

MEETING:	PLANNING COMMITTEE
DATE:	10 DECEMBER 2014
TITLE OF REPORT:	P141917/F - PROPOSED CONSTRUCTION OF 27 DWELLINGS TO INCLUDE 9 AFFORDABLE, NEW ACCESS, SUSTAINABLE DRAINAGE AND LANDSCAPE WORKS AT LAND WEST OF PATRICK ORCHARD, CANON PYON, HEREFORDSHIRE, HR4 8NY For: Mr Pryce per Mr Russell Pryce, Unit 5, Westwood Industrial Estate, Pontrilas, Hereford, Herefordshire HR2 0EL
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141917&search=141917
Reason for Application Submitted to Committee – Contrary to Policy	

Date Received: 24 June 2014

**Ward: Wormsley
Ridge**

Grid Ref: 346182,248902

Expiry Date: 23 September 2014

Local Member: Councillor AJM Blackshaw

1. Site Description and Proposal

- 1.1 The application site comprises a parcel of pasture land that is 1.4 hectares in size and lies to the west side of the A4110 road to the northern end of the village of Canon Pyon. The site is relatively flat with a gentle fall from south to north. The northern boundary of the site is defined by the brook, bound on both sides by mature trees and vegetation. Beyond this lies the village recreation field. The west boundary is defined by a mature hedgerow whilst the eastern boundary with the road is enclosed by a post and rail fence that is adjacent to the public footway and grass highway verge. In the north east corner of the site is an apple and pear orchard. Access to the site is currently via field gates, one positioned centrally and one to the northern end.
- 1.2 The application site lies outside of but adjacent to the defined settlement boundary of Canon Pyon. Canon Pyon is a main village as defined by policy H4 of the Herefordshire Unitary Development Plan. Local Amenities include the pub, village hall, shop and a primary school to the north. Canon Pyon is identified in the Core Strategy as a village that is appropriate for proportionate growth. The site has also been assessed for its suitability as part of the Strategic Housing Land Availability Assessment 2012 as having low or minor constraints.
- 1.3 The proposal is a detailed application for planning permission for the construction of 27 dwellings (including 9 affordable dwellings). The application submission also includes provision for a sustainable drainage scheme, including attenuation ponds and public open space to the north. Within this a children's play area is also included, along with a network of footways and a bridge providing access to the recreation ground/playground. The plans, including layout and

house type designs have been amended as part of the proposal to address concerns raised locally and by consultees.

1.4 The mix of housing across the site includes:

- House Types A - D are 4 bedroom detached dwellings (x8)
- House Type E - 2 bedroom semi-detached or terraced properties (affordable Housing) (x5)
- House Types F - H are 3 bedroom detached / link detached dwellings (x6)
- House Type J - 2 bedroom semi-detached bungalows (x2)
- House Type K - 3 bedroom semi-detached dwellings (affordable housing) (x4)
- House Type L - 3 bedroom detached dwellings (x2)

All dwellings have their own gardens and off road parking within their curtilages.

1.5 Access to the site would be via a single point (6m in width) with a 2m footway on either side in a central position on the site, this would extend for approximately 30m before dividing to form two cul-de-sacs. A footway (2m in width) would be retained/improved across the full width of the site within the highway verge. Internally, the cul-de-sacs have footways to one side, with connectivity to the open space provided between plots 24 and 25 and then onward to the playground/recreation ground via a new bridge.

1.6 The application is accompanied by a Planning, Design, Access and Heritage Statement, Ecological Assessment, Stage 1 Road Safety Audit, Flood Risk Assessment and draft heads of terms. Accompanying the amended plans is a detailed letter responding to concerns raised as part of the initial consultation period.

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 10 - Meeting the challenge of climate change, flooding and coastal change
- Section 11 - Conserving and enhancing the Natural environment
- Section 12 - Conserving and enhancing the Historic environment

2.2 Herefordshire Unitary Development Plan (UDP)

- S1 - Sustainable Development
- S2 - Development Requirements
- S7 - Natural and Historic Heritage
- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- DR4 - Environment
- DR5 - Planning Obligations
- DR7 - Flood Risk
- H4 - Housing within the Identified Settlement Boundary of Main Villages
- H7 - Housing in the Countryside Outside Settlements
- H9 - Affordable Housing
- H13 - Sustainable Residential Design
- H15 - Density

H19	-	Open Space Requirements
RST3	-	Outdoor Play and Open Space Requirements
T6	-	Walking
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC8	-	Habitat Creation, Restoration and Enhancement
HBA4	-	Setting of Listed Buildings
HBA6	-	New Development Within Conservation Areas
CF2	-	Foul Drainage

The Unitary Development Plan 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/planning-and-building-control/planning-policy/unitary-development-plan>

2.3 Herefordshire Local Plan Core Strategy (Pre-submission Publication):

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
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
ID1	-	Infrastructure Delivery

2.4 Neighbourhood Plan

Pyons Group Parish Council successfully applied to designate the Parish as a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. This was agreed in 2013 and works on preparing this Neighbourhood Plan are ongoing. No material weight can be given to this emerging plan.

3. Planning History

3.1 None.

4. Consultation Summary

Statutory Consultees

- 4.1 Welsh Water raises no objection to the proposal and recommends that conditions be attached to any planning permission. They also advise that the proposed development site is crossed by a public sewer with the approximate position being marked on the attached record plan. No development (including the raising or lowering of ground levels) will be permitted within the safety zone which is measured either side of the centre line.
- 4.2 The Environment Agency makes the following comments on the amended/updated information:

We have no objection to the proposed development and would offer the following comments at this time.

Flood Risk: The site is predominantly located in Flood Zone 1, the low risk Zone. All build development is within this Zone. On this basis we would not normally provide a bespoke comment to the application, hence my email relating to the initial consultation.

I note that problems regarding surface water flooding have been raised through the consultation process. As you are aware the Environment Agency primarily focus on fluvial flood risk i.e. flooding from watercourses. With regard to pluvial, or surface water, flooding it is the duty of Herefordshire Council as the Lead Local Flood Authority (LLFA), in discussion with your Land Drainage team, to review the submitted detail and be satisfied that the proposals will not increase flood risk post development.

As such I would refer you to your own Land Drainage team to review the additional detail. I note that they raised concerns on this initial submission which has necessitated the further detail now provided.

Internal Council Advice

- 4.3 The Transportation Manager made the following comments on the initial plans.

The junction location is considered acceptable. The footway along the A4110 fronting the site should be widened to 2.0m as part of the proposals. Regarding the internal layout, I would comment as follows:-

1. Link path to SUDS area – will need to be adopted and tarmac surfaced – and will need to link to PC play area, as discussed.
2. No hedges against kerb lines, driveways need visibility and forward visibility is also required on bends.
3. Verges on A4110 frontage to be raised to prevent parking on them.
4. SUDS area will need to be adopted and 60 year commuted sum applied
5. Drives where no service strip exists – will need to be longer 6m in front of garages or 5.5m elsewhere.
6. Radii on main entrance could be reduced to 6m to minimise highway impact on street scene.
7. Balancing pond to be designed in accordance with CIRIA SuDS Manual.

