

MEETING:	PLANNING COMMITTEE
DATE:	11 FEBRUARY 2015
TITLE OF REPORT:	<p>P142410/O - PROPOSED OUTLINE CONSENT FOR THE ERECTION OF UP TO 38 DWELLINGS AT LAND ADJACENT TO B4222, LEA, ROSS ON WYE, HEREFORDSHIRE,</p> <p>For: MLN (Land and Properties) Ltd per Mr Weatherley, Knights, The Brampton, Newcastle under Lyme, Staffordshire, ST5 0QW</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=142410&search=142410
Reason Application submitted to Committee – Contrary to Policy	

Date Received: 25 July 2014

Ward: Penyard

Grid Ref: 366681,221869

Expiry Date: 14 November 2014

Local Members: Councillor H Bramer

1. Site Description and Proposal

- 1.1 The site is located on the south eastern side of the B4222 Aston Crews to Lea road immediately adjacent to the eastern side of Knightshill housing estate. The land rises up from the road and the site is bisected by a small stream. It is presently an uncultivated meadow.
- 1.2 The proposal is to construct 38 dwellings centred around a new access road. The application is in outline with all matters bar access reserved. Off site improvements are proposed along the B4222 towards and at the junction with the main A40 Ross to Gloucester Road to aid pedestrian movement.
- 1.3 The application is accompanied with an indicative layout confirming that 38 dwellings can be developed together with a balancing pond for sustainable urban drainage and landscape Strategy Plan.

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 |

Further information on the subject of this report is available from Mr A Banks on 01432 383085

- Section 8 - Promoting Healthy Communities
- Section 11 - Conserving and Enhancing the Natural Environment

2.2 Saved Policies of the Herefordshire Unitary Development Plan 2007 (UDP):

- S1 - Sustainable Development
- S2 - Development Requirements
- S3 - Housing
- S7 - Natural and Historic Heritage
- DR1 - Design
- DR3 - Movement
- DR4 - Environment
- DR5 - Planning Obligations
- DR7 - Flood Risk
- E15 - Protection of Greenfield Land
- H4 - Main Villages Settlement Boundaries
- H7 - Housing in the Countryside Outside Settlements
- H10 - Rural Exception Housing
- H13 - Sustainable Residential Design
- H15 - Density
- H16 - Parking
- H19 - Open Space Requirements
- HBA4 - Setting of Listed Buildings
- HBA9 - Protection of Open Areas and Green Spaces
- 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
- NC6 - Biodiversity Action Plan Priority Habitats and Species
- NC7 - Compensation for Loss of Biodiversity
- CF2 - Foul Drainage

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
- SS7 - Addressing Climate Change
- 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 Geodiversity
- LD4 - Historic Environment and Heritage Assets
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- ID1 - Infrastructure Delivery

2.4 Neighbourhood Planning:

Lea neighbourhood area has been designated, but there have been no consultations on issues or options to date and the draft plan is some way off being finalised. Therefore no weight can be attached to the Neighbourhood Development Plan at this stage.

2.5 Other Relevant National and Local Guidance/Material Considerations:

National Planning Practice Guidance (2014)
Annual Monitoring Report
Five Year Housing Land Supply (2013-2018) Interim Position Statement
Planning for Growth – 2011
Laying the Foundations – 2011
Housing and Growth – 2012
Green Infrastructure Strategy – 2010

2.6 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>

3. Planning History

3.1 None

4. Consultation Summary

Statutory Consultees

Welsh Water

Dwr Cymru Welsh Water have outlined strong concerns regarding overland flooding downstream of this proposal, which in turn is having significant detrimental effect of the public sewerage network. The responsibility of land drainage rests with the local authority and/or the Environment Agency. Therefore Dwr Cymru Welsh Water recommends that the Local Authority and other agencies investigate this matter further so that appropriate solutions can be identified to address the issues surrounding flooding from local watercourses.

Notwithstanding the above, we request that if planning permission is granted the following conditions are attached to any planning consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

SEWERAGE

Conditions

Foul water and surface water discharges shall be drained separately from the site.

Reason: To protect the integrity of the public sewerage system.

No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

Further information on the subject of this report is available from Mr A Banks on 01432 383085

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.

Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

Reason: To prevent hydraulic overload of the public sewerage system and pollution of the environment. Advisory Notes:

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.

Some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal we request the applicant contacts our Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Internal Consultees

4.1 **Transportation Manager**

Clarification on the access splay is required, the speeds are 40 and 36 mph, the visibility put forward is only 101m and 53m. The 53m is light, please see the table below as to HC requirements for the splays are 67m for the 36 mph, this is a shortfall that is unacceptable, this needs to be addressed before any permission.

The Draft Heads of Term doesn't include for transportation, this must be addressed prior to any approval.

The link to the A40 is deficient as identified in the TS, this must be addressed and a footpath included, this will require a S278 agreement which may include alterations to the lights.

Due to the flooding issues, SUDs and drainage are critical to this location.

If the above can be addressed this would make the development acceptable. The issues will need to be conditioned.

