.herefordshire.gov.uk/planningapplicationsearch/details/?id=140290

Date Received: 28 January 2014 Ward: Wormsley Ridge Grid Ref: 349024,247812

Expiry Date: 2 April 2014

Local Member: Councillor AJM Blackshaw

1. Site Description and Proposal

- 1.1 The application site is a parcel of land that is located on the southern edge of the village of Wellington. The site is a former orchard that has retained some of its trees and is associated with the dwelling known as Barberry that lies to the west of the C1109 ('The Row'). The site lies in an elevated position with a mature hedge and embankment forming the boundary to the roadside. The site is in an elevated position, that rises westwards away from the highway towards the remaining orchard trees. The most westerly point of the site is nearly 5 metres higher than the existing highway at the centre of the proposed access.
- 1.2 The area is characterised by detached properties that are primarily located within substantial residential curtilages. There is a mix of architectural styles and ages of dwellings including bungalows, two storey cottages and modern dwellings. Immediately opposite the site and fronting the highway lies the two storey cottage known as Jabrin House, and to its south the recently constructed dwelling Hill Lodge. To the south of the site, on the same side of the road as the highway and in an elevated position is Gelerts Brow.
- 1.3 The application is in outline with all matters reserved and is for the erection of 2 no. 4 bedroom houses and 1 two bed bungalow. The application has been supported by a Design and Access Statement, Ecological Report, Transport Statement (and update) along with indicative masterplan and sections that consider the site levels, potential excavations (cut and fill) and access position.
- 1.4 The masterplan details two dwellings fronting the highway, positioned approximately 10m back from the edge of the carriageway but in a position approximately 2m above the height of the carriageway. Some cut and fill will be necessary to take into account the rise in the land at this position. The third dwelling, a bungalow, would be sited further west on the site at the top of the slope.

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

- 1.5 Indicative plans have also been received that detail the position of the access into the site in a relatively central position. These plans seek to demonstrate that access can be achieved to the site with the required visibility splays using a retaining wall, battered bank and land grading. In order to achieve these visibility splays the application includes a small triangle of land that is in the ownership of Gelerts Brow to the south. Details of the excavation required to undertake this have also been supplied.

2. Policies

2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

Introduction	-	Achieving sustainable development
Section 6	-	Delivering a wide choice of high quality homes
Section 7	-	Requiring good design
Section 8	-	Promoting healthy communities
Section 11	-	Conserving and enhancing the natural environment

2.2 Herefordshire Unitary Development Plan 2007 (UDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
H4	-	Main villages: Settlement Boundaries
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
T11	-	Parking Provision
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
NC8	-	Habitat Creation, Restoration and Enhancement

2.3 Herefordshire Local Plan – Draft Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geo-diversity

- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources

2.4 The Unitary Development Plan, Draft Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/local-plan>

3. Planning History

- 3.1 S131969/O - Erection of 2no.4 bedroom houses and 1no. 2 bedroom bungalow with associated landscape works – Withdrawn.
- 3.2 SH971332/O – Two detached bungalows with garages – Refused 7 January 1998.

4. Consultation Summary

Statutory Consultee

- 4.1 Welsh Water – Recommend Conditions be attached to any planning permission

Internal Consultation responses

- 4.2 Conservation Manager (Ecology)

Following on from my previous comments regarding application number 131969/O, I was expecting further information from the applicant concerning a management plan for the orchard prior to me devising conditions for the application. My last email exchanged with the Ecologist regarding this stated the following:

“I'm of the mind that a condition might be applied whereby the orchard area might be renovated and, provided agreement is reached on a plan such as you suggest, I would agree to a condition regarding this.”

The policy constraint on priority habitats still applies but there are advantages to the environmental enhancement of the site and the continued maintenance of its orchard status through condition.

Although we have an 'in principle' acceptance for a condition regarding the enhancement of site ecology, no agreement has been reached for renovation of the orchard. The site's environmental management proposals should have been informed by additional survey information on the trees which should have taken the form of an arboricultural impact assessment (in accordance with BS5837:2012) as requested at the pre-application stage. This ought to have been supplemented by any additional ecological information required upon which to base a management plan for the site. For the current application, I can see no information over and above that originally submitted for the last application.

In previous emails the Ecologist discussed a range of possible enhancements and management but none of these ideas appears to have been commissioned by the applicant and submitted in a consolidated for consideration as part of the current application.

I'm afraid if the information is not forthcoming upon which to agree a management plan, I cannot see how a method statement to implement such a plan can be conditioned and I would recommend refusal.

For information, the comments previously raised as part of application 131696 are as follows:

In the pre-application advice I note that the previous ecologist requested a detailed habitat survey. The ecological survey which has been commissioned is “an ecological walkover survey and 'Initial Protected Species Appraisal'.” This is not a detailed survey to the standard of an extended Phase 1 as defined by the JNCC which should accompany planning applications and which would have been expected.