Following receipt of amended plans to address these issues, it was confirmed that there were no further comments to add.

4.4 The Conservation Manager (Ecology) has made the following comment:

I have read the ecological assessment for the proposal and I am supportive of this application in that it offers significant biodiversity benefits via habitat creation and management to the site. The remnant Traditional Orchard has been taken into account and has been incorporated into the design. The management plan for surface water through a SuD system and the use of mains sewer for foul drainage means that there will be no impact upon watercourses. The flood risk area of the site is given over to the landscaping of the existing orchard with pond and watercourse management which should also benefit biodiversity of the site. If approval is given I would like to see the addition of two non-standard conditions to the decision notice in relation to habitat enhancement and hedgerow protection.

4.5 The Conservation Manager (Historic Buildings) has made the following comments:

The site is located opposite the main built area of Canon Pyon, to the south of the A4110 which runs through the village. There is a grade II listed, the Nag's Head pub, to the north east of the site and on the north side of the main road.

Given the proximity of the listed building to the site, the proposed development would be within the setting of the heritage asset. It is not considered that, as proposed, the development would be detrimental to the character and appearance of the building and it therefore complies with Policy HBA4.

4.6 The Conservation Manager (Archaeology) has made the following comments:

I note the presence of a recorded Roman Road alignment to the east of the site. In essence, this alignment is broadly equivalent to that of the modern A4110 as it runs through the village, forming the eastern edge of the application site. The Roman Road is clearly indicated on mapping of the area, including on mapping submitted as part of this proposal.

It is sometimes the case that the immediate environs of Roman Roads contain associated remains. This is particularly when close to significant Roman settlements such as [in Herefordshire] Kenchester and Stretton Grandison. On the other hand, it is often the case, in the 'countryside' as it were, that the presence of such a road does not indicate particular probability of other remains.

There would appear to be no evidence in this part of Canon Pyon that further remains are likely, so I would largely agree with the negative assessment that is made in the application.

As regards the Roman Road specifically, there is a possibility that e.g. the access works to this development will do some harm to its preserved sub surface form. I do not think that this is a major issue in this case, but nevertheless some mitigation should be sought here.

I have no objections but recommend limited archaeological recording be secured by way of condition.

4.7 The Housing Manager has made the following comments:

Support the above application for 18 open market dwellings and 9 affordable dwellings. Discussions have taken place with the Agent and the application reflects those discussions with the number and tenure of those dwellings being provided meeting the identified need.

The application confirms that the dwellings are to be constructed to DQS, Lifetime Homes and the Code for Sustainable Homes all standards required by the Housing Team.

4.8 The Land Drainage Engineer responded as follows to the initial consultation:

Fluvial Flood Risk

The Environment Agency's Flood Map for Planning (Figure 1) shows the site is mostly located in Flood Zone 1 (<0.1% annual probability of flooding from rivers) and that part of the site may lie within Flood Zone 2 or 3. A FRA has been prepared for the development which states that the northern fringe of the site is situated within Flood Zone 3 (>1% annual probability of flooding).

In accordance with NPPF, new development should be steered away from areas at risk of flooding through the application of the Sequential Test. NPPF states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The proposed development will require the Sequential Test to be carried out. The planning authority should advise on whether the development passes the Sequential Test. It is noted that the Parish Council and local residents have suggested possible alternative sites.

In accordance with the NPPF Practice Guidance residential development is considered "more vulnerable" to flooding. More vulnerable development is considered appropriate in Flood Zone 1 and 2 but subject to the Exception Test in Flood Zone 3a. Although part of the site is situated in Flood Zone 3a and 3b, as detailed in the FRA the proposed development will be situated wholly in Flood Zone 1. Assuming the development passes the Sequential Test, we are therefore satisfied that the development is appropriate at this site, subject to appropriate assessment of risks and mitigation as detailed below.

The FRA identifies the main source of fluvial flooding as the un-named tributary of the Wellington Brook running along the northern boundary of the site. The FRA identified one record of flooding in the village, in 1979, as detailed in the council's Preliminary Flood Risk Assessment. Local residents have however commented that the Canon Pyon Brook has flooded on several occasions since 2000 with the A4110 being impassable at two locations in the 2000 and 2007 events.

The FRA included a hydrological and hydraulic assessment to estimate flood level for the brook through the site. A detailed review of the calculations has not been completed however the FEH Statistical method is considered an appropriate hydrological method.

A HEC-RAS hydraulic model was developed of the brook through the site. The FRA states that the downstream culvert was assumed to be blocked in the model, with downstream boundary levels defined assuming weir flow across the road. Again a detailed review has not been completed but in principle this is an acceptable approach to estimate flood levels for the brook. The assessment indicated that land along the northern boundary of the site and in the north east corner is at risk of flooding from the brook.

The FRA states that all proposed properties are located in Flood Zone 1. Comments from local residents and the EA Surface Water Flood Risk Map indicate potential for flooding from the drain south of the site along Nupton Road east to the A4110. The EA map indicates this is unlikely to affect the site itself however may have implications for access (discussed below).

Proposed floor levels have not been provided, however the FRA states that the building plots will consider relevant constraints (i.e. ground floor levels a minimum of 300mm above adjacent ground levels or 300mm above the 100 year (climate change) flood level). Assuming ground levels at the site will not be significantly altered it appears that a minimum freeboard of 300mm above the 100 year (with climate change) flood level should be achievable and that floor levels should then be above the 1,000 year flood level. The Applicant should provide details of proposed finished floor levels to demonstrate these provide a suitable freeboard above the relevant modelled 100 year (climate change) flood level. A 600mm freeboard is preferred unless this is not technically feasible, in which case a minimum freeboard of 300mm should be provided.

The FRA considers safe access and egress and states that the proposed development access road will be situated above the 1,000 year flood level and therefore provide a dry escape route during extreme events. We concur with this assessment within the site. The FRA goes on to say that the A4110 route to the south is above the 1,000 year flood level and therefore provides an access route from the village. However information from local residents and the EA Surface Water flood risk map show a flood flow route along Nupton road south of the site. The EA map shows the A4110 / Nupton Road junction at "High" risk of flooding and local residents indicate the A4110 can become impassable during more severe flood events. If this is the case it will also affect exiting residents in the village. As the proposed development will lead to a significant increase in the number of properties it is recommended that Herefordshire's Emergency Planners are consulted to confirm that the additional numbers of people in the village will not put an unacceptable strain on resources.

Other Considerations and Sources of Flood Risk

The FRA considered flood risks from other sources. The FRA concludes the development is at low risk of sewer and highway flooding but highlights a low lying area of the site susceptible to accumulation of runoff (assumed to be the north east corner). The FRA states that the proposals will include a new drainage system designed "to handle extreme storm events" and that ground floor levels will be raised above adjacent levels. We note that a DCWW watermain crosses the site. Although unlikely, flooding due to a burst of the watermain should also be considered when setting site levels. The Applicant should provide a plan showing proposed levels to demonstrate that flows (from runoff and / or the watermain) will be directed away from existing and proposed properties towards less vulnerable areas. As discussed previously surface water flooding may have implications for access and egress.