4.2 **Conservation Manager (Ecology)**

I have read the report from Rachel Hacking carried out on December 2013. This is a poor time of year to carry such surveys out but given the character of the site I do not think it would have revealed much more than it has. The grassland is species poor so much so that the Millennium Phase 1 Habitat Map has recorded it as improved. However, there is much opportunity for site ecological enhancement. I would also note that the watercourse should be protected from the activities involved in construction which should be detailed in a Construction Environmental Plan.

The stream has undergone substantial clearance works. At some stage the landscaping will need to be done to the stream which should have a riparian zone of vegetation to ensure otters are able to access it undisturbed with some water vole habitat creation preferably. We need a plan for this and for the site's other ecological enhancements which should be accomplished under a habitat enhancement scheme for which I shall ask a method statement as follows:

The recommendations set out in the ecologist's report from Rachel Hacking Ecology should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme to include riparian improvements for nature conservation should be submitted to and be approved in writing by the local planning authority. The scheme shall be integrated into the landscape with the arboricultural schemes and 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

In addition if approval is given I would like to see a Construction environmental management Plan to ensure the water course is kept free of pollutants and contamination from site run-off. The following condition should secure this:

Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of soil erosion, dust, odour, noise and vibration arising from the demolition and construction process. The Plan shall be implemented as approved.

Reasons:

To ensure that all species and sites 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's Unitary Development Plan.

To comply with policies NC8 and NC9 within Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

4.3 Conservation Manager (Landscape)

Proposed Development:

The proposal is an outline application for up to 38 dwellings with associated access and landscaping.

Site and Surrounding Area:

The site is situated off the B4222, at the eastern approach to the settlement of Lea. It lies adjacent to the settlement boundary which encompasses the 20th century residential development of Rudhall View to its immediate west.

Landscape:

The site currently scrub and grassland, it is bounded by hedgerow on all sides although intermittent in places. The northern section of the site is essentially flat in character lying at 85m AOD. At approximately 150m south the rise in the landform

because more pronounced forming part of the foothills of High Hope. A partially culverted stream runs north to south across the site.

- The Landscape Character type is Principal settled Farmlands: Settled agricultural landscapes of dispersed scattered farms relic commons and small villages and hamlets. Networks of small winding lanes nestling within a matrix of hedged fields are characteristic. Tree cover is largely restricted to thinly scattered hedgerow trees, groups of trees around dwellings and trees along stream sides and other watercourses. Given the current condition of the site it is acknowledged that in terms of landscape impact the site is less sensitive. Its surroundings however are considered to typify the aforementioned character type.
- There are no statutory designations within the site. The Environment Agency Flood Map for surface water indicates 1 in 30 year rainfall event.
- The site fulfils an important role in forming part of the eastern approach to the settlement along the B4222.

Visual and Public Amenity:

- At the approach to the village from the east the settlement of Lea is well contained. Rudhall View, existing residential development, only comes into the line of vision at the change of direction of the road. Hedgerow along the site boundaries filters these views, only the south eastern tip of the proposal has clear views.
- Views along both the northern and southern approach to Lea along the A40 are considered unlikely due to intervening built form.
- Views along the C1281 to Aston Crews will be intermittent through hedgerow gaps.
- Public Right of Way LE3 located on higher ground has clear views looking down onto the proposal. The site will form part of a 180 degree panorama taking in Penyard Hill to the west and to the east the spire of Linton Church. The settlement of Lea is laid out to the foreground; Lea Villa Residential Park forms a prominent feature in this vista. The proposals adjacent to this development will be 2/3 and will therefore have a degree of impact.
- Views of south eastern tip of the development site from sections of the PROW AG22.

Conclusions:

- It is recognised that there are opportunities for enhancement as part of this development. Primarily within the site itself the opening up and planting of the watercourse forming part of the open space that runs north to south through the site. It is further envisaged that with appropriate planting and management of northern and eastern boundaries the approach to settlement can be enhanced. Further detail with respect to planting proposals and management would be required as part of the Reserved Matters.
- It is considered that the south eastern section of the development is more visually prominent where the landform rises and forms part of the foothills of High Hope. Careful consideration of the layout should be undertaken with an

appropriate buffer following the contour line along the southern boundary, in conjunction with siting of properties greater in height in less sensitive positions within the development. This will reduce the visual impact of the development from a number of aforementioned locations.

4.4 Conservation Manager (Trees)

I have read the arboricultural assessment of the site's trees and hedgerows. Although there are few trees on the site, there needs to be a Tree Protection plan put in place which encompasses protection for the hedgerows in the form of Hera fencing. The loss of trees proposed at the access location should be compensated for in the landscaping plan. I note that there is mention of clearance of scrub which, wherever possible, should be retained for its wildlife value but temporary clearance may be needed for access to complete hedgerow works.

I would propose a non-standard condition which secures site tree and hedgerow protection as follows:

Prior to commencement of the development, a Tree Protection Plan to include trees and hedgerow following "BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations" should be compiled based upon the arboricultural 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

4.5 Conservation Manager (Archaeology)

Thank you for consulting me regarding this proposed development.

There would appear to be little effect on the setting of any heritage assets in the locality, and little potential here for any below ground remains of substance.

On that basis I have no objections, no requirements to advise, and no further comments to make.