In addition, the report concludes that such a small site does not warrant a local biological records search. This is not the case; any site for which development is proposed should be accompanied by such a search to flag up potential protected species both on the site and within its environs which may be affected by the site's development. Such a search would have confirmed the site to be identified as a traditional orchard site and of national importance as UK Biodiversity Action Plan (UKBAP) habitat. Such orchard sites are of prime importance locally and are consequently included as habitat worthy of conservation within the Herefordshire Biodiversity Action Plan. With regard to protected species, a biological records search would also have revealed the presence of barn owl, brown long-eared bat and peregrine falcon within 500 metres of the site. Even with relatively poor grassland within this orchard, there is foraging potential for barn owl and for long-eared bat. In addition, old orchard trees are known to be important habitat for the declining lesser spotted woodpecker and noble chafer. Old orchards possessing even a few decaying trees are known to support both breeding and foraging habitat which sustains these, now rare, species. These are material considerations. There is a national and local imperative to conserve these species and to maintain old orchards by replanting. Pre-application advice was given on the importance of this site as a priority habitat and that “Policy NC6 of the UDP and the NPPF support the protection of priority habitats. The orchard is also an important feature in the wider landscape and should be protected under UDP Policy LA2.”

Unfortunately the ecological report as commissioned does not provide the detail required to fully evaluate the site and concludes the site and its grassland and hedgerows as of low ecological value. This may be inferred from the scant information provided but the information from a detailed survey which was requested may well have shown otherwise.

In consideration of the importance of this habitat, the pre-application advice called for a tree and hedgerow appraisal “in accordance with BS5837:2012.” This has not been done. The photographs indicate that there are more than just a few trees on site. No British Standard criteria have been applied to the survey of these trees as per BS5837:2012. Consequently the potential of these trees to support important invertebrates, birds or even bat roost potential has not been identified or ruled out.

Replanting of a proposed loss of 30 metres of hedge is indicated but the pre-application advice recommends retention and protection of hedgerows and trees. This is not proposed. Finally, the advice also sought a Landscape and Ecological Management plan; this has not been provided and the short Section 5 Precautionary Mitigation and Recommendations of the ecologist's report is not an adequate substitute for this.

I cannot support this application in any way, shape or form and would recommend that the application is refused on the grounds of loss of ecologically important habitat which planning policy and the Local Biodiversity Plan for Herefordshire seek to protect.

4.3 The Transportation Manager has made the following comments:

The applicants transport consultant is claiming the acceptability of measurement of visibility to centre line of road on the earlier determination of an application for a single property

opposite, for which the Decision Notice (DCC072314F) conditions visibility distances to centreline.

In my comments on that application, I stipulated visibility to centre line to the left and edge of road to the right, and whilst indicated correctly on the approved plan, this was unfortunately incorrectly described in the Decision Notice.

The use of centre line to the left was in response to the planning officer's desire to reduce the amount of bank and hedge removal and as approaching vehicles would still be visible at the requisite stopping sight distance, and any cyclist likely to be on the far side or at worst middle of the road, was considered acceptable. I would add that the permission was for a single property. It is also worthy of note that achievable visibility to the right for that property is significantly in excess of the conditioned figure.

Manual for Streets Paragraph 7.7.5 allows measurement of visibility to centre line where there is no likelihood of vehicles being on the offside. However, this is in reference to two lane roads (as it mentions segregation of opposing flows and crossing of the centre line) and does not, in my view, refer to single track roads.

I would firstly comment that the information in the Mayer Brown Statement dated 23rd October 2013 appears conflicting between the information in Table 1 and the data sheets for the ATC for 85thile speeds, in that the directions are reversed. The visibility "Y" distances proposed are already at Minimum Stopping Sight Distance under Manual for Streets 2 for the measured speeds, and which document suggests that measurements are taken to edge of road. Drivers approaching the access from the south, due to their position, would however be able to see an emerging vehicle for in excess of the required stopping sight distance as they would occupy nearly the whole road width and in view of the low vehicle flows on the road an inspector may well consider that is an acceptable situation. Of possible concern may be a cyclist/motorcyclist approaching from the south on the downhill section close to the nearside and of whom an emerging driver may not have sight at the requisite distance, and who have would have slightly inadequate visibility of the emerging vehicles, but again this comes down to likelihood. This is also relevant to the 2.0m setback which would require a vehicle to project into the road to enable the driver to gain visibility, and whilst forming an obstruction, will also render it more visible to those approaching.

To the north, a measurement to centre line will allow an approaching vehicle to be seen at the requisite stopping sight distance.

