

MEETING:	PLANNING COMMITTEE
DATE:	16 MARCH 2015
TITLE OF REPORT:	<p>143720 - PROPOSED ERECTION OF 40 DWELLINGS INCLUDING 14 AFFORDABLE HOUSES AND CHANGE OF USE OF LAND TO FORM COMMUNITY OPEN SPACE AT LAND SOUTH OF A438 FORMING PARCEL NO 0008 AND PART PARCEL NO 2308, BARTESTREE, HEREFORD</p> <p>For: INCA 2013 Ltd per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=143720&search=143720
Reason Application Submitted to Committee - Contrary to Policy	

Date Received: 15 December 2014 **Ward: Hagley** **Grid Ref: 356092,241115**
Expiry Date: 9 April 2015
Local Member: Councillor DW Greenow

1. Site Description and Proposal

- 1.1 On 27 August 2014 outline planning permission was refused for the erection of up to 60 dwellings on two parcels of land on the south side of the A438, Bartestree. The application also proposed the formation of 0.83ha (2.05 acres) of community open space for transfer to the Parish Council; this land lying adjacent the existing village hall and recreation facilities. The application was refused due to impact on local landscape character and the setting of off-site designated and non-designated heritage assets.
- 1.2 This application is a resubmission of the refused scheme; albeit one that is amended significantly. It is now proposed that up to 40 dwellings (including 14 affordable) be constructed on the eastern parcel (where 49 were previously proposed) with the whole of the western parcel transferred to the Parish Council and protected for community use as public open space; 11 dwellings having previously been proposed on the northern part of this parcel. The application thus proposes twenty fewer dwellings and an increase in the public open space offered to the Parish.
- 1.3 The application remains in outline with all matters bar access reserved and thus seeks approval for the principle of development, with detailed matters of appearance, scale, landscaping and layout deferred until the Reserved Matters stage.
- 1.4 The application site is outside but adjacent the settlement boundary for Bartestree as defined by the Unitary Development Plan (UDP), on a SHLAA 'minor constraints' site.

- 1.5 The western parcel is broadly rectangular in shape except where two detached residential properties occupy a smaller rectangle in the northwest corner. It is proposed to transfer the entire field (1.87ha) to the ownership of the Parish Council as an extension to the existing village recreation area, which is immediately to the west adjacent the village hall and associated sports pitches.
- 1.6 The boundary of this parcel with the A438 is formed by a hedgerow with narrow grass verge. This hedge is maintained at a height which allows views of the field from the houses on the north side of the road, including Hagley House and The New Inn (now closed). The eastern boundary is formed by trees and dense shrubbery lining the driveway to Hagley Court, including some rare Lucombe Oaks. To the south is a poorly maintained and gappy hedge for approximately 60% of the boundary - with mature trees in the field to the south, including a distinctive row of Lombardy Poplars. West of this Stalls Farm forms the boundary of the field where several barns have been converted into dwellings alongside the original farmhouse. The application proposes no changes to this parcel. It is only the transfer of the ownership to the Parish that is proposed.
- 1.7 To the east of the drive to Hagley Court is the second open grassland field where the residential development is proposed. It is presently accessed via a gate in the northeast corner where there are also three properties facing on to the plot; Nos 1 & 2 Haven Cottages and Figgynut Cottage. All three are set back 18m from the site boundary. There is a bus stop with shelter immediately east of the entrance to Hagley Court. The northern boundary to this parcel is also formed by a maintained hedgerow, affording views across from existing residential properties on the north side of the A438. The proposal would involve removal of this hedgerow as part of the formation of a vehicular access.
- 1.8 To the immediate south of the eastern parcel is an area designated as a nature conservation area where no development will occur. This site supports several mature trees including Oak, Beech, Lime, Cedar and Oriental Plane. There is also a small overgrown pond in the northwest corner of this parkland area. All boundaries are hedged except the diagonal one adjacent to the drive to Hagley Court Cottage which is formed by a post and wire fence.
- 1.9 There are Public Footpaths along the eastern edge of the eastern parcel (Footpath LU29) and east to west across the southern end of the field (Footpath LUI4). This also follows part of the southern boundary of Plot 002, immediately north of Stalls Farm.
- 1.10 Hagley Court (Grade II Listed) lies to the immediate south of the plots and is an unregistered park and garden of local historic interest; the boundary of which passes through the retained conservation area. The house has been split into two dwellings and there are now several properties in the grounds, although the parkland landscape still provides a structure into which the additional properties are absorbed so that their effect on this landscape is limited. Opposite the site on the north side of the A438 both Hagley House and The New Inn, which stands opposite the entrance to the Hagley Court drive, are Grade II listed.
- 1.11 As above, the application site is outside but adjacent the UDP defined settlement boundary and the application is predicated on the lack of housing land supply.
- 1.12 The application is supported by the following:
- Planning Statement
 - Flood Risk Assessment
 - Landscape Capacity Appraisal
 - Phase I Ecology Survey and further bat and newt surveys
 - Transport Assessment
 - Development Constraints Plan
 - Heritage Impact Assessment

- 1.13 Tree constraints information, which plots notional root protection areas for the mature trees lining the drive to Hagley Court, has also been provided. Since the original application a number of these trees lining the drive, together with some in the nature conservation area to the south have been subject to service of Tree Preservation Orders. The development constraints plan demonstrates a 'development exclusion zone' against boundary hedgerows; with the exception of that lining the road. The public rights of way are also maintained with appreciable buffers. A landscape detail demonstrating the proposed treatment of the A438 frontage has also been submitted. The road side landscape detail indicates 1.5m grass verges either side of a 2.0m footway across the northern boundary of the eastern parcel, with tree planting within the 'inner' verge and a hedgerow to the rear. This approach requires removal of the existing roadside hedgerow for the eastern parcel. As above, the boundary hedging to the western parcel remains unaltered.
- 1.14 The application has been screened in accordance with the Environmental Impact Regulations 2011. It is concluded that the development does not require the submission of an environmental statement.
- 1.15 The application has also been screened in accordance with the Habitats Directive. It is concluded that subject to mains disposal of foul water, the development is unlikely to result in significant effects on the River Wye SAC.

2. Planning Policies

2.1 National Planning Policy Framework 2012. In particular chapters:

Introduction	-	Achieving Sustainable Development
Chapter 4	-	Promoting Sustainable Communities
Chapter 6	-	Delivering a Wide Choice of High Quality Homes
Chapter 7	-	Requiring Good Design
Chapter 8	-	Promoting Healthy Communities
Chapter 11	-	Conserving and Enhancing the Natural Environment
Chapter 12	-	Conserving and Enhancing the Historic Environment

2.2 National Planning Practice Guidance 2014

2.3 Herefordshire Unitary Development Plan 2007

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
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H7	-	Housing in the Open Countryside Outside Settlements
H9	-	Affordable Housing
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
HBA4	-	Setting of Listed Buildings
HBA9	-	Protection of Open Areas and Green Spaces

T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA4	-	Protection of Historic Parks and Gardens
LA5	-	Protection of Trees, Woodlands and Hedgerow
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
ARCH3	-	Scheduled Ancient Monuments
ARCH6	-	Recording of Archaeological Remains
CF2	-	Foul Drainage

2.4 Herefordshire Local Plan - Draft Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
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
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.5 Neighbourhood Planning

Bartestree and Lugwardine Parish Council have designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will prepare a Neighbourhood Development Plan for that area. There is no timescale for proposing/agreeing the content of the plan at this stage, but the plan must be in general conformity with the strategic content of the emerging Core Strategy.

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

On site

3.1 DCCE2003/1716/F – Change of use of agricultural land to form village playing field: Approved 29 October 2003. This application relates to the western field.

Other relevant applications.

- 3.2 140531/O – Erection of 30 dwellings, including 10 affordable on land at Quarry Field, Lugwardine. Refused 23 April 2014. Appeal allowed 12 February 2015.
- 3.3 132536/F – Erection of 50 dwellings on land adjoining Williams Mead, Bartestree: Refused 12 March 2014. Appeal lodged, decision pending.
- 3.4 140757/O – Erection of up to 51 dwellings on land east of Church House and west of the A438, Bartestree. Refused 29 October 2014. Appeal lodged, decision pending.
- 3.5 140926/O – Erection of 60 dwellings (including 21 affordable) and a change of use of land to form community open space on land to the south of the A438, Bartestree. Refused 27 August 2014. Appeal lodged, decision pending.
- 3.6 143771/O – Site for erection of up to 100 dwellings with associated open space and community orchard with all matters bar access reserved: As yet undetermined.
- 3.7 The appeal site visit for the original application 140926/O is scheduled for the afternoon of 16 March 2015.

4. Consultation Summary

Statutory Consultees

- 4.1 Welsh Water: No objection subject to conditions.
- 4.2 Natural England: No objection subject to confirmation that public sewerage network has adequate capacity to accommodate foul discharge from this site.

Internal Council Advice

- 4.3 Conservation Manager (Historic Buildings): Objection.

The proposed site for residential development lies to the east of the driveway to Hagley Court. Hagley Court is a grade II listed country house dating from the early 18th century. Much of the immediate area surrounding Hagley Court is an Unregistered Historic Park and Garden.

The application site is an open field used as grazing land and not part of the Unregistered Historic Park and Garden; nonetheless it contributes to the setting of the Hagley Court complex. The historic complex of Hagley Court and its parkland are clearly visible from the A438, even though the actual buildings are largely obscured by trees and landscaping. Hagley Court's significance as a country house of distinction partly derives from the sense of arrival fostered by the tree-lined driveway which approaches the Court with open fields to both sides. The open character reinforces the rural setting and independent character of Hagley Court to the visitor, villagers and the general public. Historic maps show that the two fields of the application site, to either side of Hagley Court drive, have remained as clear grazing or arable farming, despite the majority of fields lining the A438 being utilised historically as orchards. This indicates that the fields were probably intentionally kept open as part of the sense of arrival at Hagley Court, since there does not appear to be any physical reason why the fields were unsuitable for orchards. The National Planning Policy Framework defines the setting of a heritage asset as "The surroundings in which a heritage asset is experienced". In the case of Hagley Court this experience includes the view and appreciation of the Court complex from the A438 main road, where it is seen as standing separate from the village cluster.

A previous application for 60 houses also included the field to the west of the driveway. This field is now shown as public open space. While this proposal limits the extent of the

developed area to the field east of the drive, the open setting for the Hagley Court complex would still be significantly diminished. The development of the field to the east of the driveway for residential purposes would remove much of the open setting for the Hagley Court complex on the northern side. Part of the significance of Hagley Court derives from its status as a country house and its relationship with its parkland, the surrounding countryside and the village. The house was intended to be visibly separate from the village to set itself apart and emphasise the social status of its owners. The loss of the open and rural arrival would have a significant impact on its setting and would effectively attach Hagley Court to the built environment of the village from which it has historically sought to be very visibly separate. It is therefore considered that this would cause significant harm to the setting of the complex and its parkland. It is considered that the proposal would be contrary to Policy HBA4, setting of Listed Buildings and also paragraph 132 of the National Planning Policy Framework.

The residential proposal would also adversely affect the setting of Hagley House and its neighbour The New Inn. The setting of these grade II listed heritage assets is relatively spacious with edge-of-village character and appearance. This is reinforced by the rural outlook from the listed buildings but also is part of the historic landscape setting when travelling along the A438 in either direction. To have the southern side of the A438 developed in a similar way to the north side would fundamentally change the character and appearance of this edge-of-village location to a much more suburban character and would more strongly link the heritage assets to the original village cluster. This would therefore remove the rural setting of the heritage assets and thus significantly alter and harm their setting and historic context. This would be contrary to HBA4, Setting of Listed Buildings.

4.4 Transportation Manager: No objection subject to conditions

I confirm that the responses provided in the agent's e mail of 27 January 2015 in response to my original comments have clarified what is being sought under the application. I also confirm that the drawing requested to indicate the overall road frontage treatment and access arrangements now proposed was received by e mail on 4th March 2015 (drawing 14-055-04 dated 26th February 2015) and those proposals are considered acceptable.

We can condition access, visibility and footway provision to shop and along A438 as shown on that plan. For completeness it would be better to reference drawing 14-055-04 dated 26th February 2015 (or subsequent approved) in any condition.

We have been provided with documentation indicating third party landowner agreement to enable provision of the footway eastwards to the shop and controlled crossing, and the land will need to be dedicated as highway. The slight uncertainty remains to the full deliverability of this length of footway, as was the case for the previous application, and an overall view needs to be taken in this respect. Without that link, pedestrians have the option to cross the road, albeit not at a controlled crossing, anywhere along the frontage to gain access to residential development and primary school on the north side of A438 and to then cross back to access the shop. This option may benefit for the frontage footway being against the road rather than with an intervening verge (hence the "or subsequent approved" suggestion above).

Subject to that being considered acceptable, my recommendation is for approval subject to conditions as before.

4.5 Conservation Manager (Landscape): The current application P143720/O relates to a previous application P140926/O for 60 dwellings on the same site to which we objected to the principle of development, concluding that the proposals would result in *the coalescence of existing built development either side of this strategic gap, closing off the view over parkland which makes an important contribution to the historic landscape character of the village.*

- The current proposal comprises development to the eastern field only with the western portion now retained as public open space. Whilst it is acknowledged that the site itself does not fall within the unregistered historic park and garden designation, it is clear that the field historically preserved as pasture land and bisected by an avenue of Oaks leading to Hagley Court, has a direct relationship with the house and its parkland setting.
- Having visited the site and its environs on a number of occasions I am of the opinion that for the integrity of the park to be preserved it should be considered in its entirety. The contribution that this pasture land makes to the setting of the house when considered in relation to the surrounding orchard plantation, illustrates the sense of arrival experienced by the visitor to Hagley Court and the historic significance of the country house.
- The imbalance created by development to the eastern side of the park erodes the fundamental design principles including symmetry and balance upon which historical gardens and parklands were founded and is therefore considered equally harmful to its integrity.

When considered in conjunction with application P143771/O an outline application for 100 units extending southwards from land adjacent to this site across parkland adjacent to Longworth Lane. It is considered that there is real potential to significantly harm the historic character of the settlement of Bartestree.

4.6 Conservation Manager (Archaeology): No objection

4.7 Housing Development Manager: No objection subject to revision of the mix of social rented units and removal from the draft Heads of Terms of Hereford as one of the qualifying cascading parishes.

The application meets the requirement to provide 35% affordable housing. The tenure split of 50% social rent and 50% intermediate tenure is acceptable, but the mix proposed is not acceptable. The mix of the social rented units should be 2x1 beds, 3x2 beds and 2x3 beds.

4.8 Schools Capital and Investment Manager: No objection subject to completion of S106 agreement securing contribution towards Lugwardine Academy. It is confirmed that children living at the development *would* get priority over those from outside the defined catchment area who may seek to gain admission.

4.9 Parks and Countryside Manager: No objection

POS/recreation requirements: UDP Policies H19 and RST3: My previous comments in relation to this site considered a larger development of 60 houses. This smaller scheme requires less in terms of POS/recreation requirements as follows:

A development 40 houses using the average occupancy of 2.3 (total 92) in accordance with UDP policies H19 and RST3 is required to provide POS and play provision as follows:

- POS (0.4 ha per 1000 population) 0.036ha (360sq m)
- Play area provision including formal and informal(0.8 ha per 1000 population) 0.073ha (730sq m) of which 0.023ha (230sq m) should be formal (in accordance with the Fields In Trust Standards of provision – 0.25ha per 1000 pop)

Total 0.10ha

These policy requirements are more than adequately met through the provision of land for POS/recreation and off-site contributions for play as detailed below.

Amended site layout plans and Planning & Access Statement: The revised scheme now includes the whole parcel of land to the west to be made available for POS and as such the

applicant intends to gift it to the community for this purpose subject to certain clauses and restrictions. In doing so the landscape value of the area will be protected and additional POS and recreation land will be provided to meet the needs of the local community. It is understood that the land will be capable of being utilised to provide a number of community uses including informal recreation, picnics and a sports ground. It is 1.87 ha in size which is substantially in excess of policy requirement of 0.1ha. Although the applicant has acknowledged that in the Bartestree and Lugwardine 2008 Parish Plan identified a need for additional playing fields which were initially met by the village hall development, it is recognised that although this information is out of date the Parish Council has recently registered their intent to produce a Neighbourhood Plan. It is for the Parish Council to determine whether this gift is desirable/ sustainable from their perspective.

Whilst it is not a policy requirement for this development to provide outdoor sports provision given its size, the draft Investment Plan for outdoors sports pitches and facilities (which is a document identifying future investment priorities to help deliver quality and sustainable projects in the right locations based on the findings of the playing pitch assessment), includes a project to develop additional junior football pitches in Bartestree. This is seen as a priority for both Bartestree Football Club and the Regional and Herefordshire Football Association and substantiates the applicant's supporting information. Whether an area of land with clauses and restrictions can provide this though will remain to be seen.

Heads of Terms: It is noted that the draft heads of terms include under item 3 an off-site contribution toward play provision in the village based on market housing only. This is per previous comments and is supported as part of policy requirement and is in accordance with the SPD on Planning Obligations and the Play Facilities Study and Investment Plan.

4.10 West Mercia Police:

There are opportunities to design out crime and/or the fear of crime and to promote community safety. There is a clear opportunity within the development to achieve the Secured by Design award scheme. The development appears to have reasonable access control and natural surveillance already built into the design. The principles and standards of the award give excellent guidance on crime prevention through the environmental design and also on the physical measures. The scheme has a proven track record in crime prevention and reduction which would enhance the community well being within this village.

5. Representations

5.1 Bartestree with Lugwardine Group Parish Council: Support - detailed comment including discussion of a range of issues is set out below:-

Prior to the Parish Council considering the planning application at an Extraordinary Meeting on 3 February 2015, the 47 members of the public in attendance were invited to make constructive comments. There was a detailed discussion between the members of the Parish Council and the local residents.

It was noted that this Application is an alternative to Application No 140926, which is currently under appeal. The Application under appeal relates to a development site of 60 houses on 2 fields. This Application proposes a development of 40 houses on the eastern field with the western field being gifted to the Parish Council for use as community open space.

A considerable number of the residents in Bartestree and Lugwardine are of the opinion that the villages would lose their current rural feel if further large developments were to take place beyond the large number that have taken place in the previous two plan periods. The group parish currently holds the position of the third largest village in Herefordshire. They are also incensed that Herefordshire Council has failed to protect them from the present/imminent

development by not being able to demonstrate the five-year housing land supply required by the National Planning Policy Framework and thus rendering the saved Unitary Development Plan policies H1 and H4 ineffective.

Location/Impact on Village

The proposed development site consists of one field, which forms part of the rural heart of Bartestree and defines it as a village. Many residents feel that if 40 houses are built on the site Bartestree will lose its rural character. They feel that the density of housing is too high and that the number of houses proposed is disproportionate to what the village requires and the busy A438 can stand. The centre of the village would be adversely affected and the development would not enhance it at all. The long distance views over the fields are superb and some of these will be lost to the village if the development goes ahead. Currently sheep and horses are seen grazing in the fields, which add to the character of the rural settlement.

It was noted and acknowledged that the offer of the western field to the Parish Council for community open space was very generous and would benefit the residents of Bartestree and Lugwardine.

The proposed development abuts historic parkland and gardens; there is a listed building next to it and a Public Right of Way through the site. There is also a long drive of unique evergreen oak trees, which add to the character of the area. These trees are now subject to a Tree Preservation Order dated 16 January 2015 No. TP0575.

Historically almost all development is to the north of the A438 and it is strongly believed by many residents that the pattern should stay that way, leaving the south open and green. Compared to the previous application only one of the fields would be used for development.

Listed Buildings

There are 3 Listed Buildings in the immediate area, which would be adversely affected - Hagley House, Hagley Court set in historical parkland and The New Inn public house. The proposed development would detract from the traditional rural setting of all these buildings and fundamentally change the character and appearance of the area. The site is a fairly large proportion of undeveloped area to the south of the A438 that is visible to the public and enjoyed by the residents of and visitors to the village and many residents feel that if planning permission is approved the open setting and beautiful views would be lost to the residents and public forever.

Neighbourhood Development Plan (NDP)

In June 2014 The Neighbourhood Development Plan Steering Group circulated a comprehensive Questionnaire to the residents of Lugwardine and Bartestree. The response was 75% and the views expressed by the residents support the findings of the Parish Plan; namely that future developments should be moderate, in-fill and/or brown-field sites. It is strongly believed that any Greenfield development should be a last resort and not a default option. Unfortunately the first public consultation of the NDP has had to be postponed, due to delay of the Herefordshire Council completing the SHLAA Assessment for the village.

Water and Sewerage

Residents of Bartestree and Lugwardine are increasingly concerned and frustrated that Welsh Water and Herefordshire Council continue to take the view that the existing drainage infrastructure in the villages is adequate for existing and future developments. The reality is that residents are experiencing very unpleasant incidents with sewage and flooding. Indeed, on 8 February 2015 local residents contacted the Parish Council to advise that there was raw sewage running down the A438 from a main drain. Welsh Water has finally acknowledged that there are issues with the sewerage and water supply networks in Bartestree and Lugwardine and that it is necessary that development be phased later in the plan period, in

line with Welsh Water's next capital investment programme. It is not surprising, therefore, that many residents are concerned how surface water supply and drainage are to be dealt with.

Traffic/Highway Safety

Residents are already concerned about the volume of traffic using the A438 in both directions between 7.30am - 9.30am on weekdays. This varies from 900 to 1200 vehicles daily in that period and any increase in that number as a result of a building development would be of further concern. Residents who live in properties along the nearby section of the A438, or joining it from side roads, already experience delays and risk when attempting to exit their driveways on to the main road. With a further 40 dwellings it is not unreasonable to estimate another 80 vehicles that will need to join the A438 at peak times.

Pedestrian access is poor. Any children attending the local schools (if they can find a place) will have to cross the road in the opposite direction from where they are heading. This is most likely to result in them trying to cross a dangerous busy road without using the pedestrian crossing. Any children using the local secondary school are already forced to cross in 2 different places, as there is no continuous footpath.

Capacity

Given the number of proposed dwellings, there will be a large number of children of varying educational ages who will need to travel to school. There is little or no provision for the range of education that will be required, which will result in there being a greater volume of traffic ferrying them to and from alternative schools.

Nature of Development

A large number of residents consider that there is little demand for this number of houses in Bartestree. The purchasers would not be employed locally but in Hereford or beyond and that the needs of the people of the village have not been addressed. However, it is noted that the proportion of affordable and intermediate housing is reasonable and that the larger executive houses have been kept to a minimum.

Cumulative Effect

The residents of Bartestree and Lugwardine, as well as the Parish Council, feel that it would be wholly unreasonable not to take into consideration the cumulative impact of this application. It should be considered in light of the fact that there are currently six applications pending. If these are approved on Appeal or at the Planning Committee then there will be 290 new dwellings in the village. If each application is only considered on its merits without looking at the cumulative impact then the problems that will arise regarding the traffic, school facilities, water and sewage will be immense and could not be reversed.

This application is one of six planning applications received in the last 12 months. If all applications were approved a total of 290 new houses would be added to a Group Parish which currently has a core of 650 dwellings. This would mean a potential increase of 45% in 5 years and two and a half times the increase recommended in the LDF Core Strategy of 117 dwellings over 20 years. The Group Parish and Herefordshire Council have supported and approved applications for 13 dwellings since 2011, which complies with the recommended increase in development.

Conclusion

It is recognised by the Parish Council and the residents that effectively this Application is an alternative to Application No 140926. Application No 140926 seeks permission for 60 dwellings on 2 fields with a small area donated for community open space. This current Application restricts development to one field with the other field being gifted to the community. It has been acknowledged that this is an unusual and generous gesture by the developers.

The Parish Council asked the residents present to indicate their response to this Application and of the 47 present, 17 voted for and 15 against. The mood was split with those supporting the application appearing to do so reluctantly but acknowledging that there will have to be some development in the villages.

The Parish Council voted 5 in favour of the application, 2 opposed and 1 Councillor did not vote. The application is therefore approved in outline and subject to appropriate arrangements being made for dealing with water supply, sewerage and the disposal of surface water.

5.2 40 letters of objection have been received. The content is summarised as follows:-

- The scale of development sought in terms of number will dominate and transform the notion of village life.
- Other large-scale developments have and are likely to come forward, transforming the feel of the village, resulting in coalescence with Lugwardine and turning the village into nothing more than a suburb of Hereford;
- The pressure brought to bear by the response to the Council's apparent housing land supply issue is wholly prejudicial to the Parish's Neighbourhood Plan. A steering group has been enacted. It would be fundamentally wrong and contrary to NPPF paragraph 17 to take decisions on large-scale proposals when an enormous amount of work in preparation of the neighbourhood plan has already been undertaken;
- The Draft Local Plan – Core Strategy 2013-2031 envisages proportionate growth of 118 dwellings over the plan period. This equates to 7/8 a year. Parishioners are supportive of a staged and progressive approach, utilising the redevelopment of brownfield sites rather than a headlong rush to meet a shortfall that only exists because of the planning policy position;
- At various times existing dwellings suffer from reductions in water pressure. Adding 40 dwellings will exacerbate this issue, which is of significant concern in the context of other large-scale proposals in the locality. Assurances given by the developer and Welsh Water are not sufficient;
- The road is designated a 'road for concern' by the West Mercia Safe Roads Partnership and speed measurements reveal that a high proportion of vehicles break the 30mph speed limit. Adding two junctions on the south side of the A438 in close proximity to busy junctions on the north side of the road is liable to cause congestion and accidents;
- The demand for housing does not derive from the existing local community. These houses will become the preserve of executives who work elsewhere and commute long distances to work. This is not representative of sustainable development;
- There is no continuous pavement link between Bartestree and Lugwardine. This is particularly relevant given the developer's assertion that the site is well served by footpaths. School children walking to the high school in Lugwardine have to cross the A438 at two points. Pedestrians coming to the primary school in Bartestree from Lugwardine have to do the same;
- The development will result in the loss of privacy for residents living opposite and nearby, some of whom cannot erect or plant screens because their properties are listed;
- The schools are at capacity and without the ability to expand on their sites. This has been confirmed by the head-teacher of Lugwardine Primary School (located in Bartestree);
- The submitted layout indicates a density which is out of keeping with the local pattern of development;
- It is clear that some on the Parish Council have been seduced by the offer of the western parcel as community open space. This should not detract from the fact that the development proposed on the eastern parcel is unacceptable;
- The complete or even partial loss of the roadside hedge would be detrimental to green infrastructure and damaging to the character of the village;

- The infrastructure locally does not support large-scale housing. There are no local employment opportunities, medical facilities and only one comparatively modest convenience store;
- Drainage is a significant constraint. The existing mains sewer is considered over capacity, as is evidenced by frequent flooding locally;
- The development will irrevocably change the character of the village. Development on the south side of the main road is limited to sporadic, historic properties;
- The development will result in the loss of an outstanding view southwards towards the AONB;
- The historical and cultural narrative of the villages would be better served through smaller development;
- The proposed dwellings do not meet the needs of the elderly. There are no bungalows;
- The development would result in the loss of agricultural land at a time when we should be producing more food for ourselves;
- The cumulative impact of this and other proposed development should be considered in relation to the impact upon existing residents, infrastructure and traffic congestion;
- The surface water drainage strategy is not fully detailed and liable to cause pollution of private water supplies;
- There are no allotments or public open space and the site does not enjoy good links to existing facilities;
- The bus service and pedestrian provision is poor and it is likely that residents will use the private car for even short, local trips;
- The impacts of the development upon bat flight paths and great crested newt habitats are underestimated. Great crested newts are known to inhabit ponds locally;
- The detailed landscape proposal requires removal of the roadside hedgerow, which in itself is contradictory to the original Landscape Character Appraisal and damaging to landscape character;
- The construction phase will create noise, dust and traffic chaos for existing residents. Small-scale developments ongoing cause enough disruption. Large-scale versions will be horrendous.

5.3 Two letters of support have been received. The content concludes that the additional population can only be good for the viability of local services and that the scheme has taken reasonable account of village requirements in the form of the community open space.

5.4 Hereford and Worcester Garden Trust: Objection.

The Trust wrote in April 2014 opposing the development of two fields either side of the drive to Hagley Park, fronting the A438 (Planning Application 140926). Whilst we are impressed by the generous offer made by the developer of the western field as a public recreation area, we can see no reason to withdraw our original letter. The tenor of our argument still stands and a development of 40 houses is still out of place in this sensitive part of Lugwardine/Bartestree. Accordingly, with minor amendments, I resubmit our original statement.

In the Survey of Historic Parks and Gardens of Herefordshire (2001) the Hereford and Worcester Gardens Trust recorded six parks and gardens, worthy of local listing in the parishes of Lugwardine and Bartestree. The Survey also noticed that the presence of these estates created two extensive areas of parkland, which is marked on the 1886 6" OS plan. This is found in the west of the parish, around New Court and Lugwardine Court, and in the east, overlooking the Leadon valley, around Longworth Court, Wilcroft, Hagley Park and Bartestree Court. Lugwardine was much favoured in the late 18th and early 19th century as a place of residence for members of the minor gentry, high churchmen and well-to-do traders from the city of Hereford. Their planting (and their buildings) gave Lugwardine an unparalleled polite environment, which is still apparent today albeit major inroads have been made, with

modern housing, in the vicinity of Wilcroft, Bartestree Court and Lugwardine Court. Hagley, however, at the heart of the upper village, still retains the integrity of its parkland setting.

Although there has been considerable development, behind the historic building line, on the north side of the A438, the south side of the road, either side of the drive to Hagley Park, remains conspicuously rural. The two fields of permanent pasture - the site of the proposed housing development - provide a foreground both for the listed buildings on the north of the road and the parkland around Hagley, which stands out prominently in the near distance. A notable landscape feature is the drive to Hagley Park, which bisects the development area and is lined with an avenue of Holm oaks (*Quercus Ilex*) - some of the best full-grown examples of this species in Herefordshire. The drive is entered via a fine cast iron gate of lattice design, with classical columns as piers, dating from the Regency era e.g. c. 1820-30. Hagley Park was a new estate when it made its first appearance on the 1831 1" OS map.

By 1886 it had a mature parkland landscape, which merged on the south-east with the older parkland around Longworth Hall. Before the arrival of the drive, the two fields under consideration here were originally one field. Although not formally imparked, they were attached to Hagley and are referred to on the tithe map of 1842 as the 'Piece at Hagley'. It seems very likely that the 'piece' provided a summer paddock for the household horses at mansion. Either side of the field there were orchards in 1886 and to the south an area of mature tree planting, screening the north side of the house and its gardens. This area still contains some large specimen oaks, limes, sweet chestnut and conifers, typical of early 19th century planting. This was probably part of the 'thick coppice' noticed by the Woolhope Naturalists Field Club on a visit to Hagley in August 1857. The Hereford and Worcester Gardens Trust believes that the open aspect of the 'Piece at Hagley' should be preserved as an essential element in the setting of upper Lugwardine. It is an integral part of the polite landscape surrounding Hagley Park, which is itself a listed building and thus, an important heritage asset in the village-scape. The area is accessible by footpaths and thus, has recreational and amenity value. Moreover, on the opposite side of the main road there are a series of listed buildings including the outstanding New Inn, and several fine Georgian houses e.g. Hagley House, not to mention, other pretty vernacular cottages, which give much character to this part of the village. Their listed status would be blighted by the new housing, placed so conspicuously with their backs along the edge of the field under consideration. Similarly, the new houses would have a detrimental impact upon the character of the Regency drive to Hagley Park, crowding the wonderful Holm oaks and obscuring the parkland landscape beyond. These two fields play an important part in the landscape of upper Lugwardine and the Council should refuse permission for development.

5.5 Hereford Ramblers: No objections.

The eastern boundary will still be served by Public Footpath LU29, with an access from the A438 at the north-eastern corner of Parcel 1 (Eastern Field) and south-eastwards down to OS 356260, 241134.

The southern boundary adjoins an area of 'retained land' and we are pleased to note that footpath LU29 will be maintained, to access the neighbouring proposed development P143771/0 at OS 356282, 241074.

Footpath LU14 also routes from this point, north-westerly, through this retained land and it should also be managed by the Applicant. There is a pond close to the south west corner of parcel 1, which tends to flood during heavy rain, making access to the footpath stile difficult. This could be exacerbated by run off from parcel 1 development.

The southern boundary of Parcel 2 (Western Field) shares a common boundary with Stalls Farm House buildings and, footpath LU14 runs alongside and to the north of these buildings. At present this footpath section is very muddy and drainage from the field favours this location.

If the land to the north of this path and up to the housing boundary is removed from agricultural use and left as a Public Open Space, then the condition of the footpath would improve.

It should be noted that footpaths do require maintenance over a period of time and I would request that it is made clear who is responsible for this. The developer should be aware that he/she has a legal requirement to maintain and keep clear a Public Right of Way at all times.

- 5.6 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 Bartestree with Lugwardine are both identified as main villages within the UDP and are also identified as candidate villages for proportionate growth over the lifetime of the emerging Hereford Local Plan to 2031. The indicative growth target is 18% across the two villages, which equates to 117 dwellings. This is one of five large-scale sites received within Bartestree and Lugwardine over the last 12 months. The others are identified in the planning history section and are at various stages in their determination. The appeal at Quarry Field, Lugwardine (30 dwellings) has been allowed. Appeal decisions are pending in relation to land adjacent Williams Mead (50 dwellings), the forerunner to this application (60 dwellings) and land to the east of Church House (up to 51 dwellings). There is a current application (143771) for the erection of up to 100 dwellings on land to the immediate east of the site.
- 6.2 The application is made in outline with all matters bar access reserved and involves the erection of up to 40 dwellings with 35% affordable on land to the south of the A438 Hereford-Ledbury Road, Bartestree with associated vehicular access. The site for residential development is now limited to the field of permanent pasture on the east side of the drive to Hagley Court. The site is outside but adjacent the settlement boundary as defined by the Unitary Development Plan. The application is predicated on the Council's lack of housing land supply.
- 6.3 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, heritage assets in the form of the listed buildings and unregistered parkland nearby, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

Planning Policy

- 6.4 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."

- 6.5 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. At the time of writing the Core

Strategy Policies, which have been examined in public, attract only very limited weight for the purposes of decision taking.

- 6.6 The two-stage process set out at S38 (6) requires, for the purpose of any determination, 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 for the purpose of decision-taking. NPPF Paragraph 215 has the effect of superseding UDP policies 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 over the UDP housing supply policies and the presumption in favour of approval as set out at NPPF paragraph 14 is engaged *if* development can be shown to be *sustainable*.
- 6.7 NPPF Paragraph 14 states that for decision making, the presumption in favour of sustainable development means:
- *“Approving development proposals that accord with the development plan without delay; &*
 - *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-*
 - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.”
- 6.8 In the context of the UDP and the Council’s acknowledged shortfall of housing land supply it is the second bullet point and the weighing of positive and negative impacts that is relevant in this case. The decision-taker must decide whether the development before them is representative of sustainable development having regard to the NPPF as a whole if the positive presumption is to be engaged.
- 6.9 Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions.
- 6.10 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, which is further reinforced 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 11-15. Paragraph 49 states:
- “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”*
- 6.11 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.
- 6.12 In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located within one of the largest villages in proximity to the main population centre (Hereford) whereas the delivery of 40 dwellings, including 35% affordable, and community open space would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development. In this case, it is the assessment of the development’s approach to fulfilment of

the environmental role, with specific reference to landscape character and the impact on the setting of listed buildings and unregistered historic parkland that is critical.

Impact on landscape character, visual amenity and heritage assets

- 6.13 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 chapters 11 and 12 of the NPPF.
- 6.14 The application site has no formal landscape designation. It lies in open countryside outside the settlement boundary. The boundary of the Wye Valley Area of Outstanding Natural Beauty (AONB) is approximately 2.5km to the south east, where there is a public viewpoint above Prior's Frome, and some 5km to the south at Holme Lacy. It is accepted that the proposed development is not likely to adversely affect the character of the wider Herefordshire landscape or its visual amenity (for example views from the AONB). It is also accepted that the site has a limited visual envelope, being reasonably well screened from most vantage points; the obvious exceptions being close up views from private properties, public rights of way and the main road.
- 6.15 The application site is located immediately opposite two Grade II listed buildings and sits on either side of the regency driveway to Hagley Court; also Grade II listed. The unregistered parkland associated with the latter extends into the southern part of the application site; albeit covering the area that is designated as a retained nature conservation area. The Conservation Manager (Landscape) objects to the proposal as set out above at 4.5. Hagley Court itself, however, is largely hidden from views from the main road in a mature, well treed setting.
- 6.16 Although accepting that the site has a limited visual influence and benefits from a degree of screening from a southerly aspect in particular, the Landscape officer considers that the application understates the importance of the site as part of an historic landscape; rather the Landscape Capacity Appraisal (LCA) has been predicated on assessment of the visual impacts, without full assessment of the impact on the historic landscape. There remains a level of disagreement, therefore, in relation to the site's sensitivity and its function as a remnant of a structured historic landscape. The Conservation Manager (Historic Buildings) also objects on the basis that the application site forms an important element to the setting of the adjoining listed buildings.
- 6.17 It follows that there is disagreement as regards the nature and magnitude of the landscape character and visual effects likely to arise as a result of the development proposed. The LCA acknowledges that the development would result in the loss of grazed pasture land, which provides a strategic gap on the southern side of the A438 affording views towards Hagley Court's parkland and wider-ranging views of the open countryside beyond, extending as far as the AONB. It is also acknowledged that built development, other than at the eastern end of the village, is limited to scattered, period properties and that this development would clearly alter the landscape character of the site and reduce the permeability and openness of views along a section of the A438. The submitted Heritage Statement accepts that some harm would result to the setting of the listed buildings, but that such harm is less than substantial.

- 6.18 Although your officers recognise the direct impacts on landscape character arising from loss of pasture land and replacement with housing and the direct impact upon the amenity of neighbours, walkers using the public rights of way network locally and those travelling through Bartestree, these must be weighed against the benefits of the scheme, including those relevant to the economic and social roles outlined above. Officers acknowledge that this major development would irrevocably change the character of the village, diminishing the rural setting and transform the village pattern into a more nucleated settlement. Against this, however, the site is not subject to landscape or nature designation itself, is unconstrained in other respects and in your officers' opinion, represents a logical location for development at the heart of the village on the same side of the road as the village hall, playing fields and recreation areas, shop and nursery.
- 6.19 Officers are also conscious that although potentially unbalancing the foreground of Hagley Court by developing on one-side of the driveway, the retention of the western parcel as public open space does retain a large proportion of land to the south of the main road as undeveloped; and specifically that land directly opposite the listed Hagley House and The New Inn. Officers consider it reasonable to conclude, therefore, that the impact of development upon the setting of these designated heritage assets is reduced significantly by comparison with the original scheme and is less than substantial.
- 6.20 In terms of mitigation the scheme demonstrates a significant undeveloped margin to the site's northern and eastern boundaries and subject to detailed design the treatment of the site's northern boundary with the A438 has the potential to form an attractive corridor, with tree planting potentially reflecting some of the existing mature specimens on the north side of the A438. Conditions will be imposed requiring the formulation of detailed planting and management proposals to ensure that an appropriate form of development is brought to fruition at the Reserved Matters stage.
- 6.21 In the overall weighing of the benefits and adverse impacts of the development proposed, officers are conscious of the context set by the lack of housing land supply and the fact that although situated in an historic landscape and forming the foreground of the unregistered parkland, the site (excepting the southern half of the nature conservation area) is not subject to any specific landscape or conservation designation. Moreover any large development within an historic settlement is likely to exert some influence on the setting of listed buildings; as is the case here and with other proposed sites in Bartestree and Lugwardine. The setting of Hagley House and The New Inn have been subject to considerable change over the course of the latter part of the twentieth century; the latter is set back significantly from the carriageway and as identified above, the retention of the western parcel without development does safeguard a proportion of the open area on the southern side of the road. The Conservation Manager (Historic Buildings) also acknowledges that the development will not directly affect the immediate setting of the Court within its parkland. As such the harm to the setting of listed buildings is considered less than substantial and as per paragraph 134 of the NPPF the harm should be weighed against the public benefits of the proposal.
- 6.22 Therefore, whilst acknowledging a degree of conflict with the objectives of 'saved' UDP policies LA2 and LA3, HBA4 and NPPF paragraphs 109 and 134, in exercising the planning balance, officers conclude that the nature of harm identified, would not amount to significant and demonstrable adverse impacts that should lead to refusal. The harm to landscape character is localised harm in an edge of village location that officers do not consider prejudicial to the overarching character of the Principal Settled Farmlands typology. In this respect although the Conservation Manager (Landscape) considers that although the adverse visual and landscape effects associated with the development as likely to be significant, these effects are local in their impact and not prejudicial to regional landscape character, whereas the harm to the setting of the designated heritage assets (listed buildings) is not considered substantial and must be weighed against the public benefits of the scheme.

Transport

- 6.23 As per the comments above at 4.4 the Transportation Manager has provided revised comments in the light of additional information provided during the course of the application. He is now satisfied with the proposals to the extent that a conditional approval is recommended. The footway across the frontage of the eastern parcel would permit access to the bus stop on the southern side of the road, whilst provision is made for onward pedestrian travel eastwards alongside The Haven Cottages towards the shop. Whilst there is some doubt that this route would be continuous in the context that the landowner has not consented to the use of a short section immediately adjacent the shop, people would be able to cross the A438 at any point along the frontage to the pavement on the north-side of the road and use the controlled crossing to return to the shop.
- 6.24 The proposed access will also provide the requisite 2.4m x 90m visibility to the nearside of the carriageway in each direction. The position of the access was amended under the refused application to achieve better spacing relative to the Wilcroft Park on the north-side of the road and this has been persisted with.
- 6.25 The Traffic Manager concludes that the scheme is acceptable and would not result in the severe residual cumulative effects described by the NPPF that would warrant refusal.

Public Open Space

- 6.26 The scheme makes provision for 1.87ha of public open space through the dedication of land to the Parish Council. This land is the whole of the western parcel and more than doubles the previous offer. The land is well located relative to the existing Village Hall and playing fields. The gift of land would be subject to an 'overage' provision equal to 80% of the enhanced value of the gifted land, in the event that planning permission for residential development is obtained over that land in the period of 80 years from the date of the gift.
- 6.27 In addition, the land will be subject to a restriction prohibiting the erection of any buildings, or development of any other kind on the land unless such development has first been agreed in writing by the applicants and specifically there will be a covenant prohibiting installation of permanent sports floodlighting on the land. These clauses give the requisite certainty as regards long-term ownership and rights of use of the land. This offer thus recognises that the Parish Council has long-term aspirations to acquire the whole of the western parcel for community use, and the proposal far exceeds the planning policy requirement in terms of the actual provision of open space and is more than large enough to provide for a full-size pitch as need dictates, with significant space left over. Officers consider that in the circumstances this proposal represents a genuine, long-term benefit to the community in a convenient and accessible location relative to the existing facilities that accords with and exceeds the requirements of UDP policies H9 and RST3 and NPPF paragraphs 70 and 73.
- 6.28 S106 requirements will also include a contribution of £49,588 to be spent in accordance with Parish Council requirements on off-site play facilities. This would again help contribute towards fulfilment of an outstanding desire to extend the existing facility at the village hall, whereas the transport contribution has been identified as potentially contributing towards improvements to Village Hall junction with the A438 and widening of the access road.

S106 contributions

- 6.29 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated and are summarised as follows:
- 'Education Contribution' - £107,124 based on the current open market housing mix.

- ‘Sustainable Transport Contribution’ - £77,400 based on current housing mix. This money would be directed towards sustainable transport projects, with potential expenditure on traffic calming and speed management measures and the widening of the splay and entrance road to Village Hall and Playing Fields for safer egress and entry. This would help fulfil one of the Parish Council’s aspirations.
- ‘Off site play’ - £49,588 based on current housing mix. This contribution would be directed towards the improvement and extension of the existing play facilities at the village hall, which would help contribute towards fulfilment of one of the Parish Council’s aspirations.
- ‘Waste & Recycling’ - £3,120 based on current housing mix.
- ‘Library’ - £5,664 towards enhanced library facilities

The S106 will also include provisions to ensure 35% of the development meets the definition of affordable housing, together with requisite standards and eligibility criteria.

A restriction is also imposed requiring the dedication of the 1.87ha of Community Open Space, in accordance with the terms described above. A maintenance contribution towards the management of on-site public open space and the SUDs basins, which will be adopted by the Council, will also be required.

Capacity at the local Primary School

- 6.30 Lugwardine Primary School is found on Barnaby Avenue, Bartestree to the north of the A438, but within reasonable walking distance of the site. The school is at capacity and without obvious means of expansion. The Schools Capital and Investment Officer has confirmed that admission to non-catchment based pupils is characteristically high and that the Council may have to revert to a policy of giving priority to pupils resident within the catchment area. It is the case that a considerable proportion of pupils presently at Lugwardine Primary live outside catchment. It has also been confirmed that despite academy status, the admissions policy gives priority to children living within the defined catchment area above all other children apart from those who are looked after.
- 6.31 The NPPF identifies the importance of ensuring a sufficient choice of school places for existing and new communities and recognises that local planning authorities will need to work proactively in order to meet this requirement (paragraph 72). In this context the tension is obvious, but on balance, it is considered that the single issue of school capacity is not sufficient to warrant refusal of the proposal.

Impact on adjoining residential amenity

- 6.32 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site in the manner envisaged by the revised illustrative layout i.e. with housing set back from the A438 behind grass verges and footway and the relationships in terms of window-to-window distance are not considered to warrant refusal based on loss of amenity. Clearly this will be contingent on detailed consideration at the Reserved Matters stage. 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.

Ecology

- 6.33 The Council’s Ecologist concurs with the findings of the submitted appraisal and bat and newt surveys. It is considered that the proposal will have no worse than a neutral impact on

ecological interests. Subject to the imposition of conditions as set out below, the development is considered to accord with the provisions of the Development Plan and NPPF guidance in this regard.

- 6.34 It is also concluded that adverse impacts on the fine, mature specimen trees on and off-site; most notably the Lucombe Oaks lining the Hagley Court drive, can be avoided.

Foul drainage and water supply

- 6.35 The Water Authority has no objection to the development and confirms that the treatment of domestic discharges from this site can be accommodated by the existing Waste Water Treatment Works. No problem is anticipated with the supply of potable water.

The proposal is prejudicial to the development of the Neighbourhood Plan

- 6.36 Bartestree and Lugwardine Parish Council has designated a neighbourhood plan area. Work has been progressing towards the formulation of the plan and many representations refer to the prejudicial nature of large-scale proposals relative to the localism agenda as enshrined at paragraph 17 of the NPPF, which 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*'.

- 6.37 The tension between the NPPF requirement to significantly boost the supply of housing where supply issues persist and the devolution of planning powers to parish councils is obvious and widely felt. As an objective assessment, drawing on parallels elsewhere, officers conclude that in this instance the Neighbourhood Plan is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking. Whilst acknowledging that large-scale schemes such as this appear contrary to the intended aims of localism, the Council cannot reject schemes because they are potentially prejudicial to the neighbourhood plan; particularly where the plan is in the early stages of preparation. It is your officers' advice that emerging neighbourhood plans i.e. those that have not yet reached regulation 14 status cannot be attributed weight for the purposes of decision taking.

Summary and Conclusions

- 6.38 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.
- 6.39 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 minor constraints site in what is, having regard to the NPPF, a sustainable location with good access to a wide variety of services, facilities and employment opportunities. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).
- 6.40 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 35% affordable, officers consider that the scheme also responds positively to

the requirement to demonstrate fulfilment of the social dimension of sustainable development. Beyond this, the application also makes provision for 1.87ha of community open space, which will be dedicated to the Parish Council. Given the current circumstances, officers consider that the gifting of the land at no cost to the Parish Council is a benefit of the scheme, as are the requisite S106 contributions.

- 6.41 The tension, in this case, relates to the environmental role. In ecological terms, officers conclude that there is no overriding evidence of significant or demonstrable harm of nature conservation interests. As such, although the harm arising from the loss of the eastern parcel in the foreground of unregistered parkland is acknowledged, the decision taker must weigh the significance of this harm against the benefits of the scheme.
- 6.42 Officers conclude that there are no highways, drainage, ecological or archaeological 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 recommended that planning permission be granted subject to the completion of a legal undertaking and planning conditions.

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 development shall include no more than 40 dwellings and no dwelling shall be more than two and a half storeys high.**

Reason: To define the terms of the permission and to conform to Herefordshire Unitary Development Plan Policies S1, DR1, H13 and the National Planning Policy Framework.

6. **H06 Vehicular access construction**
7. **H09 Driveway gradient**
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. H29 Secure covered cycle parking provision
16. H30 Travel plans
17. L01 Foul/surface water drainage
18. L02 No surface water to connect to public system
19. L04 Comprehensive & Integrated draining of site
20. G04 Protection of trees/hedgerows that are to be retained
21. G10 Landscaping scheme
22. G11 Landscaping scheme - implementation
23. The recommendations set out in Sections 8.3 to 8.8 of the Phase 1 ecologist's report from Phil Quinn dated May 2014 and Section 7 of the Great Crested Newt report from Phil Quinn dated May 2014 should be followed in relation to species mitigation and habitat enhancement. Prior to commencement of the development, a full working method statement with a habitat enhancement plan should be submitted to and be approved in writing by the local planning authority, and the work shall be implemented as approved.

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 the Herefordshire Unitary Development Plan.

24. Prior to commencement of the development, a reptile survey for should be conducted with results and any mitigation necessary submitted to, and be approved in writing by the local planning authority, and the work shall be implemented as approved.

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 the Herefordshire Unitary Development Plan.

25. 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 dust, odour, noise and vibration arising from the construction process. Specific measures to safeguard the integrity of private water supplies should be highlighted such as pollution risk and increased use projections. 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.

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. **HN13 Protection of visibility splays on private land**
10. **N02 Section 106 obligation**

Decision:

Notes:

Background Papers

Internal departmental consultation replies.

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 1 April 2008. All contributions in respect of the residential development are assessed against general market units only.

Planning application proposal: Outline proposal for the erection of 40 dwellings (including 14 affordable houses) and a change of use of land to form community open space on land to the south of A438 parcel no. 0008 and part parcel no. 2308 Bartestree, Herefordshire.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):
2.
 - £3,106.00** (index linked) for a 2/3 bedroom open market unit
 - £5,273.00** (index linked) for a 4+ bedroom open market unit

to provide enhanced educational infrastructure at Hereford City Early Years, Lugwardine Academy Primary School, St Francis RC Primary, a proportionate contribution towards St. Mary's High School R.C Primary School and Hereford City Youth with 1% allocated for Special Education Needs. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate. **Based on the indicative open market housing scheme submitted the education contribution would be £107,124.00.**

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):
4.
 - £2580.00** (index linked) for a 3 bedroom open market unit
 - £3440.00** (index linked) for a 4+ bedroom open market unit

to provide sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate. **Based on the indicative open market housing scheme submitted the highway contribution would be £77,400.00.**

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

- 4.1. The provision of enhanced bus waiting facilities
 - 4.2. Pedestrian improvements
 - 4.3. Traffic calming and speed management measures
 - 4.4. Widening splay and entrance road to Village Hall and Playing Fields for safer egress and entry
5. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):
 - £1,640.00** (index linked) for a 3 bedroom open market unit
 - £2,219.00** (index linked) for a 4+ bedroom open market unit

To provide enhanced off-site play infrastructure within the locality of the application site. The contribution would be used in accordance with the Play Facilities Strategy and Investment Plans and in consultation with the local Parish Council and community. There is an existing neighbourhood play area at the village hall which is in need of extension and refurbishment in places. A village of the size of Bartestree requires a neighbourhood play area therefore investment at the existing facility will help ensure that a quality facility is provided and would benefit from additional equipment for older children in particular. **Based on the indicative open market housing scheme submitted the off-site play contribution would be £49,588.00.**

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of:

- £198.00** (index linked) for a 3 bedroom open market unit
- £241.00** (index linked) for a 4+ bedroom open market unit

The contributions will provide for enhanced Library facilities in Hereford. The sum shall be paid on or before the occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate. **Based on the indicative open market housing scheme submitted the library contribution would be £5,664.00.**

7. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £120.00 (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate. **Based on the indicative open market housing scheme submitted the waste contribution would be £3,120.00.**

8. The developer covenants with Herefordshire Council to gift the community open space to the parish council. The gift of land would be subject to an 'overage' provision equal to 80% of the enhanced value of the gifted land, in the event that planning permission for residential development is obtained over that land in the period of 80 years from the date of the gift. In addition, the gifted land will be subject to a restriction prohibiting the erection of any buildings, or development of any other kind, on the land unless such development has first been agreed in writing by our clients and specifically there will be a covenant prohibiting installation of permanent sports floodlighting on the land.

9. The developer covenants with Herefordshire Council that 35% (14 in total based on a scheme of forty dwellings) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations.

10. Of those 14 Affordable Housing units, at least 7 shall be made available for social rent with the remaining 7 being available for intermediate tenure occupation.

11. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.

12. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any 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:-

- 12.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
- 12.2. satisfy the requirements of paragraphs 11 & 12 of this schedule

13. 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 whom has:-

- 13.1. a local connection with the parish of Bartestree and Lugwardine;
- 13.2. in the event there being no person with a local connection to the parish of Bartestree and Lugwardine a local connection to the parishes of Hampton Bishop, Domington and Mordiford, Weston Beggard, Withington;
- 13.3. in the event of there being no person with a local connection to Bartestree and Lugwardine any other person ordinarily resident within the administrative area of the 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 10.1 above.

14. For the purposes of sub-paragraph 11.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - 14.1. is or in the past was normally resident there; or
 - 14.2. is employed there; or
 - 14.3. has a family association there; or
 - 14.4. a proven need to give support to or receive support from family members; or
 - 14.5. because of special circumstances;
15. 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 such 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.
16. 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.
17. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3, 4, 5 and 6 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.
18. The sums referred to in paragraphs 1, 2, 3, 4, 5 and 6 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.
19. 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.
20. 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.

December 2014