4.6 Housing Manager

In principle the Housing Team support the application for 38 dwellings of which 13 would be affordable. As this is an outline application the detail is missing so further discussions on tenure mix, bed sizes and standards all need to be agreed before the submission of reserved matters.

4.7 Land Drainage Manager

Overview of the Proposal

The proposed development comprises the construction of up to 38 residential dwellings, with associated landscaping, ecology and drainage works on land adjacent to the B4222 to the east of the village of Lea. The site area is approximately 1.8 ha as stated on the application form.

Fluvial Flood Risk

The Environment Agency's Flood Map for Planning (Figure 1) shows the site is located in Flood Zone 1. A FRA is required for the development as the site is larger than 1 ha. An FRA has been provided by the Applicant.

A tributary of the Rudhall Brook passes through the west of the site. Fluvial flood risk associated with this minor watercourse has been assessed by the Applicant within the FRA. The Applicant notes that flooding within the south of the site has occurred due to surcharging of the culvert beneath the B4222 and that further investigation of the cause of this flooding (i.e. culvert capacity, culvert failure, partial blockage) will be undertaken during detailed design. We are also aware of previous flood incidents affecting properties in the adjacent Rudhall View. The Applicant also confirms that the assessment of culvert capacity will include a 20% increase in river flow to accommodate for the potential effects of climate change. As the tributary catchment is less than 5 km², we consider a climate change allowance of 30% is more appropriate. We also recommend that the Applicant considers how flooding from this watercourse can be managed within the development up to the 1 in 100 year plus climate change event - in particular through the profiling of land to direct flood waters away from development and towards less vulnerable areas such as the proposed soft landscaped areas.

Due to the recorded flooding in the vicinity we also require an assessment of the capacity of the tributary through the site to demonstrate that the flows for the 100 year event (including climate change allowance) can be managed without affecting properties and recommend this is undertaken to support the planning application.

Other Considerations and Sources of Flood Risk

The Applicant's FRA concludes that the risk of flooding to the site from groundwater, public sewers, highway drainage and overland flow is low. However, the FRA acknowledges overland flow risks from high ground to the south of the site and states that these can be adequately managed by intercepting these flows, setting finished floor levels of buildings at least 150mm above surrounding external ground levels and shedding surface water away from buildings. We agree with this approach and recommend that evidence of its implementation is submitted to the Council prior to construction. We also recommend that the Applicant demonstrates how intercepted flows will be managed to avoid flooding elsewhere - i.e. by discharging these flows to areas of low vulnerability and ensuring that any flows that enter the development's surface water drainage system are considered in the design of the system.

Surface Water Drainage

The Applicant has not provided an outline drainage strategy with their application but provides a detailed description of the proposals within the FRA. Our interpretation of the Applicant's strategy comprises the following:

- The site drainage system will be designed to ensure no flooding up to the 1 in 30 year event.
- Flows that exceed the site drainage system will be contained safely within the site to ensure no risk of flooding to vulnerable/critical areas of the site and no increased risk of flooding to people and property elsewhere up to and including the 1 in 100 year event and allowing for the potential effects of climate change.
- The use of SUDS for the management of surface water, with preference given to source-control techniques such as soakaways and permeable paving prior to discharge to the tributary of Rudhall Brook.

- The use of on-ground SUDS techniques such as swales and ponds in preference of below ground methods of conveyance and storage.
- Attenuation of discharge from the site to limit flows to existing greenfield rates (discussed further below) up to and including the 1 in 100 year event and allowing for the potential effects of climate change.

We note that the Applicant suggests that soakaways may be located within gardens of private properties. We do not normally recommend this approach for a number of reasons, namely:

- i. There is a high risk that homeowners could alter/impact/reduce/damage the SUDS features and reduce their effectiveness.
- ii. Many of the SUDS features could be inaccessible for future maintenance works, particularly if high pressure jetting will be required to remove sediment/silt build up and/or other blockages. There is a known siltation problem to drains and watercourses within Lea.
- iii. Depending on the design of the SUDS features, they may require replacement during the design life of the housing development and this would cause major disruption to residents.

We recommend that further consideration is given to alternative solutions or justification that no other options exist. If SUDS are proposed in private gardens, we recommend that the Applicant sets out how the above risks will be managed. Given the size of the proposed development site and the provision of open space, the use of multi-property SUDS features as illustrated on the Indicative Layout drawing is preferred.

The Applicant's proposals are in accordance with the draft National Standards for Sustainable Drainage and Policy DR4 of the Unitary Development Plan that state the drainage strategy should incorporate the use of Sustainable Drainage (SUDS) where possible.

Our review of the Cranfield University Soils mapping indicates that soils within this area are freely draining and may therefore be suitable to support infiltration. The site is not located in a groundwater Source Protection Zone and therefore all forms of infiltration should be possible subject to testing of infiltration rates and contamination assessment. We recommend that infiltration testing is undertaken in accordance with BRE365 and that the results are submitted to the Council prior to construction. If infiltration systems are to be used, we also recommend that the Applicant confirms the depth to the groundwater table as the base of any infiltration feature must be a minimum of 1.0m about the highest recorded groundwater level.