Ultimately it comes down to assessment of the particular circumstances and the reasons why visibility to edge of road cannot be achieved. In this case, the requirement to the edge of road to the south could be achieved but would result in further bank removal and greater impact and to the north again could be achieved by a greater amount of bank removal, and which may increase vehicle speeds along the road by increasing forward visibility. It is noted that in order to achieve visibility to centreline the proposal involves the visibility splay lines passing very close to the proposed retained bank leaving very little margin for vegetation growth, which is of concern. Our normal requirement is for the splay to be 600mm above the ground level.

I consider that visibility splays should be provided to edge of road and I am unconvinced that, for the reasons previously stated, the decision for the property opposite creates a precedent for measurement to centreline as the consultants claim.

The application is submitted in outline with all matters reserved and therefore the details of access and bank retention are submitted to establish the principle that a safe and satisfactory access can be achieved to serve the development and within the control of the applicant.

I am satisfied that the submitted access details could be amended by altering the access location/changing bank details) to achieve the required visibility to edge of road in both directions, within the ownership of the applicant and the adjacent landowner (whose agreement I understand has been confirmed) and therefore I would recommend that delivery of visibility splays to edge of carriageway is secured by way of condition on any consent granted. On the basis of the anomaly in directions identified above but similar visibility figures, I would suggest conditioning of the larger value in both directions.

I do not consider that the submitted retaining structure proposals are acceptable. However I consider that a technically satisfactory scheme could be produced for the bank retaining structure within the site and adjoining ownership, and that such details could be dealt with at reserved matters/full application stage and will require 'Approval in Principle' prior to determination at that stage, the cost of design and checking of which would be borne by the applicant.

On that basis my recommendation is for approval subject to the following conditions.

CAB (2.0mx33m measured to edge of carriageway CAE CAH CAL CAZ and informatives I01 I05 I45 and I51 (or wording "The proposed development involves retaining walls/structures within or affecting the public highway and this planning permission does not convey any right to do such works. Approval of the works by the local planning authority and a licence under Sections 167 and 177 of the Highways Act 1980 must be obtained prior to commencement of any works on site. The development shall not be occupied until the development scheme has been constructed in accordance with the approved details. The applicant should contact the Structures/Bridges Manager at Balfour Beatty Living Places".)

5. Representations

5.1 Wellington Parish Council makes the following comments:

Wellington Parish Council strongly opposes the outline planning application.

Background

- The Parish Council is not opposed to development within the Parish per se, but wants to see development targeted at identified NEED.

- There are currently some 420 properties in the Parish. Planning permission has already been granted (including developments underway) for 35-40 new properties, predominantly 'executive' style homes plus a small number of rental properties via Housing Associations – an almost 10% increase in total.

Issues

The proposed development is on a steeply sloping site accessed from a very narrow lane close to the brow of a hill and on a curve in the road. There are no footpaths. We consider the achievable visibility splay to be wholly inadequate if not dangerous, falling well below the requirements quoted as in the notes accompanying the application (table 1, page 3).

- this is an outline application and as such there is no guarantee that what is in this application, is what will be built, especially as there is sufficient space on the land in question for a greater number of properties. It is our opinion that this could result in gross over development if the principle of development is agreed.

- the claim that the two detached houses will be “multi-generational” cannot be supported without sight of a detailed application.
- the bungalow is at the furthest point from the road, at the highest point of the slope. It is also somewhat remote from the main village and so will have limited appeal to older, less able residents at whom this development is claimed to be 'pitched'.
- there is no 106 benefit to the community.
- the two detached homes will dominate the landscape at the location proposed; whilst there are two storey homes on the opposite side of the lane, apart from Barberry House (itself a conversion from an old property) the remaining properties on that side of the lane are bungalows.

UDP and Parish Planning

This site is outside Wellington’s current settlement boundary.

Councillors from Wellington have attended numerous seminars and training sessions concerning parish planning and neighbourhood development plans most of which attended by Herefordshire Council, with speakers from same. At every discussion, assurance has been given that the UDP remains in force until such time that the Core Strategy/LDF reaches its final approved position. We are told, in regard to this development, that this is no longer so and that NPPF allows the settlement boundary to be ignored.

Given the expectation that the LDF is still some number of months away, Wellington has a Parish Plan which is almost at the questionnaire stage (Planning for real having been undertaken in July) and is moving towards a Neighbourhood Development Plan, using the questionnaire as the first stage of this.

National Government has stressed that the Localism Act 2011 will put local decision making in the hands of local people. In view of this we ask the Council to honour their assurances that our current settlement boundary will be retained until such time that the wishes of our residents in regard to future development can be taken into account via our current Community Led Plan activity.