The FRA concludes the site is at low risk of flood from reservoirs / water storage facilities, tidal waters and groundwater flooding (as ground floor levels are to be raised). We concur with this assessment.

Surface Water Drainage

The FRA included an assessment of the impact of the development on surface water runoff and options for sustainable drainage. The FRA states that greenfield runoff rates have been calculated using the Rational method. The Applicant should provide information to justify the use of the Rational method for estimation of greenfield runoff rates as opposed to the IH124 method usually adopted as recommended in the Defra/EA document 'Preliminary Rainfall Runoff Management for Developments' (Revision E, January 2012).

The FRA includes an assessment of sustainable drainage options. Infiltration measures were discounted as the available information on soils and geology suggests the permeability at the site is too low. Other source control techniques were considered unlikely to be able to manage all runoff at the site. The assessment concluded that passive treatment systems, in the form of storage tanks or ponds, oversized drainage network or storm cells were most appropriate. The FRA includes an assessment of storage volumes provided through various techniques and concludes that a storage pond is likely to be the preferred option. The FRA indicates that the required storage volume would be in the order of 114 m³ and a pond could be located in the north eastern part of the site.

The Design & Access statement states that infiltration tests will be undertaken to confirm ground conditions are unsuitable for infiltration. Assuming this is the case it states that attenuation storage will be provided to restrict site discharges to greenfield rates. It also states that pollution prevention measures will be installed but no details are provided. No information is presented on adoption or maintenance of the drainage system.

We accept the proposals in principle, however a detailed drainage strategy will be required for the development to support the application demonstrating how surface water from the proposed development will be managed, including consideration of exceedance during events greater than the design standard and / or when the system does not operate as intended. Guidance for managing extreme events can be found within CIRIA C635: Designing for exceedance in urban drainage: Good practice. The strategy should demonstrate that runoff will not exceed pre-developed greenfield rates and ensure no unacceptable flood risk to the development or increased flood risk to people/property elsewhere up to the 1 in 100 year event, including an allowance for climate change. Areas designated for surface water storage should be located outside of the 100 year (with climate change) flood extent.

In accordance with the draft National Standards for Sustainable Drainage and Policy DR4 of the Unitary Development Plan, the drainage strategy should incorporate the use of Sustainable Drainage (SUDS) where possible. The surface water drainage strategy should be designed to mimic the existing drainage of the site. Infiltration techniques should be used unless infiltration testing or a contamination assessment confirms these are not feasible.

Details of any necessary maintenance of the proposed surface water drainage system should be provided by the Applicant along with who will be responsible for undertaking maintenance. It is noted that under Schedule 3 of the Flood & Water Management Act, once enacted, Herefordshire Council as lead local flood authority are responsible for adopting new SUDS systems serving more than one property. Further guidance should be available in 2015.

The Applicant must consider treatment of surface water prior to discharge. Evidence of adequate separation and/or treatment of polluted water (including that from vehicular areas) should be provided to ensure no risk of pollution is introduced to groundwater or watercourses, both locally and downstream of the site.

Foul Water Drainage

No information is provided on foul drainage. It is assumed the Applicant intends to connect to the public sewer and the response from DCWW suggests this will be feasible. The Applicant should confirm their proposal for disposal of foul drainage in their drainage strategy.

Overall Comment

We recommend that the council objects to the application on the grounds of insufficient information relating to drainage. Whilst the proposals are acceptable in principle, further detail regarding the proposed drainage strategy should be provided to support the Application. The following information should be provided to support the application:

- A detailed drainage strategy, with supporting calculations, showing the location and sizes of any attenuation storage (demonstrating these are outside the 100 year (climate change) flood extent) and demonstrating how discharges from the site are restricted to greenfield rates for all events up to the 100 year (with climate change allowance). Greenfield rates should be calculated in accordance with current guidance. The drainage strategy should demonstrate that exceedance of the drainage system has been adequately considered and that suitable mitigation is included to prevent an unacceptable risk of flooding to the development or existing properties;
- Details of the proposals for adoption and maintenance of the surface water and foul water drainage systems;
- Evidence of adequate separation and/or treatment of polluted water (including that from vehicular areas) should be provided to ensure no risk of pollution is introduced to groundwater or watercourses, both locally and downstream of the site.
- Prior to construction, evidence of infiltration testing in accordance with BRE365 to confirm that infiltration measures are not feasible.

In addition Herefordshire Council planners should confirm the development meets the requirements of the Sequential Test and it is recommended that the Emergency Planning team is consulted to confirm that the additional properties will not lead to an unacceptable strain on resources in the event of a flood preventing access to the village.

- 4.9 Following receipt of additional information the Council's Land Drainage Engineer has made the following additional comments:

Further information to support the surface water drainage strategy

The amended site layout shows a "sustainable drainage pond" in an area of open space to the east of the site. The same plan shows the pond located outside of the 100 year (climate change) flood extent. The cover letter provides further details of the proposed attenuation pond and confirms the existing site levels allow for the pond to be constructed at existing ground levels. The letter also confirms that infiltration tests have been completed and do not support the use of soakaways at the site. Details of the test results have not been provided. It is recommended they are provided to the Council to support the detailed drainage design.

Details of measures to manage exceedance flows have not been provided, however the cover letter states that "the SUDS drainage strategy will ensure that existing surface water runoff is properly managed rather than running off the field directly onto the highway". Elsewhere it is stated that levels at the site generally fall south to north (towards the brook) and that slab levels can be set a minimum of 300mm above the 100 year (climate change) flood level. In the original FRA it was stated that floor levels would be set a minimum of 300mm above surrounding ground levels. On this basis it is considered that exceedance flows can likely be safely managed in the development without increasing flood risk to existing properties.

This information is considered sufficient for planning however the Applicant should provide a detailed drainage layout and supporting calculations prior to construction, clearly demonstrating how discharge rates and volumes are managed for a range of events up to the 100 year (climate change) event so as not to increase off site discharges. The layout should also clearly show how exceedance flows will be managed through the development.

Justification of the use of the rational method to calculate greenfield runoff rates

The cover letter correctly refers to the recent science report (SCO90031) which recommends the use of FEH methods in preference to other methods (including the IH124 method). However the report and EA Flood Estimation Guidelines do not state that the Rational method is therefore preferred, which the letter implies. The EA guidelines reiterate the science report recommendation that for greenfield runoff calculations FEH estimates for a nearby catchment should be obtained and scaled down to the site area, assuming the study site is representative of the surrounding area. A second phase of the study is expected to provide guidance on the practical implementation of this recommendation for site runoff calculations. The EA guidelines also reiterate FEH guidance against the use of the Rational method as "it gives peak flows typically twice as large as those from the FEH rainfall runoff estimates for small lowland catchments".

If the IH124 method has been discounted, we recommend that either FEH methods should be used to estimate the greenfield runoff rate at the site or various methods should be used to assess the range of greenfield runoff rate estimates and the implications considered in the drainage strategy. Our primary concern is that by adopting the Rational method the existing greenfield runoff rate at the site has been overestimated, which in turn would underestimate the storage volume required. The site layout indicates that space is available to provide additional storage if required however we recommend the Applicant considers the implications of a significant change to the greenfield runoff rate.