The Applicant states that discharge from the site will not exceed existing greenfield runoff rates. However, the Applicant also states that limiting discharge to existing greenfield rates during smaller events (specifically the 1 in 1 year and QBAR) is not practical due to risk of blockage. The Applicant therefore intends to limit discharge rates to a minimum of 5 l/s. Whilst we agree with the risk of blockage in some flow control devices during smaller rainfall events, the proposed development site is located within an area that is prone to surface water flooding - particularly flooding of the sewerage network and foul water pumping station. We therefore strongly recommend that the Applicant considers the impact of this development on local surface water flood risks during smaller flood events by either limiting discharge from this site to current greenfield rates through the use of appropriate flow control devices and/or demonstrating that discharge from this site at a minimum discharge of 5l/s will not increase local flood risks.

The Applicant should also demonstrate how they have considered designing for 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 0635: Designing for exceedance in urban drainage: Good practice.

Following confirmation of the proposed drainage strategy and prior to construction the Applicant should inform the Council of the details of any necessary maintenance of the proposed surface water drainage system along with who will be responsible for undertaking maintenance.

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

It is understood that a gravity drainage system is proposed and that discharge will be made into the Welsh Water foul sewerage network. We understand that Welsh Water has been consulted regarding these proposals and we have no further comments.

Overall Comment

We have no objections in principle to the proposed development. However, the management of flood risk and surface water runoff is an important consideration for this development and if the council is minded to approve the application we recommend that the following information is submitted as part of any reserved matters submission and/or planning condition:

- Findings of further flood studies associated with channel capacity through the site and surcharging of the culvert beneath the B4222. This should demonstrate that the Applicant has considered and adequately mitigated flooding from this watercourse within the development up to the 1 in 100 year plus climate change event.
- Details of proposed measures to manage flood risk from overland flow from high ground to the south of the site and demonstration that intercepted flows will be managed to avoid flooding within the site and increased flood risk elsewhere.
- A detailed drainage strategy, with supporting calculations, showing the location and sizes of any soakaways and attenuation storage and demonstrating how discharges from the site are restricted to greenfield rates for a range of events up to the 100 year (with climate change allowance) and/or demonstrating that a minimum discharge of 5l/s will not increase flood risk elsewhere.
- 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.
- Evidence of infiltration testing in accordance with BRE365 at locations of proposed soakaways to support the design. Groundwater levels should also be provided as Standing Advice recommends the invert levels of soakaways are a minimum of 1m above the groundwater level.
- Details of the proposals for adoption and maintenance of the surface water drainage system.
- 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.

5. Representations

- 5.1 The Lea Parish Council met on the 10th September 2014 to discuss Planning Application P142410/O. The meeting was attended by 6 Parish Councillors, 10 members of the public and 2 consultants representing the applicant. Following a presentation of the proposal by the consultants and a general discussion the views of the council regarding various aspects are set out below.

Surface Water Drainage

In respect this proposal was not of such concern as with other recent applications being downstream of the main flooding problems in the centre of the village. The site was known to have experienced flooding mainly due to the backlog of the culvert under the B4222. It was questioned whether this culvert was of sufficient capacity to cope with these proposals.

Impact on Foul Drainage System

This was not considered to be a problem because the site is adjacent to the Pumping Station.

Impact on Highways

Although the proposed access is within the 30 mph zone it was considered that a large proportion of the traffic far exceed the limit. If the proposals were to be given the go ahead then some form of traffic calming should be introduced.

Type of Housing Provision

As with other recent applications, concern was expressed about the proportion of affordable housing. It was felt that the village already had a significant proportion of this type of housing and there was no evidence of need.

Environmental and Visual Impact

It was considered that the site was truly open countryside and the proposals would create a visually negative impact on the area. The existing building line/settlement boundary was very clearly defined.

Other Matters

Concerns were raised about the ability of the local primary school to accommodate more pupils. It was felt that any Section 105 monies raised should be used to deal with the flooding problems in the centre of the village.

Having heard the discussions, parishioners were asked to vote on the application. There were nil for it, against with 3 abstentions. The Parish Councillors voted nil for it and 6 against.

Aston Ingham Parish Council state:-

Aston Ingham objects to this application principally because it fails the sustainability test, and therefore permission should not be granted on the basis of a presumption in favour of sustainable development, which the developers claim should override the policies in the DUP.

Specifically, the core principle of sustainability is that dwellings should be build close to sites of employment and other mainstream services, such as retail areas, medical centres and other public services. The fact that the minor facilities quoted in the proposal (village shop, pub and

church) are within walking distance of the development is inconsequential, as residents will need to commute to work and otherwise travel to local towns for all other services.

The Parish Council considers that the existence of a bus route through the village to other towns contributes little to the sustainability equation. The service is under-utilised and subsidised, despite being close to existing housing development in Lea, and its future is not guaranteed. It is very unlikely that the proposed development will change the dynamics in any meaningful way, and Councillors feel that the proposal substantially under-estimates the number of private car journeys by a considerable margin, and therefore highway capacity and congestion problems.

These major issues are of a scale which places them outside the scope of S106 or reserved matters. The Parish Council submits that the proposal must be considered in the context of other proposed development in the village, as the total number of dwellings is far in excess of what is reasonable for a village of this size, amenities and infrastructure and inherently contrary to the principles of sustainability. These are significant concerns regarding potential flooding and the capacity of the sewage system.

In addition, Councillors raised a number of concerns over development in the AGLV, visual impact and local infrastructure capacity, and were sceptical of projections of local employment opportunities which would be created by the development.

The quality of the scheme in terms of layout and design is acknowledged.

Ross-on-Wye Civic Society state:-

We object on similar grounds to our objection to 142108/O, namely that the proposed 38 dwellings combined with others under consideration create a total that is so grossly disproportionate to the current size of the community as to pose a huge threat to its character. It is hardly the fault of Lea residents that the county as yet has neither a Core Strategy in place nor a 5 year supply of building land, and that the parish itself has not had time in which to produce a Neighbourhood Plan. The intention of the planning authority, according to its draft strategic plan, is for Lea's housing stock to increase by some 14% by 2031 – perhaps some 30+ new dwellings. This current application together with others does not increase this figure only marginally – it takes matters into the realm of a developers' free-for-all, totally at odds with what the authority & local community are seeking to achieve.

Lea Action Group state:-

As chair of the Lea Action Group my attention has been drawn to an application for outline planning permission to construct up to 38 dwellings on land adjacent to the B4222 in Lea. Having consulting the group's governing committee I must inform you that in our view the application gives rise to a number of concerns which should without doubt be addressed before it can be approved.

The applicant is proposing that vehicular access to the planned estate should be from the B4222. We feel that this is wholly inappropriate given that the road concerned is narrow, twisting, pot-holed, prone to flooding in places and cannot realistically be expected to support a higher volume of traffic without a significant – and expensive up-grade.

The highway's inadequacies combined with restricted visibility must surely mean that traffic entering and leaving the proposed development will create a road safety hazard. Bearing in mind that the B4222 is already heavily used by agricultural vehicles and by large tractors towing heavily-laden trailers in particular, with a limited ability to stop quickly in an emergency.

We suspect that the applicant may have under-estimated the volume of traffic the estate is likely to generate given the number of people who now use home delivery services. We would

suggest that the access arrangements contravene the requirements of S6 Transport as laid out in the saved policies of Herefordshire Council's UDP.

It is incidentally worth noting that a proposal to build four houses (your ref P131104/O) on the opposite side of the B4222 and adjacent to Millbrook Gardens was rejected by the Planning Inspectorate on appeal on 14 March 2014 partly on access ground.

The P142410/O site is prone to flash flooding and people who live nearby report that it drains poorly. Were it to be developed then the culvert that runs beneath the B4222 would surely require enlarging.

Lea is of course at serious risk of surface water flooding, so much so that no further development should be sanctioned until the necessary remedial works have been carried out.

While the applicant has outlined measures that should in theory mitigate the danger that the proposed housing scheme will make the situation worse, caution must prevail given the village's vulnerability. It should be borne in mind that properties in Rudhall View, adjacent to the site, were among those inundated during the major floods that affected Lea in November 2012.

Parts of Lea's sewers are porous and admit water during periods of heavy rainfall. As a result they overflow, deluging properties in the village with an unappetising mixture of sewage and dirty water.

No further dwellings should be connected to the sewer network until the necessary repairs have been executed. It is our understanding that Welsh Water will not be in a position to undertake this task until 2016 at the very earliest.

While the pumping station has plenty of capacity if all it is asked to pump is sewage, it can not cope with a mixture of sewage and large volumes of surface water.

On the subject of flooding we feel bound to draw attention to the EIA Schedule 2 screening check-list and report dated 12 February 2014.

Paragraph 5.4 states: "The site is susceptible to surface water flooding and shows on the OS maps as wert ground with a watercourse crossing it. The site lies within the area identified as requiring consideration of possible adverse effects on the River Wye SAC/SSSI under the Habitats Regulations.

Stage 4, Section B, box (c) states when referring to the site: "Flood risk." It alludes to the closeness of the site to the Gloucestershire border and potential trans-boundary considerations and point out that there is a former landfill site to the north that raises potential contaminated land issues.

Such concern over flooding – not to mention contaminated land – must surely place a major question mark over the development's sustainability. It would certainly seem to contravene the following saved policies of Herefordshire Council's UDP: DR4 Environment, DR7 Flood Risk, and S2 Development Requirements.

The applicant intends to provide 13 affordable houses. This is surely excessive given that so much of the existing housing in the village – and in that part of Lea in particular – already falls into this category and betrays a lack of understanding by the applicant of the real needs of the existing community.

A proper appreciation of the local demographic would surely mean that bungalows designed to be easily accessible by people with limited mobility would make far more sense given Lea's high age profile.

While we note that a contribution for flood relief works is mooted as an alternative to the 13 affordable dwellings, we would repeat the aforementioned extreme vulnerability of Lea to flooding must mean that remedial flood works are carried out before development is approved.

It is to the applicant's credit that some provision has been made to ease access by pedestrians to the centre of the village. However, they will still have to cross the B4222 which will have been made considerably busier by the development and will face a long walk to the shop, post office and public house.

They will face an even longer one to the village hall, church and school; and Lea Primary School is full.

While provision for educational funding will be made by the applicant should planning permission be granted, there is no indication as to how that funding will be spent or whether it will be sufficiently adequate.

We are unimpressed by the ecologist's survey of the site. It was apparently conducted last December which by the ecologist's own admission was a sub-optimal time for the work to be carried out.

We feel nevertheless that two paragraphs from the survey are worth quoting:

- i) "The scrub habitat on site is valuable nesting habitat for birds and foraging habitat for birds and small mammals."
- ii) The grassland does offer limited ecological value as it provides cover for small mammals and a pollen and nectar source for invertebrates."

The above concerns must be fully addressed before this application can be approved. If they are not, then it must be refused.

Four letters of Objection have been received the main points are:-

1. The site is on the edge of the village over 1500m away from the school and Church.
2. Nearest bus stop is 800m.
3. Development of this nature is more suitable to a suburban area.
4. With other applications being considered this would make a total of over 157 new dwellings if all approved and the cumulative impact should be considered.
5. The school is presently full.
6. The site suffers from flash flooding and drains poorly.
7. Lea has significant flooding problems.
8. The B4222 Road is narrow and use by large agricultural vehicles and new housing with associated traffic will cause problems.

- 5.2 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 Lea is identified within the adopted Unitary Development Plan as a main village and is also allocated as a main village within the Ross-on-Wye Housing Market Area within the emerging Local Plan – Core Strategy with a 14% indicative growth target over the plan period. This equates to approximately 31 dwellings. The application is made in the context of the housing land supply deficit.
- 6.2 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, nature conservation interests and highway safety, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

The Principle of Development in the Context of 'Saved' UDP Policies the NPPF and Other Material Guidance

- 6.3 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

- 6.4 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan is time-expired, but relevant policies have been 'saved' pending the adoption of the Herefordshire Local Plan - Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached.

- 6.5 The two-stage process set out at S38 (6) requires, for the purpose of any determination under the Act, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration. Paragraph 215 recognises the primacy of the Development Plan but, as above, only where saved policies are consistent with the NPPF:-

"In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that maybe given)."

- 6.6 The effect of this paragraph is to supersede the UDP with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence and the presumption in favour of approval as set out at paragraph 14 is engaged if development can be shown to be *sustainable*.
- 6.7 The NPPF approach to Housing Delivery is set out in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years' worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and preferably years 11-15 too. Paragraph 47 underlines that

UDP housing supply policies should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

- 6.8 The Council's published position is that it cannot demonstrate a five year supply of housing land. This has been reaffirmed by the recently published Housing Land Supply Interim Position Statement – May 2014. This, in conjunction with recent appeal decisions, confirms that the Council does not have a five year supply of deliverable housing land, is significantly short of being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.
- 6.9 In this context, therefore, the proposed erection of approximately 38 dwellings, including 6 affordable, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached.
- 6.10 Taking all of the above into account, officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 & 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF is applicable if it should be concluded that the development proposal is sustainable. As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.

Assessment of the Scheme's Sustainability Having Regard to the NPPF and Housing Land Supply

- 6.11 The NPPF refers to the pursuit of sustainable development as the golden thread running through decision-taking. It also identifies the three mutually dependent dimensions to sustainable development; the economic, social and environmental dimensions or *roles*.
- 6.12 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use resources prudently and moving towards a low-carbon economy.
- 6.13 In this instance officers consider that in terms of access to goods and services the site is sustainably located whereas the delivery of up to 38 dwellings, including 6 affordable, together with contributions towards public open space, sustainable transport, flood defences and education infrastructure would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development.

Impact on Landscape Character

- 6.14 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It goes further, however, and confirms that '*distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.*' Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapter 11 of the NPPF.

- 6.15 The application site has no formal landscape designation. It lies in open countryside outside but adjacent the settlement boundary. The SHLAA has identified that the site has low/minor constraints. It is accepted that the proposed development is not likely to adversely affect the character of the wider Herefordshire landscape indeed the Conservation Manager (Landscape) considers that the site can offer enhancement although this is contingent on the Reserved Matters submission reflecting the need to enhance landscaping as identified. The landscape plan partly reflects this requirement with enhanced green infrastructure by drawing development away from the eastern and southern boundaries onto the open fields and the most prominent part of the site.
- 6.16 On the basis that conditions will be imposed requiring the protection of hedgerows and SUDS scheme, and in the context of the housing supply situation, the principle of development is considered acceptable in the context of 'saved' UDP policies LA2 and LA3.

Impact on Ecological Interests

- 6.17 The Council's Ecologist concurs with the findings of the submitted ecological appraisals. It is concluded that the proposal will not have a significant impact on ecological interests. Subject to the imposition of conditions and informatives as set out below, the development is considered to accord with the provisions of the Development Plan and NPPF guidance.

Transport

- 6.18 The Transportation Manager raised concerns initially regarding the visibility relating to the new access. However this has now been resolved with the appropriate distances of 67m and 101m being confirmed. In addition the off-site improvements to enhance pedestrian connectivity in the village is a further key aspect to the development which will also be an enhancement for existing residents.
- 6.19 Therefore the Transportation Manager concludes that the scheme is acceptable relative to the requirements of paragraph 32 of the NPPF.