5.2 Letters of objection have been received from:

Mr Robertshaw and Mrs Robertshaw, Bankside, The Row, Wellington
 Mr and Mrs Hughes, Jabrin House, The Row, Wellington
 Mrs Lyke, Hill Lodge, The Row, Wellington
 Ms J Powell, Montrose, Wellington
 Mr Andrew Lucas, Gelerts Brow, The Row, Wellington
 Kay Holt, Munns Cottage, The Row, Wellington

These letters raise the following concerns:

Highway Issues

- The road towards Auberrow Cross roads is very narrow and vehicles often have to encroach on driveways to pass. The road is a blind summit to the east of Barberry House and a sharp bend in front of the property.
- The road has no footways and traffic often consists of trailers, large lorries etc that conflict with other road users and pedestrians
- Concern about achievable gradient.
- Concern about visibilities to be achieved and detail contained within the Transport Statement and report.
- The circumstances at Hill Lodge differ from those at the application site and the same standards cannot be applied.

Further information on the subject of this report is available from Ms K Gibbons on 01432 261781

Landscape / Character / Amenity Impacts

- Proposals will sit like a blot on the skyline / will dominate the skyline and does not enhance the approach to the village.
- The site is fronted by a substantial embankment and thick hedge along the lane side which form a very important visual component of this lane. The ecology report confirms this.
- The site lies between two distinct landscape characters 'Principal Settled Farmland' and 'Wooded estate land' and whilst very different both identify hedges as an important landscape feature along with small winding lanes nestling within a matrix of hedged fields.
- The proposal would not comply with policies LA2 or LA5 of the Unitary Development Plan.
- The loss of the traditional orchard on the edge of the village would cause significant harm to the rural setting of Wellington contrary to policy LA3 of the UDP.
- Up to 2000 the orchard was very productive and in good heart and was productive.
- The proposed dwellings would appear highly obtrusive / visually intrusive due to elevated position and have a highly urbanising effect. Boundary fences to allow for privacy may also have serious visual impact.
- Imposition of two storey properties on the high ground above the land is inappropriate when compared with the existing development on that side of lane. Existing properties on the west side are either 2 storey, where at verge level, or bungalows where away from the lane. The height of the dwellings would be significantly higher than Barberrry and Gelerts Brow.
- Significant ground excavation would be needed to create the access and retaining walls. This would alter the current natural land side and assume a heavily engineered appearance.
- There will be an increase in light and noise pollution
- The proposals detailed on the indicative plans would be 16m from Jabrin House and 2m above the level of ground level of the dwelling. This would lead to the windows of the proposed dwellings looking down to the bedroom windows. There would be a serious loss / impact upon living conditions.

Other matters

- No guarantee that only three properties will be built.
- The site lies outside of the defined settlement boundary and development outside of these areas is contrary to policy H4 of the UDP. There are no exceptional circumstances to allow this. There would be no public benefit arising from the grant of planning permission.
- The Council's own land assessment in 2012 identifies the site as being 'land with no potential during the plan period'. Little sense producing an assessment then so quickly ignoring it.
- There is a target of 65 houses to be built in the plan period and those with planning permission or land with low constraints would attain this.
- Planning permission was refused for a proposal of two bungalows and widening of the road in 1998 and similar issues still stand.
- The information requested by planning officers to assist in determining has not been provided.
- The images of 'precedent' are not of two storey dwellings and are misleading.
- The application fails to details: protection of hedgerow, consideration of alternative layouts, sustainable urban drainage, renewable energy, and integration into the built environment.

5.3 Letters of support have been received from:

Mrs N Probert, Yew Trees, The Row, Wellington.
Mr Prince, 10 Millway, Wellington.

These letters can be summarised as follows:

- Small developments such as this are an essential part of evolutionary growth.
- The application has been modified to address concerns.
- Recognise the need to sustain a community with housing growth through estates and smaller individual developments where opportunity exists.
- Parish Plan cites need for two and three bedroom properties.
- Properties such as bungalows are in short supply and there is a need to be met for elderly persons.
- Already a mix of dwellings in the area and any new would be able to be designed to fit in with the character of the area.

5.4 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-
www.herefordshire.gov.uk/government-citizens-and-rights/complaints-and-compliments/contact-details/?q=contact%20centre&type=suggestedpage

6. Officer's Appraisal

6.1 The application seeks outline planning permission for the erection of 3 dwellings on land outside but immediately adjacent the settlement boundary for Wellington (Policy H4 of the HUDP). The application, in common with many considered by Planning Committee recently, is submitted against the backdrop of a published absence of a 5-year housing land supply as required by the National Planning Policy Framework (2012).