We are satisfied that the information presented is acceptable for planning purposes however the Applicant should provide greenfield runoff rates, calculated in accordance with current guidance, to support the detailed drainage design.

Proposals for adoption & maintenance of drainage

The cover letter states that Herefordshire will adopt the SUDS with a commuted sum for maintenance. It is unclear from the letter if this proposal has been discussed with the council to confirm they would adopt the SUDS. If not done already, it is recommended that this is confirmed with the Council's land drainage department and if necessary the Applicant should consider an alternative proposal.

Separation and/or treatment of polluted water

The cover letter states that pollution prevention measures will be installed prior to water entering the pond (details to be confirmed at a later stage in consultation with Welsh Water and the Council). The letter also states that the attenuation pond will include micro pools to catch finer sediment. The site layout plan indicates there should be sufficient space to accommodate these measures.

This information is considered sufficient for planning however the Applicant should provide a detailed drainage layout and supporting calculations prior to construction, clearly demonstrating how adequate separation and treatment is achieved.

Sequential Test & Access/Egress

The cover letter states that the sequential test is not applicable to development proposed in Flood Zone 1. The NPPF states that the SFRA is the basis for applying the test and the sequential approach should be used in areas known to be at risk from any form of flooding. Whilst the accompanying practice guidance refers to steering development towards Flood Zone 1 it also states that "within each flood zone, surface water and other sources of flooding also need to be taken into account in applying the sequential approach to the location of development".

As part of the site is located in Flood Zone 3 and there is evidence that surface water flooding may compromise access to the development we consider that the sequential test should apply to this development. However we note that the proposed development itself is to be located in Flood Zone 1, and is not at significant risk of surface water flooding. Flood risks to the main road in the village may also affect other potential development sites as well as existing development. This should be considered in the application of the sequential test. We also note that for alternative sites to be considered they must be "reasonably available". We accept that safe access and egress is available within the development however information provided indicates that the A4110 may become impassable at times where the brook crosses and at the Nupton Road junction. As this is the main access road through the village we suggest the main factor to consider in the application of the test is whether this flooding would have the same or similar impacts on potential alternative sites. We recommend the Council's emergency planning team is consulted to confirm that the additional properties will not lead to an unacceptable strain on resources in the event of a flood preventing access to the village. They may also be able to advise on whether there would be any significant implications of development at the proposed site compared with alternative sites in the village.

Overall Comment

We have no objections in principle to this development if the Council is satisfied that the development meets the requirements of the sequential test. We also recommend that the

Council confirms they would be in a position to adopt and maintain the proposed SUDS. If this is not the case, or cannot be confirmed at the present time, the Applicant should confirm what alternative arrangements can be made. If not already completed, we also recommend the emergency planning team is consulted to confirm the additional properties will not lead to an unacceptable strain on resources in the event of a flood.

If the Council is minded to grant planning permission the Applicant should provide the following information prior to construction, secured through appropriate planning conditions:

- Provision of a detailed drainage strategy, with supporting calculations, that demonstrates opportunities for the use of SUDS features have been maximised. The results of infiltration tests should be provided to support the strategy. The supporting calculations should demonstrate that discharge rates are not increased for a range of events up to the 100 year (with climate change allowance); greenfield runoff rates should be estimated in accordance with current guidance. The strategy should also clearly show how exceedance flows will be safely managed within the development without increasing flooding to 3rd parties.
- Details of proposed pollution control measures.
- Details of proposals for adoption and maintenance of the drainage system.

4.10 The Parks and Countryside Manager has made the following comments:

It is noted that the applicant has made some changes to the proposed POS/Play and Recreation area/SUDs area as a result of our previous comments and concerns. This new scheme has also provided us with an opportunity to consider some additional issues around design and future adoption. In detail:

Revised Layout - (Response to Objections).

Re-consideration of POS/SUDs layout:

For a development of this size (27 houses) as per previous advice given and in accordance UDP policies H19 and RST3 and the "Fields in Trust" guidance requires the following for POS/Play

- 0.02ha POS
- 0.04 ha provision for children including approx. 0.01 ha (100sq m) formal play
- Total: 0.06ha (600sqm).

These standards have now been considered by the applicant resulting in a more detailed site layout which now identifies areas of "usable" POS/Play, including formal play opportunities and a community orchard in excess of the policy requirements as follows:

- Total 0.19 hectares (1900 sq. m).
- This includes a dedicated area outside the floodplain of 0.012ha (120sq m) of formal play.

In addition the SUDs area of 0.1ha (1000 sq. m) could provide opportunities for informal recreation and biodiversity if designed accordingly.

The revised plan now shows boundaries for POS/Play and the SUDs area demarked by footpaths. This will help to identify future maintenance and adoption requirements but to further help Herefordshire Council (Parks and Highways) it is requested that an indicative adoption plan to accompany the landscape plan is provided at the relevant time for our consultation/agreement.

Play Area/POS /Landscape Requirements:

Given the location and size of development the applicant as advised, has re-consulted with the Parish Council and established that their preferred option is for a play area for younger children to be provided on site, which could include natural play opportunities if appropriate. It is understood that the final detail/design will be finalised as part of the requirements of a condition and adoption process and in consultation with both Herefordshire Council and the Parish Council.

Access has now been considered as requested and the applicant has now provided direct access to the existing village recreation ground which is adjacent to this site including a new timber footbridge over the stream and access through the play/POS area. New benches and bonded/sealed surfaced footways/cycle ways will be provided. We would expect the foot and cycle link from the estate, as per the Council's Highways Design Guide to be a minimum of 3.5m wide to accommodate the joint use.

It is noted that there will be a number of trees on the POS. We would request an updated Tree Survey with agreed works to be completed as part of the adoption process. In particular we would be expecting Willows (Tree 14 & 15) to be re-pollarded prior to adoption and the Ash (tree 3) crown reduced.

Final Design and Adoption Process:

It is acknowledged that the final design (SUDs/POS) is to be agreed by Herefordshire Council as part of the requirements of a condition and the adoption process. As part of this process we would expect the applicant to take account of those issues we have flagged up above which if not dealt with at this stage could impact on future maintenance and adoption processes.

- 4.11 The Council's Emergency Planning Officer has made the following comments in response to the latest Land Drainage Comments:

As I see it the entrance to the development sits between two areas of flooding. The brook to the north which sits within Flood Zone 3 and an area of surface water flooding to the south at the junction of Butthouse Road. Looking at only the surface water mapping for a 1 in 100 flood event (flood zone data I have doesn't include hazard and depth information but the two should be comparable) the brook (north) has a maximum significant hazard rating and the junction (south) has a maximum moderate hazard rating. A moderate rating is described as 'Dangerous to some'. The maximum flood depth at the junction is between 0.15-0.30m which is the highest reasonable (I wouldn't want to say safe) depth that you can drive through.

Therefore passed on a (brief) scientific assessment, access to the site can be maintained at a moderate risk level for both pedestrian and vehicular transport. This risk level is not high enough for myself to have any objections to this application.