Land Drainage and Flood Risk

- 6.20 The centre of Lea suffers from flooding and is an identified flood risk area. The Council has commissioned a report to identify the issues and means to alleviate the situation. The findings of this report are due shortly. Due to the topography of the area and with the centre of Lea located within the 'dip' all waters gravitate towards the centre of the village. This has resulted in flooded properties and the closure of the main A40 road.
- 6.21 This planning application through the S106 seeks to provide a substantial sum (£420,000) towards a flood attenuation scheme. The monies have been calculated on reduced affordable housing provision as identified by the housing needs survey for the village. A similar proposal was recently agreed for the site adjacent to the Petrol Filling Station in Lea and this will bring forward £480,000. Therefore approval of this application will provide a fund of £900,000.
- 6.22 The exact figure for the flood attenuation works is not yet known, however, by establishing funding towards a scheme its implementation will inevitably be brought forward and enable additional inward investment from other agencies to fund the scheme. Any monies remaining will be used to provide additional off site-affordable housing. This is considered to be a key economic and social aspect to the scheme which should be given significant weight in the decision making process.

Public Open Space

- 6,23 The masterplan provides for public open space to be provided on site with a play area. The management of these facilities will be by means of a management company.

S106 Contributions

- 6.24 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated. The agent has confirmed agreement to the Draft Heads of Term which provide for a raft of contributions.

Impact on Adjoining Residential Amenity

- 6.25 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site is possible without undue impact on adjoining property, particularly those dwellings adjoining the site to the west and south. Clearly this will be contingent on detailed consideration at the Reserved Matters stage. However your officers consider this can be achieved.
- 6.26 Care would need to be taken to ensure that dwellings on the site's periphery are constructed at a level that does not result in an undue overbearing impact. At this stage, however, officers are satisfied that an appropriate layout at the Reserved Matters stage would be capable of according with the requirements of saved UDP policy H13 and NPPF paragraph 12, which demands good standards of amenity.

Foul Drainage and Water Supply

- 6.27 The Water Authority has outlined strong concerns regarding overland flooding downstream of this proposal which in turn has had significant detrimental effect on the public sewerage network. However it should be noted that this proposal seeks to fund substantial works of improvement to resolve this matter. They raise no objection to the development in terms of the capacity of the treatment works to cater for the additional foul waste flow or provision of a water supply subject to appropriate conditions as recommended.

The Neighbourhood Plan

- 6.29 Lea Parish Council has designated a neighbourhood plan area. Paragraph 17 of the NPPF, states that planning should be *'genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of an area'*.
- 6.30 However, there have been no consultations on the issues or options to date and therefore the draft plan is some way off being finalised (Not yet at Reg 14 Stage). Therefore no weight can be attached to the Neighbourhood Plan at the present time.

Summary and Conclusions

- 6.31 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out-of-date and the full weight of the NPPF is applicable. UDP 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.

- 6.32 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site lies outside but directly adjacent the settlement boundary on a SHLAA site that was designated as having low/minor constraints. Leas, having regard to the NPPF, is a sustainable location and this site is well placed to benefit from good pedestrian connectivity to village facilities. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).
- 6.33 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic role. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 6 affordable homes and in offering enhancements to footway and pedestrian crossing facilities locally, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development. In addition the contribution towards the flood attenuation scheme is considered to carry significant weight in the planning balance.
- 6.34 The Conservation Manager (Landscapes) confirms the application site has the ability to accommodate residential development subject to the enhanced landscaping of the eastern boundary and retention of other boundary features and the Development Strategy Plan responds positively to these requirements. The site does not exert any influence on the setting of any heritage asset.
- 6.35 Officers conclude that there are no highways or ecological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore concluded that the presumption in favour of sustainable development should be engaged and that planning permission should be granted subject to the completion of a legal undertaking and planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 38 and to formulate an integrated foul and surface water run-off scheme. The commencement of the development will also be controlled to run in parallel with the flood alleviation scheme. Finally officers would also recommend the developer conducts further consultation with the Parish Council and local community as regards the detail of any forthcoming Reserved Matters submission.

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 outline planning permission, subject to the conditions below and any other further conditions considered necessary.

1. **A02 Time limit for submission of reserved matters (outline permission)**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters**
4. **C01 Samples of external materials**
5. **The submission of reserved matters in respect of layout, scale, appearance and landscaping and the implementation of the development shall be carried out in accordance with the approved plans.**

Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, HBA4 and LA4 and the National Planning Policy Framework.

6. **The development shall include a mix of dwellings of no more than 39 dwellings and no dwellings shall be a mixture of one and two storeys high.
Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, H13, HBA4 and the National Planning Policy Framework.**
7. **H03 Visibility splays**
8. **H06 Vehicular access construction**
9. **H09 Driveway gradient**
10. **H11 Parking - estate development (more than one house)**
11. **H17 Junction improvement/off site works**
12. **H18 On site roads - submission of details**
13. **H19 On site roads - phasing**
14. **H20 Road completion in 2 years**
15. **H21 Wheel washing**
16. **H27 Parking for site operatives**
17. **H29 Secure covered cycle parking provision**
18. **H30 Travel plans**
19. **L01 Foul/surface water drainage**
20. **L02 No surface water to connect to public system**
21. **L04 Comprehensive & Integrated draining of site**
22. **G04 Protection of trees/hedgerows that are to be retained**
23. **G10 Landscaping scheme**
24. **G11 Landscaping scheme - implementation**
25. **K4 Nature Conservation - Implementation**
26. **Prior to commencement of the development, a Tree Protection Plan to include trees and hedgerow following “BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations” should be compiled based upon the arboricultural survey should be submitted to, and be approved in writing by, the local planning authority, and the scheme shall be implemented as approved.**

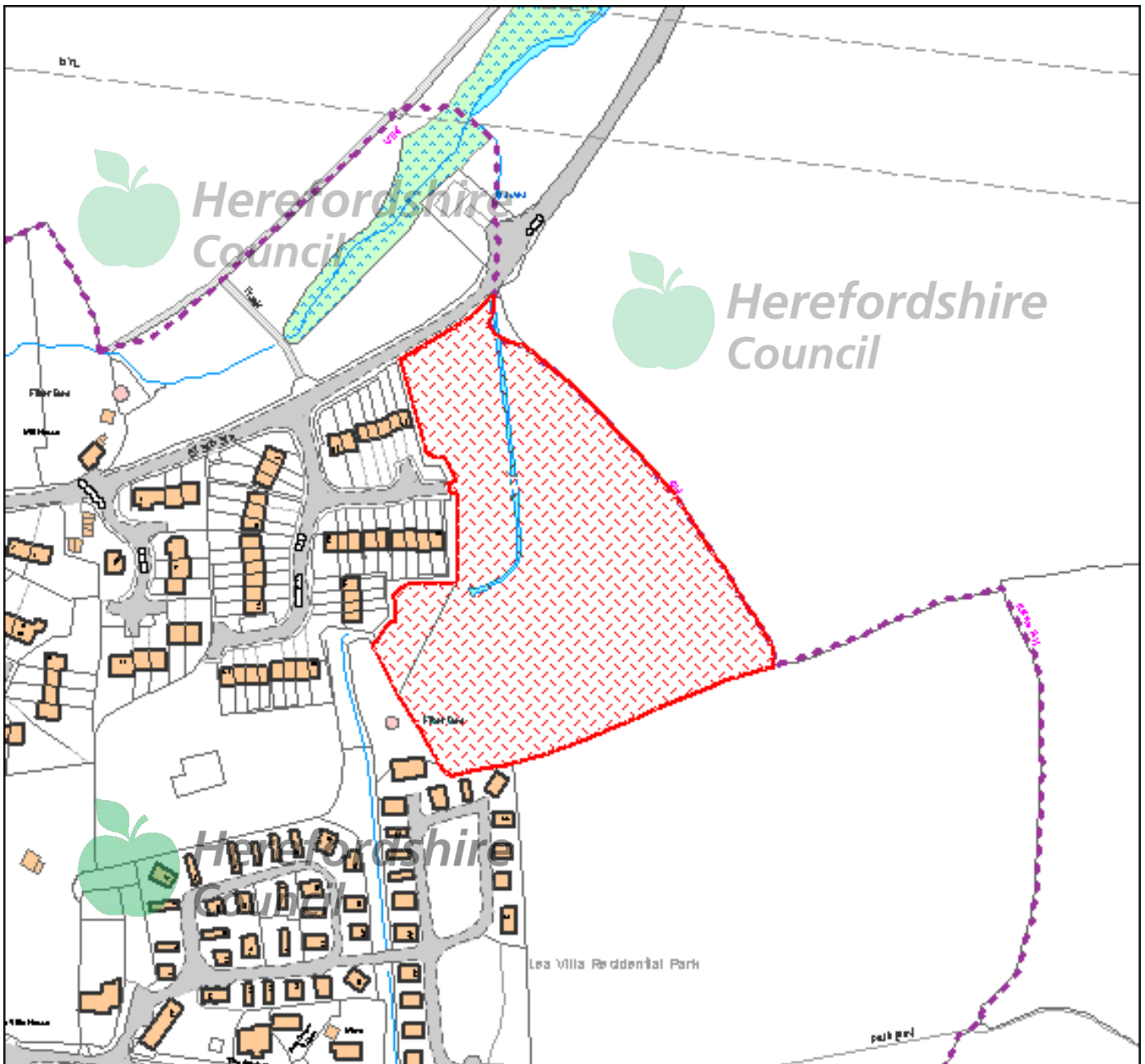
An appropriately qualified and experienced arboricultural clerk of works should be appointed (or consultant engaged in that capacity) to oversee the arboricultural

mitigation work.

Reason: 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.

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, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **HN10 No drainage to discharge to highway**
3. **HN08 Section 38 Agreement & Drainage details**
4. **HN07 Section 278 Agreement**
5. **HN04 Private apparatus within highway**
6. **HN28 Highways Design Guide and Specification**
7. **HN27 Annual travel Plan Reviews**
8. **HN25 Travel Plans**
9. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**



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APPLICATION NO: 142410/O

SITE ADDRESS : LAND ADJACENT TO B4222, LEA, ROSS ON WYE, HEREFORDSHIRE

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