6.2 In response to the acknowledged deficit of housing land the Council introduced an interim protocol in July 2012. This recognised that in order to boost the supply of housing in the manner required it would be necessary to consider the development of sites outside existing settlement boundaries. The protocol introduced a sequential test, with priority given to the release of sites immediately adjoining settlements with town or main village status within the HUDP. For proposals of 5 or more, the sites in the first rank in terms of suitability would be those identified as having low or minor constraints in the Strategic Housing Land Availability Assessment (SHLAA).

6.3 The position as regards the scale of the housing land supply deficit is evolving. Following the Home Farm decision it remains the case, however, that for the purposes of housing delivery the relevant policies of the HUDP can be considered out of date. As such, and in accordance with paragraph 14 of the NPPF the Council should grant permission for *sustainable* housing development unless:-

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- *specific policies in this Framework indicate development should be restricted.*

- 6.4 In the context of a housing land supply deficit there can be no legitimate objection to the principle of development outside the UDP defined development boundary; UDP Policy H4 being out of date.
- 6.5 There remains a requirement for the development to accord with other relevant UDP policies and NPPF guidance; paragraph 14 makes it clear that the balance between adverse impacts and benefits should be assessed against the policies in the NPPF as a whole.
- 6.6 The site was considered in the Council's most recent Strategic Housing Land Availability Assessment (SHLAA). The site was rejected through the SHLAA review, and was not considered to have development potential, for the following reasons:

This site is elevated (potentially costly to develop) and access via the C1109 towards the south would be unacceptable owing to lack of width. Widening does not appear possible. The site is also remote from village amenities.

Whilst it is possible to consider sites that have been rejected through the SHLAA, applications should seek to address and overcome the concerns raised so as to allow the assessment of the proposal in light of HUDP policies and the NPPF and to consider the benefits and potential harm of the development.

- 6.7 As well as consideration of the principle of developing a green-field site the application raises a number of material considerations requiring assessment against saved HUDP policies and guidance laid down in the NPPF. Firstly there is the assessment as to whether the development would represent sustainable development. The NPPF refers to the social, environmental and economic dimensions of 'sustainable development'.
- 6.8 In this case the site is considered broadly to represent a sustainable location given its immediate proximity to the settlement boundary of the village of Wellington that offers a range of goods and services necessary to sustain a typical household. However, it is necessary to consider the distances to these services and their connectivity in terms of 'sustainability' and reducing the need to travel. Walking, by means of the public highway, to school is a distance of 1.3km and whilst the shop is relocating to a position closer to this site, it would still be over 600m away along narrow, unlit highway with no footways. There are a number of Public Rights Of Way that serve the village that may be shorter distances but these are unlikely to be used for everyday trips in winter months and as such it is suggested that many of the trips made from this location will be by private motor car rather than by alternatives such as bike or foot. It is however recognised that Wellington has good public transport links to the County's main centre of population (Hereford) and the goods, services and employment opportunities located there.
- 6.9 The three roles of sustainability that are reflected throughout the NPPF and through the HUDP policies also need to be considered and I am of the view that the proposal for residential development on this site would fail to comply with current HUDP policies and the NPPF for a number of reasons as discussed below.

Access and highway safety

- 6.10 As described above, the site does occupy an elevated position, with a bend to the north and rising hill to the south. The lane is narrow in character with an embankment and mature hedge to the west and dwellings immediately fronting it to the east. Therefore there are some significant constraints to creating an access in this location. As such the application submission included a transport assessment and update, and following discussions with the agent, an updated plan that indicates the position of the access, position of the wall and the achievable visibility splays. The Transportation Manager's comments conclude that there is

a technical solution to providing an access to the site, but that further information would be required to properly identify how this would be achieved. This may involve further land excavation or re-siting of the access. These comments are however based on the inclusion of the land that belongs to the adjoining neighbour at Gelerts Brow to allow the creation of a retaining wall and provide the required visibility to the south. Confirmation has now been received from the third party landowner (dated Nov 2013) stating that they are agreeable to the sale / use of the land for the creation of this access. It is possible to impose a Grampian condition requiring that the access is undertaken before any other works when there is a degree of certainty that the land can be acquired or used. This letter has achieved this but it is also common practice to secure this through a Section 106 agreement.

- 6.11 Having regard to the details and application submitted, it is technically possible to provide access to the site with the required visibility splays in accordance with the requirements of policy DR3 of the HUDP subject to conditions being imposed as above. The implications of the access in terms of impact upon the character of the area, landscape and biodiversity are discussed in more detail below.