Regards an increase in resources, I am not in a position to make that assessment (and have no time to consult with the relevant authorities), however, based on previous applications, as the site is not for the use of vulnerable persons the expectation is that residents are resilient themselves, unless the conditions are extreme, and as access can be maintained at a suitable level no evacuation of the site should need to take place. The only concern is residents passing through the northern zone in deep water (over the brook max depth 0.90m) in a vehicle and requiring assistance. However, it is my belief that this site could only have an insignificant increase on the likelihood of that event and I do not believe that any of our partner agencies would object to this application.

Furthermore we should consider both confirmed reports of flooding both historically and the accounts of those that have lived in the area (some of whom appear to write the same letter of support). The 1979 incident mentioned in the site FRA, the SFRA does include a report of flooding at The Nags Head PH and New End. Whilst these are listed as fluvial events it is more likely (considering the current mapping) that these were pluvial events, on the River Wye (fluvial flood event) the 1979 event has been estimated at a probability of 1 in 25. Other events mentioned under objections (where the road was unpassable) include 2000, River Wye (fluvial) 1 in 23, and 2007, Lugg at Leominster 1 in 20 (fluvial). Without hard evidence we cannot ascertain whereabouts the road was unpassable, the brook or objection. Considering the pluvial flooding earlier this year in February, it has (I believe), in places, been estimated as high as a 1 in 250 year (pluvial) event. As this part of the A4110 was not closed during this time (but with consideration that all flooding events are different and I have not check with our Highways department for any closures on this road during previous floods) it lends itself in support of those accounts put forward buy some of the local residents.

Unfortunately past flood reporting is not comprehensive. If the planning officer has any lingering concerns over this road becoming unpassable I would suggest they contact Highways and ask for any records that relate to this road being closed due to flooding

5. Representations

5.1 Pyons Group Parish Council responded to the initial consultation as follows:

At an extraordinary meeting held on Wednesday 16 July 2014, the parish council agreed that it was not opposed in principle to developing the land West of Patrick Orchard. However, there are several significant concerns that the parish council strongly believes need to be taken into account:

The southern half of the proposed development which fronts the road is too close to the A4110 and overbearing in relation to the existing properties on the other side of the road, and the village. The field is significantly higher on the side of the A4110 which is proposed for development and this has not been adequately accounted for in the proposed location and design of the houses fronting to the A4110. This line of houses needs to be broken up with fewer houses, and the rooflines lowered, for example by the use of gables.

The draft Core Strategy proposes an 18 percent increase in housing stock in Canon Pyon, and the recent Valentine Court approval already increases stock by over 30 percent; this proposed development would further increase that figure to over 60 percent. Therefore there is scope to reduce the density of houses in the southern half of the development significantly, bringing it into line with the northern half. The parish council urges this is done, and that the affordable houses are spread throughout the proposed development rather than concentrated in the southern half.

The parish council has been consulted by the developers and is disappointed that live-work units and a play area for the very young have not been included in the plans.

The parish council wishes to be assured that water drainage and sewage has been given due attention in the proposed plans. It appears that the attenuation pond, for example, is in the area of the field which is a designated flood zone.

5.2 Following a meeting with the applicant, case officer and subsequent receipt of the amended plans, Pyons Group made the following comments:

Pyons Group Parish Council supports the changes made to the design of some of the houses, and the introduction of gaps between more of the houses roadside to the A4110.

However, the visual impact on the A4110 is still considered to be too great and the parish council believes a cut in the overall number of houses, reducing the number by four (4) houses, will provide scope to revisit the layout and reduce the visual impact.

Given the planning permission that is already in place for 10 affordable houses (P131885/F) on the Land adjacent to Valentine Court, the parish council is willing to see the number of affordable houses reduced on the Land West of Patrick Orchard.

Pyons Group Parish Council remains concerned that while the draft Core Strategy proposes an 18 percent increase in housing stock in Canon Pyon, the recent Valentine Court approval already increases stock by over 30 percent; which when combined with this proposed development would further increase that figure to over 60 percent.

The parish council would like to see the profile of the properties roadside to the A4110 reduced to ensure they are not overbearing to the existing properties on the other side of the A4110. At a site visit on 18 October 2014, it was noted that there is only one small area where the two sides of the A4110 are at the same level; for the greater part the Land West of Patrick Orchard is significantly higher than the land opposite. One option to consider is to place the gables within the roof, allowing the properties to be lower in profile as the top floor will be partially within the roof space.

The parish council is pleased to have been consulted by the developers and planning services through this process and believes that if these issues are addressed constructively the proposed development will be a positive addition to the community in the village.

5.3 Letters of representation in objection to the proposal have been received from 6 households:

These raise the following concerns and issues:

- Impact upon views.
- Loss of privacy for dwellings opposite.
- Additional noise causing loss of quiet enjoyment of property.
- Change in character from rural to urban.
- Density too great, too many dwellings
- Increase in traffic movements.
- Access arrangements for repair and maintenance for the adjoining buildings
- Bat Colony in the trees.
- Flooding on the A4110 (in 2007) cut off the A4110. Flooding crosses the road from Nupton Lane. Photographs have been provided demonstrating this situation down the lane to Kinford.
- Depth of water effectively making access very difficult for passing traffic
- Flooding on the highway and the road being cut off will prevent access and egress to the proposed development site and greatly increase the pressure on emergency services. This has been blocked at least twice in the last 15 years. Allowance for climate change would increase the peak flow and severity of flooding further still and would restrict access and egress even further.
- Additional dwellings would add to surface water flooding
- Inadequacy of Flood Risk Assessment as fails to correctly identify the flood flow paths.
- NPPF requirements requires detailed consideration of flood risk and requires that a sequential test be undertaken. The application fails the sequential etc as there are other reasonably available sites appropriate for development in areas with a lower probability of flooding.
- The applicants have not applied the sequential tests properly / misinterpreted the NPPF.

- Both the NPPF and Herefordshire Council Strategic Flood Risk Assessment (SFRA) clearly state that such sites should not be developed for a more vulnerable land use such as residential, if alternative sites exist which are at a lower risk of flooding.
- Looking at sites identified by the Pyons Group Parish Council two other sites were found to have lower flood risk and four found to have lower flood risk across the whole site.

5.4 3 Letters of support have also been received that refer to the issue of flooding and these make the following comments:

- state that whilst surface water does run-off the fields and down Nupton Lane past the pub, it has never been so deep or running so fast that you are unable to drive or even walk through.
- Former landlord of pub confirmed that during heavy rainfall, excess water has run down Nupton Lane but it did not affect pub or its day to day running.
- Note Nupton Road ditches have recently been cleared by the Council and are extremely deep.
- Housing is in a sustainable location in the heart of the village and design looks like it has been well thought out so hopefully be a positive addition to the village.