Landscape Impact and impact upon the character of the area

- 6.12 The site slopes from the roadside on the east boundary, up to the west. It is part of the lower slopes of Adzor Bank, an area of high ground that is a local landscape feature. There is a well established mixed native hedgerow and bank along the road boundary. There are many old orchard trees present on the site. There is hedgerow along the other three site boundaries. These are shown on the existing site survey provided, together with the contours showing the shape of the land.
- 6.13 The trees have a high public amenity value, in accordance with the assessment criteria for TPOs. They are easily visible from the adjacent public highway (C1109) and public footpath (WG26). As an orchard group they are considered to be an important local landmark and characteristic of the area. The average tree size is approximately 3 to 5m. The trees have historical significance as orchards forming part of the Herefordshire landscape and biodiversity habitat and their retention should be considered having regard to policy LA5. The orchard and application site is also an important feature in the wider landscape and should be protected under HUDP Policy LA2. The site's location on the approach to the village is also a consideration having regard to policy LA3 of the HUDP.
- 6.14 There are a number of negative landscape impacts identified in respect of this development that have been considered and explored in some detail. Firstly, the loss of hedgerow and orchard that are both characteristic features of the area is a key concern. The hedgerow may not be classified as Important under the Hedgerow Regulations, however it is certainly an important linear landscape feature and wildlife corridor. Its removal would be required to create the access and visibility splays, therefore widening and opening out the narrow country lane, Due to the change in levels and necessity to maintain visibility splays the proposal would require the use of retaining walls, battered banks and some planting above (as detailed in the submission). This would result in an open verge and an engineered appearance completely altering the existing character of this rural lane that forms part of the approach to the village.
- 6.15 The application submission provides some additional information within the Design and Access Statement referring to the bungalows to the north that also utilise retaining walls and sit in elevated positions. Whilst these are noted, the site levels and character of this part of the lane varies considerably from this site. The buildings at Barberry form a natural stop to the ribbon development along this lane, with the rise of the lane, rise of the land to the west and the existence of the roadside hedge and bank being representative of the change in character.

- 6.16 The requirements of policies LA2 and LA3 are explicit in that proposals that adversely affect either the overall character of the landscape, landscape setting of the settlement will not be permitted. The access in itself would have a significant adverse impact. The introduction of the dwellings, access, parking, turning areas, boundary treatments and other residential paraphilia in this location would not only lead to the loss of the orchard but would fundamentally alter and harm the landscape. The dwellings would be intrusive and overbearing in this quiet rural street scene. It is also notable that the proposed layout does not follow the existing ribbon development along this country lane approaching Wellington village, particularly the third dwelling to the rear. As such officers conclude that the proposed development would significantly and adversely impact upon the character of the area contrary to policies LA2 and LA3 of the Unitary Development Plan and guidance contained within the NPPF that seeks to ensure that developments respect the character and quality of the area.
- 6.17 Policy LA5 is more difficult to consider. This policy seeks to resist proposals that would cause loss or damage to trees, hedgerows and mature orchards but acknowledges that loss can sometimes be mitigated through the submission of landscaping plans. Whilst there is an “in principle objection” to the loss as they are fundamental to the character of the area, if this application was to be approved, then conditions could be imposed to ensure that mitigation is secured. This application has not sought to address this through the submission of any tree surveys or plans and this matter is considered in tandem with the biodiversity issues discussed below.
- 6.18 The site is identified as a traditional orchard site and of national importance as UK Biodiversity Action Plan (UKBAP) habitat. Such orchard sites are of prime importance locally and are consequently included as habitats worthy of conservation within the Herefordshire Biodiversity Action Plan. Biological records reveal the presence of barn owls, brown long-eared bat and peregrine falcon within 500 metres of the site. Even with relatively poor grassland within this orchard, there is foraging potential for barn owl and for long-eared bat. In addition, old orchard trees are known to be important habitat for the declining lesser spotted woodpecker and noble chafer. Old orchards possessing even a few decaying trees are known to support both breeding and foraging habitat which sustains these, now rare, species. These are material considerations. There is a national and local imperative to conserve these species and to maintain old orchards by replanting.
- 6.19 HUDP policies NC1 and NC6 require that development proposals demonstrate that proposals would have no adverse effects on any adjacent biodiversity and features or damage protected or priority habitats or protected species. Policy NC8 offers the opportunity to provide enhancement of sites and landscapes and this is supported by the National Planning Policy Framework. As part of the ongoing discussions in respect of this development, the concerns about the ecological impact of the development through the loss of the priority habit have been raised and it was concluded that in the event that this proposal was granted planning permission then the most ‘pragmatic’ way to address these issues would be through the use of appropriately worded condition, requiring a detailed 5-year Orchard Enhancement and Management Plan to be drawn up and agreed prior to development works starting. As such I would acknowledge that the enhancement of the remainder of the site (within the Blue Line) would balance the ecological impact (loss of part of the orchard habitat) in favour of an overall biodiversity benefit (from enhancing the larger un-developed parts of the orchard, which are currently in poor condition). With this mitigation secured through appropriately worded conditions, the requirements of policy NC6 would be met. It was also suggested by the applicants’ ecologist that the arboricultural appraisal and tree protection plan could be secured by condition but these details were, it appears, requested by the Councils ecologist to form part of the application. They have not been supplied and the comments received from the Conservation Manager above reflect this request.

- 6.20 Given the sensitivity of the site, its importance in both landscape and biodiversity interest of the site, it is officers opinion that there is insufficient information provided with this application to be able to confidently agree that the loss of trees and impact upon habitat protected by policies LA5 and NC6 of the HUDP can be adequately mitigated through the imposition of conditions. As such, on the basis of the information provided as part of this application submission it is concluded that the proposal fails to comply with these policies and policy NC8. NPPF guidance is consistent with these policies in that it seeks to protect and enhance valued landscapes and minimise the impacts upon biodiversity and provide net gains in biodiversity where possible.
- 6.21 It is therefore officers opinion that the proposal fails to represent sustainable development when having regard to the Environmental Roles of Sustainable development identified within the National Planning Policy Framework.

Impacts upon residential amenity

- 6.22 It is noted that this is an outline application, with all matters reserved but nonetheless, given the indicative information provided the impact that the proposed development would have on the amenities enjoyed by local residents is a material consideration. One of the issues raised relates to the impact upon the amenities of nearby residents and officers have particular concern about the impact on Jabrin House and the properties to the east of this lane. The prime concern is in respect of the elevated site, and the siting of the two, two storey dwellings and the potential for these to be overbearing in their impact. There is also concern that the properties will directly overlook and impinge upon the privacy of the occupiers of these dwellings. As such it would be contrary to policies DR2 and H13 of the HUDP and to design guidance within the NPPF that seeks to ensure a high quality design and good standard of amenity for all existing and future occupants of land and buildings.
- 6.23 It is also inevitable that a considerable amounts of earth work will be required to create the access and any terraces for building and parking areas. Details of these have been provided that show an element of 'cut and fill' for the dwellings. There would be a necessity to remove approximately 136 cubic metres of soil from the site to create the access. Whilst this is not an exact science, without the benefit of land make up or conditions, this would mean approximately 50 lorry loads (16 tonne, 6 wheeler) of material would need to be removed. Whilst construction management can be addressed this is still a material consideration given the constraints of the highway network and proximity of other dwellings, one that is of cause for significant concern in itself, albeit a short term activity.
- 6.24 It is also drawn to the attention of Members that the refusal of planning permission for two bungalows on this site (SH971332/O) addressed similar concerns as outlined above and was refused for the following reason:
- 'The proposed siting of two bungalows in this relatively elevated countryside location, no matter how well designed, coupled with the inevitable excavation of the land on the road frontage to create a satisfactory and safe new access, would be environmentally and aesthetically unacceptable and as such would be contrary to the policies...'*
- 6.25 For the reasons given above in relation to the impact of the significant engineering works required, the removal of the roadside bank and hedgerow, the partial loss of a priority habitat, poor layout of the scheme in relation to its locality, and potential impact upon the amenities of local residents, development of this site would be contrary to the policies of the Unitary Development Plan and guidance contained within the National Planning Policy Framework when considered as a whole.
- 6.26 I would conclude that the significant harm of the development would significantly and demonstrably outweigh the benefits that this small scale development would provide. The proposed development falls to be considered having regard to the requirements of

paragraph 14 of the NPPF that means that Local Planning Authorities should approve sustainable development proposals that accord with the development plan and as the Council has a deficit of five year housing land supply, grant planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the framework when taken as a whole.

- 6.27 Whilst the construction of three dwellings would have the acknowledged benefits in terms of the economic role of sustainable development, the benefits in terms of boosting housing land supply would be minimal. Likewise, there would be minimal social benefits from this proposed development other than to improve the range and type of dwellings available. The above report has carefully considered the proposal in respect of its environmental role in sustainable development including the benefits that may be secured through ecological enhancements and has concluded that the development, for the reasons given above would be contrary to HUDP Policies DR2, H13, LA2, LA3, LA5, NC1, NC6 and NC8 and that the adverse impacts of the development would significantly and demonstrably outweigh the benefits. As such, the proposal is recommended for refusal as detailed below.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The development of this application site, by virtue of the site's location and topography, would result in a form of development that would adversely impact upon the character of the area that also has significant landscape and biodiversity value and interest and that forms part of the setting of the settlement of Wellington contrary to Policies LA2, LA3 and H13 of the Herefordshire Unitary Development Plan and the guidance contained within the National Planning Policy Framework.**
- 2. The application would lead to the loss or partial loss of important trees that form part of a UK priority habitat contrary to the requirements of Policies LA5, NC1 and NC6 of the Herefordshire Unitary Development Plan. The application does not provide sufficient information in order to demonstrate that an enhancement and benefit could be secured and as such does not comply with the requirements of Policy NC8 of the Herefordshire Unitary Development Plan.**
- 3. The proposed development, by virtue of the site's location, topography and relationship with neighbouring properties, would represent an overbearing and intrusive form of the development that would potentially impact upon privacy and amenities currently enjoyed contrary to Policies DR2 and H13 of the Herefordshire Unitary Development Plan and guidance contained within the National Planning Policy Framework.**