5.5 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:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

6.1 The application falls to be considered having regard to the following key issues:

1. Principle of Development
2. Flood Risk
3. Design, Layout and Character of the Area
4. Open Space Provision
5. Landscape and Diversity
6. Highway Safety
7. Affordable Housing and Planning Obligations

Principle of Development

6.2 The issue of the Council's lack of a five year housing land supply has been well rehearsed over recent months by other applications and appeal decisions for residential development on land outside of settlement boundaries identified by Policy H4 of the Herefordshire Unitary Development Plan (HUDP). This application is submitted on the same basis.

6.3 In order to establish a degree of consistency in the absence of housing policies that are considered to be up-to-date with the National Planning Policy Framework (NPPF) the Council has adopted an interim protocol for the consideration of applications that would otherwise be contrary to Policy H7 of the HUDP. It accepts that appropriate residential development outside the development boundaries of main settlements may be permitted to help address the housing shortfall, subject to all other material planning considerations, and specifies that sites should be located adjacent to main settlements defined by Policy H4 of the HUDP. This approach is consistent with the NPPF which presumes in favour of sustainable development.

- 6.4 In simple geographic terms the site is compliant with the interim protocol as it is immediately adjacent to the Canon Pyon settlement boundary and is well related to its services and amenities. The village continues to be identified as one that is appropriate for proportionate growth in the emerging policies of the Core Strategy and is considered to be sustainable in accordance with the NPPF. The determination of this application therefore rests with the requirements of paragraph 14 of the NPPF and its presumption in favour of sustainable development. Paragraph 14 requires that development proposals that accord with the development plans are approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as taken as a whole.

Flood Risk

- 6.5 Paragraph 103 of the NPPF advises that, when determining planning applications, Local Planning Authorities should ensure flood risk is not increased elsewhere as a consequence of the development proposed. It also requires that development is appropriately flood resilient and resistant, including safe access and escape routes where required. It also gives priority to the use of sustainable drainage systems. The HUDP is considered to be up to date with the NPPF with respect to flood risk as these objectives are reflected by Policy DR7.
- 6.6 The Environment Agency's Flood Map shows that the majority of the site lies within the low risk, Flood Zone 1 and the proposed area to be developed falls within this zone. To the north of the site, along the stream corridor is an area that is zoned as Flood Zone 2 / 3 and this area has been excluded from the development area and would become public open space. A Flood Risk Assessment (FRA) has been submitted with the application that confirms this position in respect of Fluvial Flooding and the Environment Agency has confirmed that they have no objection to the development on this basis.
- 6.7 Both the NPPF and policy H7 of the HUDP require that the Local Planning Authority be satisfied that the proposed development should ensure that flood risk is not increased elsewhere. Consultation with the Council's Land Drainage Engineer has confirmed that they are satisfied, on the basis of the information provided, that the SUDS Drainage strategy proposed can safely manage the surface water from the development without increasing flood risk to existing properties. This is subject to conditions in relation to a detailed drainage layout, and separation and treatment being provided and provision for the adoption of the SUDS system being secured through the Section 106 agreement (as per the Heads of Terms attached).
- 6.8 It is also necessary to establish whether the site is appropriately flood resilient, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning. It is agreed that safe access and egress is available within the development itself but the application process has raised concern about the surface water flooding on the A4110. This may occur when / if the brook overtops or where the surface water crosses the road between Nupton Lane and the Mill Road (Lane to the north of the Nags Head). There is conflicting information in this respect with letters advising it is impassable, and letters that refer to this as being passable with care. Having consulted with the Council's Emergency Planning Officer they have concluded that the risk levels are not high enough to raise an objection to this proposal.
- 6.9 Concerns are also raised by local residents in respect of the approach to sequential testing taken by the applicant. The NPPF is clear that inappropriate development should be avoided by directing development away from areas at highway risk and confirms that local plans should apply a sequential, risk based approach to the location of development. Paragraph 101 of the NPPF states that a sequential approach should be used '*in areas known to be at any risk of flooding*' and it is the interpretation of this that has caused conflict. The applicant has taken the approach that as the developable site is in Flood Zone 1 then sequential testing is not applicable. The objector has taken the view that a sequential approach should be used in areas

known to be at risk from any form of flooding. In this instance, this is a referral to the surface water flooding on the highway.

- 6.10 The proposed developable area site itself is one that lies in the lowest risk area, a flood zone 1 and there is no dispute over whether the dwellings themselves would flood. The key concern relates to the severity of the flooding on the highway and the subsequent risks and pressures that may be placed on emergency services and occupants because of this. Given that no objections have been raised by either the Land Drainage Engineer or Emergency Planning Officer on this matter, it is officers opinion that the risks in this instance are low and that this site would in fact represent a location for development that complies with the requirements of the NPPF and Policy DR7 of the HUDP.
- 6.11 It is officers' opinion that given the opinions above, sequential testing is not required in this instance. However, it is noted that the objectors have suggested other sites that may be sequentially preferable, taking these from an initial draft of the Neighbourhood Plan. No detailed assessment of these sites has been undertaken as part of this application and their acceptability and whether they are 'reasonably available' cannot be accurately assessed. It is, however, noted that part of the site that forms this application, is included in the suggested sites for the Neighbourhood Plan but it is acknowledged that no weight can be given to this document at this time.
- 6.12 Having regard to the above, the proposal is considered to represent a site suitable for development having regard to flood risk and drainage. As such it would comply with the requirements of the HUDP policies DR4 and DR7 and with the guidance contained within the NPPF.

Design, Layout and Character of the Area

- 6.13 The application has been amended to address the concerns raised by officers, local residents and the Parish Council. Canon Pyon is a village that has a strong linear character focussed around the A4110. The application submission included an assessment of the existing architectural character of the area and this assessment has informed design proposals. The proposed layout has also been informed by the landscape character depth and shape of the site and the requirement to retain the orchard to the north to accommodate the open space and address flood and drainage requirements. The proposal, in its amended form, retains the linear form of the village for its southern end, with dwellings fronting the road, with their parking and gardens to the rear. The siting of the properties has been staggered slightly to add additional variation, and following consultation with the Parish Council, the plots repositioned so that there is a mix of detached and semi-detached dwellings and designs improved to include half dormers, chimneys, varied porch designs and a mix of materials. Remaining properties to the west of the site front on to the internal estate road with parking to their frontage. Two bungalows have also been included in this proposal following consultation with the Parish Council.
- 6.14 The northern part of the site has a lesser density to reflect the transition between the site and the adjoining orchard and open countryside to the west. These are larger, detached dwellings with ample gardens and parking and landscaping. Provision has also been made in the design to accommodate 'work' space above the garages, to try and address the request of 'live work' accommodation. Pedestrian access leads between plots 24 and 25 to the public open space.
- 6.15 The overall density of the development of the southern end of the development is relatively low at 33 dwellings per hectare. The overall density as a whole is 19 dwellings per hectare. The different density areas were introduced following early advice and assessment of the character areas to the development and the surrounding area. The applicant notes that the number of properties within the street frontage is in fact identical to the opposite side of the road.