Informative:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reasons for the refusal, approval has not been possible.**

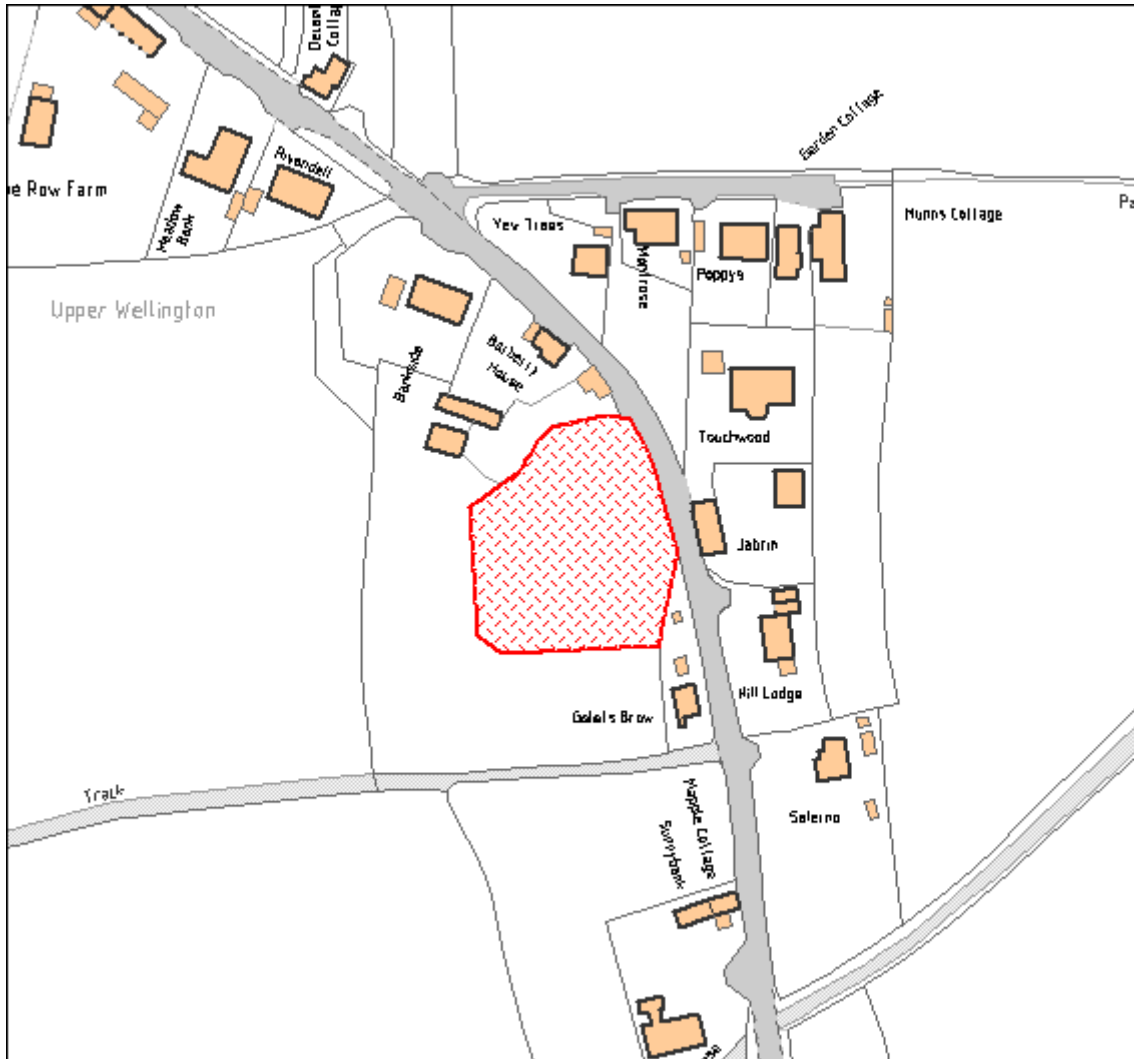
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 140290/O

SITE ADDRESS : LAND ADJACENT TO BARBERRY HOUSE, THE ROW, WELLINGTON,
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