- 6.16 The Parish Council has requested that the number of dwellings overall be reduced, but it is officers' opinion that the amendments that have been made have gone a significant way to improving the layout and design of the proposed development and that these variations will ensure that the proposals respect the character of the locality without appearing cramped or as an overdevelopment of the site. The reduction in density as the site moves southwards also ensures an acceptable transition between the built up area and rural edge of settlement.
- 6.17 The revised scheme also ensures the ability for additional tree planting and landscaping to the street frontage that will help integrate the development and its built form, softening views of the development. Hedgerow retention around the site is also welcomed and its protection, during construction, along with the trees to the east is ensured by way of condition in accordance with the requirements of policy LA5 of the Unitary Development Plan. The proposed development site is also of sufficient distance away from the Listed Building to ensure that there is no impact on the setting in accordance with policy HBA4.
- 6.18 Concern has also been raised in respect of the development being 'overbearing' on the street and on the dwellings opposite. Site sections have been prepared that detail this 'across street' relationship and demonstrate that whilst site levels are marginally higher, the design changes (dormer style properties with lower eaves heights) have ensured that the relationship is not one that is overbearing or would be intrusive on amenity with a distance of 24m between the nearest dwellings across the highway. Acceptable levels of amenity can be achieved in accordance with the requirements of policies DR2 and H13 of the Unitary Development Plan.

Open Space Provision

- 6.19 Policy H19 of the HUDP includes requirements for open space provision for residential developments. The site includes 0.29 hectares of informal public open space (more than the 0.02 hectares required). Following consultation with the Parish Council, the site includes a smaller children's play area (Specification to be agreed by condition) and a footway link via a new bridge across the brook to the existing playground and open space. The Council will adopt these areas (in consultation with the Parish Council) and ensure future maintenance. Having regard to the provisions made, the proposal would, subject to appropriate conditions and a Section 106 agreement being signed, comply with the requirements of policy H19 of the Unitary Development Plan.

Landscape and Biodiversity

- 6.20 This land also has an important environmental role in respect of Biodiversity with the ecological appraisals identifying considerable potential to deliver enhancement through the landscaping of this site and also create a peripheral buffer area between residential developments and the surrounding landscape which also compliments the landscape character of the area. The proposed development, subject to the conditions recommended would comply with the relevant policies of the HUDP and with the guidance contained within the National Planning Policy Framework.

6.21 Highway Safety

The proposed development would be served by a single point of entry on the A4110. Visibility in either direction can be readily achieved and there are no objections from the Council's highway officer in this respect. Whilst there is an existing footway that provides access, this will be improved and widened and internal footways will improve connectivity to the recreation ground. Pedestrian safety has also been addressed. The proposal would therefore comply with the requirements of policies DR3 and H13 of the HUDP and with guidance contained within the National Planning Framework subject to compliance with the appropriate suggested conditions.

Affordable Housing and Section 106 Agreement

- 6.22 Policy H9 of the Unitary Development Plan requires that provision is made for 35% of the proposed dwellings to be 'affordable dwellings'. This site provides for 9 affordable dwellings to a tenure that has been agreed with the Council Housing Manager. These will be secured in perpetuity through the Section 106 agreement (as per the Heads of Terms attached). The provision of such dwellings forms an important social role of sustainable development to which significant weight can be attributed. The proposal accords with the requirements of this policy.
- 6.23 Policy DR5 of the Unitary Development Plan, alongside the Council's Supplementary Planning Document requires that contributions are secured by way of a Section 106 agreement. A Heads of Terms is attached that reflects the financial contributions but there is still some ongoing discussion with respect to how these contributions will be apportioned to the individual projects. Subject to the resolution of these outstanding issues and signing of the Section 106 the proposal would comply with the policy requirements of the Unitary Development Plan.

Conclusion

- 6.24 The Council cannot demonstrate a five-year supply of housing land with the requisite buffer. The housing policies of the HUDP are thus out of date and the full weight of the NPPF is applicable. HUDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles.
- 6.25 The site's location, immediately adjacent to and well related to the main settlement of Canon Pyon that offers a good range of services and access by way of public transport to the wider area and the facilities and services it provides. The economic role of the proposed development includes employment and associated activity in the construction sector, as well as support to local services such as shops and public house. Likewise S106 contributions and the New Homes Bonus and the uplift in Council Tax receipts should also be regarded as material considerations. By supporting local facilities and in providing a greater supply of housing and breadth of choice, including 35% affordable, it is considered that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development. The development also offers improvements to the environment through the enhancement of biodiversity and landscape and therefore fulfils an important environmental role.
- 6.26 Careful consideration of the issues raised by consultees and members of the public has been undertaken and it is concluded that the proposal complies with all the relevant policies of the Unitary Development Plan and with the guidance contained within the National Planning Policy Framework. There are no adverse impacts in this instance, that have been raised that would significantly and demonstrably outweigh the benefits and as such there is a clear presumption in favour of sustainable development and the proposal is recommended for approval subject to conditions and subject to the completion of the Planning Obligation.

RECOMMENDATION

Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions considered necessary.

1. **A01 Time limit for commencement (full permission)**
2. **B01 Development in accordance with the approved plans**
3. **C01 Samples of external materials**
4. **The recommendations set out in Section 5 of the ecologist's report from Ecology Services dated April 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a plan showing habitat enhancement proposals integrated with the landscape plans should be submitted to, and be approved in writing by, the local planning authority, and the scheme shall be implemented as approved.**

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

5. **Prior to commencement of the development, a Tree Protection Plan to include orchard trees and hedgerow following "BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations" should be compiled based upon this survey should be submitted to, and be approved in writing by, the local planning authority, and the scheme shall be implemented as approved.**

An appropriately qualified and experienced arboricultural clerk of works should be appointed (or consultant engaged in that capacity) to oversee the arboricultural mitigation work.

Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

6. **E01 Site investigation - archaeology**
7. **H06 Vehicular access construction**
8. **H11 Parking - estate development (more than one house)**

9. H17 Junction improvement/off site works
10. H18 On site roads - submission of details
11. H19 On site roads - phasing
12. H20 Road completion in 2 years
13. H21 Wheel washing
14. H27 Parking for site operatives
15. I16 Restriction of hours during construction
16. L01 Foul/surface water drainage
17. L02 No surface water to connect to public system
18. L03 No drainage run-off to public system
19. L04 Comprehensive & Integrated draining of site
20. G10 Landscaping scheme
21. G11 Landscaping scheme - implementation
22. G18 Provision of play area / amenity area
23. G19 Details of play equipment
24. I26 Interception of surface water run off / proposed pollution control method

INFORMATIVES:

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. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. HN01 Mud on highway
3. HN08 Section 38 Agreement & Drainage details
4. HN15 Affected street lighting or illuminated signs
5. HN28 Highways Design Guide and Specification
6. HN05 Works within the highway

7. HN17 Design of street lighting for Section 278

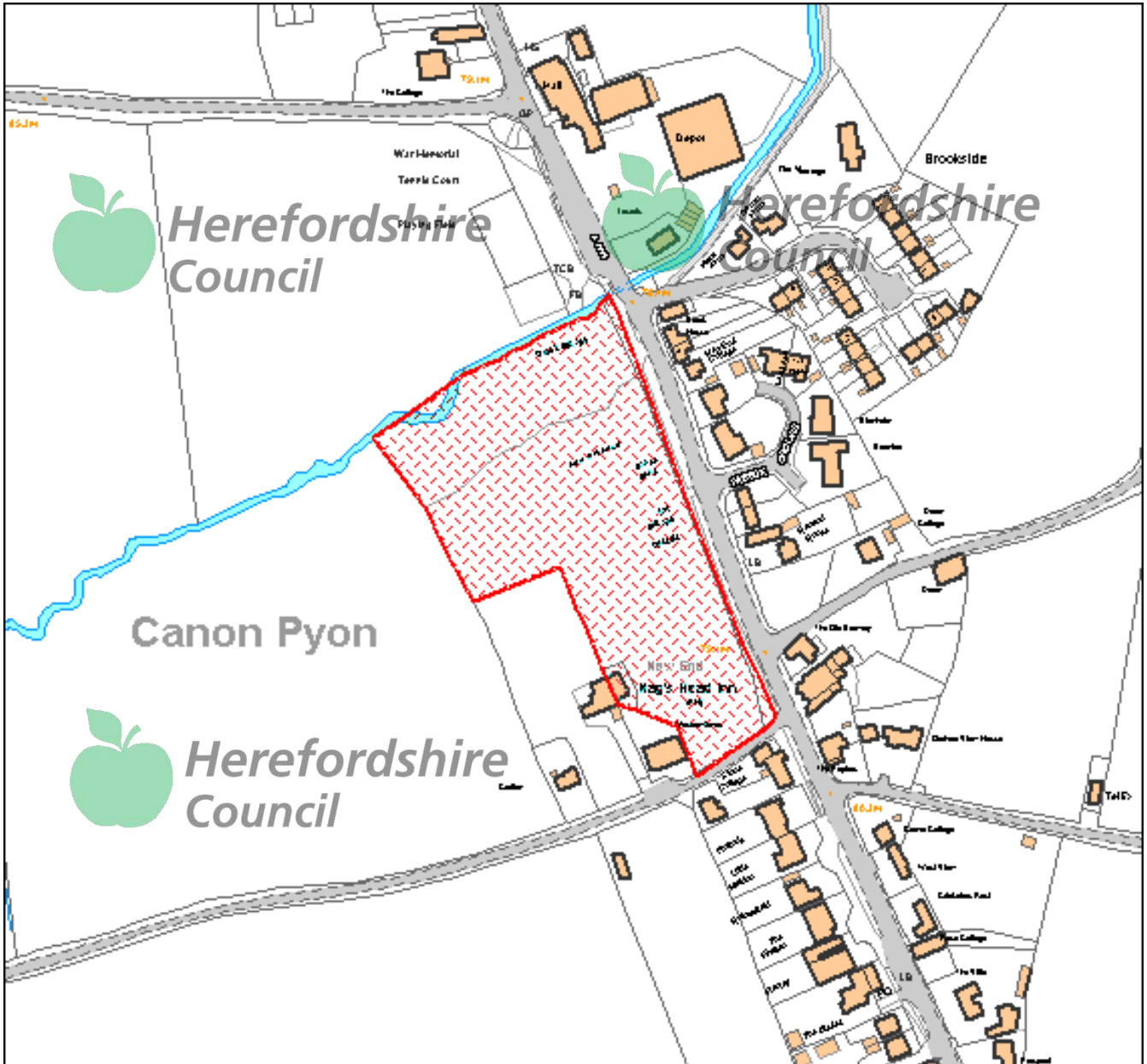
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: 141917/F

SITE ADDRESS : LAND WEST OF PATRICK ORCHARD, CANON PYON, HEREFORDSHIRE, HR4 8NY

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HEADS OF TERMS

PROPOSED PLANNING OBLIGATION AGREEMENT

Section 106 Town and Country Planning Act 1990

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1st April 2008. All contributions in respect of the residential development are assessed against general market units only.

Planning Application P141917/F

Residential development of 27 dwellings comprising 18 open market units (2 x 2 bed, 8 x 3 bed and 8 x 4 bed) and 9 affordable units (3 x 2 social rented and 2 x 2 bed, 4 x 3 bed intermediate tenure) on land west of Patrick Orchard, Canon Pyon, Hereford, HR4 8NY.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£120,640.00** (index linked) subject to evidence being provided by education to justify the primary and secondary contributions. The contributions will provide for enhanced educational infrastructure at Coningsby Early Years, Canon Pyon Primary School, Weobley High School, St Mary's Roman Catholic Secondary School (8% of secondary education contribution) and Weobley Youth Service and the Special Education Needs Schools (1% of education contribution). The sum shall be paid on or before first occupation of the 1st open market dwellinghouse, or will be phased in accordance with a phasing scheme to be agreed and may be pooled with other contributions if appropriate.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum **£58,980.00** (index linked) for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1st open market dwellinghouse or will be phased in accordance with a phasing scheme to be agreed and may be pooled with other contributions if appropriate.

The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:-

- Improvements to public transport facilities including waiting facilities in the centre of the village
- Safer routes to school including the widening of the layby outside Canon Pyon Primary School to improve safety

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£2,160.00 (index linked)** for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1st open market dwelling, or will be phased in accordance with a phasing scheme to be agreed and may be pooled with other contributions if appropriate.
4. Based on a scheme of up to 27 dwellings the developer covenants with Herefordshire Council to provide 0.19 hectares of on-site public open space.
5. The developer covenants with Herefordshire Council to either pay Herefordshire Council a 15 year commuted sum for maintenance of the on-site Public Open Space (POS), if to be adopted by the Council. Such sums to be calculated in accordance with the Council's tariffs or, the maintenance of the on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

Note: The attenuation basin will be transferred to the Council with a 60 year commuted sum. This will be done as part of a land transfer.

6. The developer covenants with Herefordshire Council that 35% (9 units) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations (2008).
7. Of those 9 Affordable Housing units, at least 3 shall be made available for social rent with the remaining 6 being available for intermediate tenure occupation (shared ownership, intermediate rent, or low cost market).
8. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 80% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
9. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
 - 9.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and

- 9.2 satisfy the requirements of paragraph 10 of this schedule
10. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
- 10.1 a local connection with the parish of Canon Pyon;
- 10.2. in the event there being no person with a local connection to the parish of Canon Pyon a person with a local connection to the parishes of Kings Pyon, Brinsop & Wormsley, Burghill, Dinmore, Hope under Dinmore, Wellington, Birley with Upper Hill;
- 10.3 in the event there being no person with a local connection to the above parishes any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10.3 above
11. For the purposes of sub-paragraph 10.1 & 10.2 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
- 11.1 is or in the past was normally resident there; or
- 11.2 is employed there; or
- 11.3 has a family association there; or
- 11.4 a proven need to give support to or receive support from family members; or
- 11.5 because of special circumstances
12. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.

13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 3 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
14. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2 and 3 above for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof, which has not been used by Herefordshire Council.
15. The sums referred to in paragraphs 1, 2 and 3 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
16. The developer covenants with Herefordshire Council to pay a surcharge of 2% of the total sum detailed in this Heads of Terms, as a contribution towards the cost of monitoring and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.
17. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement