

MEETING:	PLANNING COMMITTEE
DATE:	16 MARCH 2015
TITLE OF REPORT:	<p>P150067/O - PROPOSED ERECTION OF UP TO 31 DWELLINGS. CONSTRUCTION OF NEW VEHICULAR ACCESS AND ASSOCIATED WORKS. DEMOLITION OF NO 5 VINE TREE CLOSE AT LAND ADJACENT VINE TREE CLOSE, WITHINGTON, HEREFORDSHIRE</p> <p>For: Mr Smith per Mr Paul Smith, First Floor, 41 Bridge Street, Hereford, Herefordshire HR4 9DG</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150067&search=150067
Reason Application Submitted to Committee - Contrary to Policy	

Date Received: 13 January 2015

Ward: Hagley

Grid Ref: 356245,243249

Expiry Date: 14 April 2015

Local Members: Councillor DW Greenow

1. Site Description and Proposal

- 1.1 Outline planning permission with all matters bar access reserved is sought for the erection of up to 31 dwellings on a 2.2 hectare site to the west of the 1970's residential development Vine Tree Close and north of the comparatively recently built Farndon Rise, Withington. The site lies outside but adjacent the Unitary Development Plan (UDP) settlement boundary for Withington, which is a main village within both the UDP and the draft Herefordshire Local Plan - Core Strategy. The application is predicated on the Council's inability to demonstrate the requisite 5-year housing land supply with buffer.
- 1.2 The application is a resubmission of an earlier refused scheme for the erection of up to 45 dwellings (141134/O), which is now at appeal. The earlier scheme was refused as a consequence of the impact the proposed access would have upon the living conditions of residents adjoining the proposed access; the visual impact and the effect on landscape character and the setting of the village; concerns in relation to the ability to drain the site without increasing the likelihood of surface water flooding elsewhere and the lack of a completed S106 agreement.
- 1.3 The site is a large, rectangular agricultural field situated on the north-western edge of Withington. The landscape character type is Principal Settled Farmlands. The site itself is typical of this, being in arable use with hedgerows to field boundaries. There are several public rights of way in close proximity, including the Three Choirs Way long distance trail and the well-used public right of way which runs along an old track-way, Veldo Lane, on the site's northern boundary. Withington Conservation Area stands off to the east at approximately 120m at its

nearest point. Inter-visibility with the Conservation Area is limited by Vine Tree Close, which sits in between.

- 1.4 The site contributes to the rural character of the setting of the village. Topography is also a key feature of the site, as it is a relative high point in the immediate surroundings and it slopes down from a high point in the middle of the site to both the north and south. It is visible from several viewpoints to the north and from nearby residential properties. To the west is a copse, through which run two permissive routes linking Veldo Lane to the village.
- 1.5 The site was identified as land with significant constraints by the Strategic Housing Land Availability Assessment. This was due to the absence of a means of access. The application addresses this by taking access through the site of No.5 Vine Tree Close, which would be demolished. Vehicular access to the site is thus contingent on a route that enters Vine Tree Close and passes between Nos.4 and 6.
- 1.6 The scheme has been amended following refusal of 141134/O to limit the development to a maximum of 31 dwellings, with additional green infrastructure included. As proposed previously there is a buffer zone against the copse and orchard planting where the site adjoins Veldo Lane. To the immediate south of the proposed orchard an area is demarked within which dwellings will be single-storey, reflecting the presence of bungalows in the part of Vine Tree Close to the immediate east. Further open space is indicated adjacent the main estate road, with an equipped small children's play area. The Framework Plan also identifies the opportunities for footpath links to surrounding rights of way and permissive routes.
- 1.7 The application is made in outline with all matters bar access reserved, but is accompanied by the following supporting documents:
 - Flood Risk Assessment and Drainage Feasibility Study;
 - Planning, Design and Access Statement;
 - Ecological Assessment and addendum to address bats, birds and nesting birds;
 - Development Framework Plan;
 - Topographic Survey; and
 - Cross-sections
- 1.8 The application is also accompanied by a draft Heads of Terms outlining an agreement in principle to make contributions towards sustainable transport, education and other projects subject to CIL compliance. The agreed Heads of Terms is appended to the report.
- 1.9 The Council has adopted a Screening Opinion in relation to the development proposal which concludes that it is not development requiring the submission of an Environmental Statement.

2. Policies

- 2.1 National Planning Policy Framework. The following sections are of particular relevance:

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

- 2.2 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
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
H19	-	Open Space Requirements
T6	-	Walking
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
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
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

2.4 Withington Group Parish Council has designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council will prepare a Neighbourhood Development Plan for that area. The plan must be in general conformity with the strategic content of the emerging Core Strategy, but is not sufficiently advanced to attract weight for the purpose of decision-taking.

2.5 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:-

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

3. Planning History

- 3.1 141134/O - Proposed erection of up to 45 dwellings, construction of new vehicular access and associated works: Refused 29 October 2014. Appeal via Written Representations lodged, but as yet undecided.

4. Consultation Summary

Statutory Consultees

- 4.1 Welsh Water: No objection subject to conditions

Internal Council Advice

- 4.2 Transportation Manager: No objection subject to conditions

The submitted drawing 763-03 titled 'Entrance existing and proposed' indicates 4.8m wide access road with 2.0m footways and 6m junction radii, which accords with our Highways Design Guide for New Developments for a minor access road serving up to 50 dwellings, and the survey drawing indicates that this is achievable within the ownership of No 5.

Vine Tree Close itself from Withies Road to the point of access is 5.5m in width with 10m radii to Withies Road and therefore is of an adequate standard for a minor access road to serve up to 100 dwellings, and this figure is not exceeded by the existing and proposed development. Therefore the proposed access arrangement is considered acceptable.

Pedestrian drop crossings will be required within the access road radii for the well used pedestrian route to the school.

My previous comments continue to apply for the desirability of provision of a route from the site to the village hall.

- 4.3 Conservation Manager (Landscape): No objection subject to conditions

As mentioned in my Landscape Advice of the 9 June 2014, I have no landscape objections to this application. I have now read the appellant's 'Landscape and Visual Impact Assessment' and these are my landscape comments based on their Assessment.

I agree with their following comments:

- The site has no local or national landscape designations and
- The northern most sector of the field is the most visually exposed element of the site within the landscape when it is viewed from the north over intervening mature vegetation and hedgerows.

I also agree with their Conclusion of Mitigation 7.2

- The retention and enhancement of the screening properties of existing tree and hedgerow screening. The planting of new hedgerows and trees particularly along the north – western and southern site boundaries.
- The exclusion of development in the north – western corner of the site and
- The restriction of development in the north – eastern segment of the site to bungalows.

As previously mentioned in my landscape advice of the 9 June 2014, I would advise again for:

- The northern boundary to have a biodiversity zone of orchard trees; and
- The existing woodland on the western boundary to have a native hedgerow buffer zone. This buffer zone should be in-between the existing woodland and the proposed housing.

4.4 Conservation Manager (Ecology): No objection subject to conditions

I have received and read the updated survey information with regard to the bat, badger and bird survey information. As mentioned before I am happy to accept the great crested newt assessment and I am also content to accede to the mitigation proposals for badgers and bats with accommodation of a 10 metre buffer alongside The Coppice woodland area. If approval is given, the mitigation contained in the original and supplementary reports from Wilder Ecology with regard to badgers and bats should now be adhered to in a production of a method statement secured by condition.

4.5 Land Drainage Officer: No objection subject to conditions

We hold no objections to the proposed development subject to submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development prior to construction. The detailed drainage proposals should include:

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;
- Provision of detailed calculations that demonstrate that the proposed surface water drainage system will not flood during the 1 in 30 year event, that the peak discharge rate from the site will be limited to equivalent greenfield rates up to and including the 1 in 100 year event, that the peak discharge rate will be less for smaller events to mimic natural runoff conditions and that sufficient attenuation will be provided within the site boundary to prevent increased flood risk up to and including the 1 in 100 year plus climate change event.
- Evidence that the Applicant has sought and agreed permissions and agreed allowable discharge rates to discharge foul water and surface water runoff from the site with the relevant authorities;
- Infiltration test results undertaken to BRE Digest 365 methodology and groundwater depth records where infiltration is proposed.
- Demonstration that appropriate pollution control measures are in place prior to discharge.
- Demonstration that the Applicant has designed for exceedance of surface water systems.

We are confident that these requirements can be addressed as part of a planning condition or subsequent reserved matters application following approval of the outline planning application.

4.6 Parks & Countryside Manager: No objection

The proposed layout incorporates areas of open space which are of a semi natural nature and are provided as part of the landscape and nature conservation requirements. At the time of pre-application negotiations none of these areas were considered suitable to provide on-site play provision of any value either formal or informal particularly given the size of development and location of existing recreation facilities. An off-site contribution towards children's play and recreation was thus requested to meet policy requirements. The off-site contribution will be used in accordance with the Play Facilities Study/Action Plan and Investment Plan in consultation with the Parish Council and local community and on priorities at the time. Withington is well served by play areas including large neighbourhood recreation ground/sports

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pitches at the Village Hall which is owned and maintained by the Parish Council and has room to expand and further improve the play and recreation offer. The proposal lies within easy walking distance of this facility and it is noted that in their Planning, Design and Access Statement, the applicant has suggested at the developers expense, to enhance the footpath links to this facility from the site through the copse to improve access which is supported; albeit the Parish Council's permission will be required.

Although on-site children's play provision has not been requested by the Council, in this instance the Parish Council has requested that the applicant makes some provision on site for younger children as well as an off-site contribution. Therefore the applicant has provided scope to construct a small child play area on a public open space in a suitable location at the centre of the proposal in a position that would be easily overlooked from adjoining properties ensuring appropriate passive supervision. Further discussions should take place at the design stage (reserved matters) with the Parish Council as to their requirements for both on and off site provision for play and recreation.

Draft heads of terms: It is noted that the draft heads of terms include the off-site contributions for play in accordance with the SPD on Planning Obligations as follows under item 3:

- £1,640.00 (Index linked) for a 3 bedroom open market dwelling
- £2,219.00 (index linked) for a 4 bedroom open market dwelling

This will be calculated accordingly to take account of any on-site provision, as described above. Future adoption and maintenance of any on-site POS is in accordance with pre-application comments and is included under item 4 as follows: "The maintenance of the on-site Public Open Space will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use."

- 4.7 Public Rights of Way: No objection, although the vehicular access into the site will cross public footpath WT14 in Vine Tree Close. Care must be taken to protect footpath users at all times.
- 4.8 Waste & Recycling Manager: Detailed layout plans should ensure that each household places their refuse/recycling in a location which does not exceed 30m from the adoptable highway.
- 4.9 Housing Development Officer: No objection. The scheme provides for 35% affordable housing. Tenures will need to be finalised and the exact location of the affordable housing units within the scheme should be agreed as a precursor to submission of Reserved Matters.
- 4.10 Schools Capital and Investment Manager: No objection
- 4.11 Environmental Health Manager (Noise): No objection

This proposal comprises of a significant reduction in the numbers of houses proposed at this development.

I commented earlier with regard to the potential road traffic impact on neighbouring properties at no 4 and no 6. Vehicular movements in and out of the development would be reduced by one third. I do not believe that these would cause a nuisance and that although there would be some amenity loss to numbers 4 and 6 this would largely occur during peak hours. For these reasons I have no objection to this development.

- 4.12 Environmental Health Manager (Contaminated land): No objection

5. Representations

5.1 Withington Group Parish Council: Objection

The WGPC objects to the proposed application for 31 dwellings, on access, traffic and landscape impact grounds. In addition, whilst it is noted that the Herefordshire Council is not defending its reasons for refusal relating to the lack of a proven surface water drainage proposal and the lack of a Section 106 agreement in respect of application P141134/O, the WGPC is objecting on these grounds. The WGPC also seeks clarification of the status of the application. The landscape plan appears to indicate 32 dwellings and the site proposal plan only 31 dwellings. In addition the layout details on the two plans are different in respect of the position and type of dwellings, the road layout and the footpath routes. The supporting design and access statement also differs from the plans.

The only matter not reserved for subsequent submission is access. The WGPC objects in principle to the proposal as the landscape characteristics of the site are not reflected in the submitted information and thus it has not been shown how 31 dwellings can be accommodated successfully on the site. Any subsequent approval with conditions restricting the development to 31 dwellings will be superseded by a further application for more dwellings once the principle of development has been established. This is obvious from assessing the differences between the previous application for 45 dwellings which had the same impact on the landscape with development on the highest point and on the rising land behind Farndon Rise.

Reference to the Core Strategy and proposed Neighbourhood Plan was dismissed in the assessment of the previous application (P141134/O) as premature and thus carrying no weight. The Core Strategy inquiry is now programmed for February and the Neighbourhood Plan is expected to be in first draft by mid-March, with proposals for the location of new housing development based on the requirement in the former. The application site is not favoured by a significant majority of residents of the village, with a site adjoining the A4103 and C1130 at Whitestone being the favoured location. Plans for this site have been the subject of public consultation by a developer and whilst currently for 80 dwellings (considered too many by the WGPC) a comprehensive development of the site incorporating other uses required by the community could be accommodated. Residential development as enabling development for other uses would not be capable on the application site other than through the normal S106 procedure. It is therefore considered that an objection on the basis of the policies in the Core Strategy and proposed Neighbourhood Plan is no longer premature.

In addition to the objections relating to the impact on 4 & 6 Vine Tree Close and on landscape impact grounds, the WGPC considers that the additional traffic and vehicle movements in Vine Tree Close will create significant dangers to children and parents walking to school and having to cross the only access to the site.

The impact on Nos. 4 & 6 Vine Tree Close will be unacceptable with vehicle movements and noise causing disturbance to the quiet enjoyment of the occupiers in their private quiet gardens. There will also be disturbance through pedestrian movement into the site alongside the two properties. The proposal in the design and access statement (para 8.34) refers to the provision of a footpath along the rear of the properties in Vine Tree Close but only a short length is included on the landscape proposals plan (linking into a 'private' drive!). This proposal is not acceptable as further disturbance and potential unwanted activity could be generated.

In respect of the visual impact of the proposal on the landscape setting of the village the applicant makes great play of the proposal to site 3 bungalows on a higher point of the site. However, the proposals also include 2 storey development on the highest point of the site which is identified as a ridge line running WNW from the rear of 7/8 Vine Tree Close. In addition development behind Farndon Rise is illustrated as being tightly packed on rising land and of 2 storeys. The applicant proposes a thick tree screen along the southern boundary to screen the

new development. This is an unacceptable use of landscaping in trying to hide development which is clearly unacceptable. Such a tree screen will also cause serious shadowing in the proposed gardens (all south facing) and is unlikely to be maintained over the life of the development or even in the short term.

The WGPC has stated that it will not accept the responsibility for the open spaces. However it is proposed to provide an additional open space area adjacent to the Copse (owned by the WGPC). The applicant has not requested the views of the WGPC in respect of the long term maintenance of this area. In the previous application it was suggested that with the appropriate financial contribution over a 15 years period this area could be of interest to the WGPC. This suggestion has not been followed up by the applicant, nor included in the draft heads of terms.

Footpath links are indicated as forming part of the argument indicating that this will be a sustainable development. Links into the Copse to provide pedestrian access to the public open space, village hall, post office and village stores will be required to be constructed to a high standard. The WGPC has not been consulted on these proposals nor has permission to create the links been sought. Without agreement in respect of a 15 years maintenance scheme or funding, the WGPC objects to additional links being created.

The applicant refers to providing a paved footpath along Veldo Lane to the existing footpath at the end of Vine Tree Close. Veldo Lane is not publicly maintained and the consent of several owners may be required. It is also noted that this is to be funded through highway contributions in the S 106 agreement. However no such funding arrangements are included in respect of the footpaths in the Copse.

Observations on the draft heads of terms of reference for the S106 agreement:

1. The terms state that part of the sustainable transport infrastructure to be funded will be the provision of dropped kerbs in Vine Tree Close. The only additional dropped kerbs required will be as a result of the development and will be a direct development cost. The WGPC is concerned that of all the contributions to sustainable transport infrastructure paid by developers over the last 15 years there is no evidence of any additional works on the highway infrastructure to indicate where these funds have been spent.
2. There is no funding for the provision or long term maintenance of public footpaths off site other than in respect of Veldo Lane.
3. There should be no social rented dwellings in the affordable housing provision only assisted purchase schemes or shared ownership.

In conclusion the WGPC maintains its objection to the development of the site for residential purposes for the following reasons:

- The Neighbourhood Plan exercise favours an alternative site for future residential development in Withington up to 2031.
- The impact on the landscape setting of the village through development on the highest point on the edge of the village is unacceptable and will be detrimental to views towards the conservation area and listed church, and to views from the village.
- The impact on Nos. 4 & 6 Vine Tree Close through traffic disturbance and pedestrian movements will be unacceptable.
- The visual impact on the residents and properties in Farndon Rise will be unacceptable.
- No acceptable layout has been presented to illustrate whether an acceptable development could be achieved.
- No details of footpath links and their maintenance have been submitted for both on and off site links.

- No detailed sustainable urban drainage scheme has been submitted and the WGPC still believes a development could lead to off-site flooding.
- As the submitted plans are not indicated as 'for illustrative purposes only', the difference between them and the Planning Design and Access statement should make the application incomplete.

5.2 96 letters of objection have been received. The content is summarised as follows:-

- The application site is outside the UDP settlement boundary;
- The site is greenfield land, whereas there should be a presumption in favour of utilising brownfield sites first;
- Development would not be sustainable due to adverse impacts on existing residents, ecological interests and highway safety concerns. The contribution that the development would make in terms of addressing a short-term need for housing does not off-set the significance of these adverse impacts;
- Withington has witnessed large-scale development in the relatively recent past and doesn't need more. The scale of development sought in terms of number will dominate and transform the notion of village life, turning the village into a suburb or small town. Demand for housing would be best met in Hereford and the market towns;
- 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 and a draft plan is due for publication in the near future. 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 65 dwellings over the plan period. Over half of this need has already been met via small-scale developments and the 33 dwelling UDP allocation adjacent the Chapel. In combination this development will exceed the 'target' within the first 3 years of the plan period;
- 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;
- In response to the Neighbourhood Plan questionnaire, only 3% of respondents favoured this site, whereas 69% favoured the site opposite Orchard House Care Home. David Wilson Homes have the option on this preferred site and intend making an application shortly;
- Alternative sites would be unlikely to have such impact on adjoining property. The site is higher than adjacent development meaning overlooking and subsequent loss of privacy is likely. Likewise all traffic from this development would have to get to the A4103 via Withies Road or Southbank; both of which are narrow and suffer from congestion;
- Vine Tree Close is a cul-de-sac of 35 dwellings. Accessing a further 31 dwellings via an existing cul-de-sac is dangerous. Access to such a development should be from a main road;
- Vine Tree Close is well-used as a safe route to school, with large numbers of mothers and young children using the public footpath through Vine Tree Close as the safest route to school. Adding a junction here will cause chaos and result in an accident.
- Traffic entering and leaving the site will make living conditions on the houses either side of the junction intolerable with noise and increased vehicle emissions. Headlights are also likely to affect houses opposite;
- The access from Vine Tree is at a point where the road bends and not far from the staggered junctions where Southbank and Duke Street meet Withies Road. The additional traffic using the network in close proximity to busy junctions on either side of Withies road is liable to cause congestion and accidents;
- The demand for housing does not derive from the existing local community;

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- The development would destroy the ambience of Vine Tree Close, which is a cul-de-sac located around quiet green space with views of the open countryside;
- The development will result in the loss of privacy for residents living opposite and nearby. The submitted layout indicates a footpath that passes in close proximity to adjoining properties in Vine Tree Close. This will present privacy and security issues;
- The infrastructure locally does not support large-scale housing. There are no local employment opportunities, doctors or pharmacy;
- Drainage is a significant constraint and the application is in large part silent on the issue. Given run-off concerns relative to lower-lying houses, it should be determined now as to whether infiltration to ground or on-site storage is appropriate;
- The development would result in the loss of agricultural land at a time when we should be producing more food for ourselves;
- The bus service and pedestrian provision is poor and it is likely that residents will use the private car for even short, local trips. Commuters into Hereford are not well served by buses. The earliest arrival in Hereford on weekdays is 8:08am and the latest departure leaves Hereford not long after 17:00pm – not conducive to shift work;
- The impacts of the development upon bat flight paths and nesting birds, including the endangered Sky Lark, are underestimated;
- The badger sett in the copse has also not been accounted for;
- There are discrepancies between the submitted layout and landscape plans; the latter appearing to show 32 not 31 units;
- The development will adversely affect the landscape character and setting of the village. At a high point locally, roofs will dominate the skyline and compete with the Church spire;
- The construction phase will create noise, dust and traffic chaos for existing residents;
- The village should not have to accept large-scale growth. It has had its share and does not have the facilities to support more e.g. doctors' surgery or good transport links.

5.3 There has been one letter of support. This considers the application site to represent the most sustainable location relative to the school, with far fewer dwellings proposed here than on the 'preferred' site opposite Orchard House.

5.4 Herefordshire CPRE objects to the proposal. The objections to the 45 dwelling scheme remain and are summarised below:

The Herefordshire UDP 2007 clearly shows the Withington settlement boundary and the proposed development is outside it, in open countryside. The land is currently in use for arable farming. Saved Policy E15 states: "Development of Greenfield land, including the best and most versatile agricultural land will not be permitted" and Saved Policy H7 states: "proposals for housing development outside ... the main villages and smaller settlements will not be permitted". This proposal satisfies none of the exception criteria for these policies.

The proposed development would significantly alter the character of and the views from public footpaths WT8, WT12, WT14 and from Veldo Lane. There is conflict with saved UDP policy T6 which states "Development proposals should ... respect the ... recreational value, attractiveness and historical significance of any designated public right of way".

The access to the proposed site is unsuitable and represents a hazard to walkers, motorists and other road users.

There would also be a significant increase in traffic on the narrow Withies Lane. There would be significant hazards associated with this for all road users. Footpath WT14 passes along Vine Tree Close and is used as a safe walking route for children from the main body of the village to school. There is conflict with Saved Policies S2, DR2 & DR3.

Notwithstanding the fact that the appeal was dismissed, the applicant makes reference to the housing land supply issue which came to the fore at the Home Farm, Belmont appeal.

Irrespective of the shortfall of housing land the Inspector's decision to dismiss the application was wholly based on the balance of harm to benefit:

"As a consequence, the proposal would be at odds with the environmental role/dimension to sustainable development. Moreover, notwithstanding the shortfall in HLS, these adverse environmental impacts and the harm to the setting of heritage assets that I have also identified would significantly and demonstrably outweigh the economic and social dimensions/benefits of the scheme..." (paragraph 65 of the appeal decision).

There is nothing Innovative or outstanding about this outline proposal as required by NPPF paragraph 63; and paragraph 64 states: "Permission should be refused for development of poor design that fails to take opportunities available for Improving the character and quality of an area and the way it functions". A mundane housing estate, at best contributes nothing to the character and quality of Withington (and the surrounding countryside) and the way it functions and I believe will detract considerably from it. It is concluded that the development is not representative of sustainable development and that the presumption in favour should not, therefore, apply on the basis that *adverse impacts... would significantly and demonstrably outweigh the benefits.*

The proposal is contrary to the emerging Neighbourhood Plan, with respondents expressing a clear preference for the site opposite Orchard House. There is clear evidence that the development of this piece of land would be contrary to the wishes of local people.

- 5.5 In response to the Parish Council's comments the applicant has submitted a revised site plan and landscape plan. These address the inconsistencies between the illustrative site plan and landscape plan referred to above and also identify the potential for the units in the north-west corner of the site to be single-storey; bringing the total to 8. The layout also moves properties on the southern boundary further northwards, to maximise distances to properties in Farndon Rise.
- 5.6 Parallels are also drawn with the Quarry Field appeal at Lugwardine, it being suggested that in terms of the setting within the landscape and proposed means of access passing between two dwellings, the two proposals share similarities.
- 5.7 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 Withington is identified within the adopted Unitary Development Plan as a main village and is also allocated as a main village within the Hereford Housing Market Area within the emerging Local Plan - Core Strategy with an 18% indicative growth target over the plan period. This equates to 65 dwellings, of which 37 have either been constructed or are committed i.e. an extant planning permission exists. The application is made in the context of the housing land supply deficit. The Core Strategy Examination has finished. From evidence heard at the Inquiry, it appears likely that housing requirements in main villages will increase if the rural areas are to deliver the requisite number during the lifetime of the plan.

- 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 - October 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 up to 31 dwellings, including 35% 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 and 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 movement towards a low-carbon economy.
- 6.13 Withington is a main village within the UDP and also identified as a main village in the Hereford Local Plan - Core Strategy. In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located whereas the delivery of up to 31 dwellings, including 35% affordable, together with contributions towards public open space, sustainable transport and education infrastructure would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development.
- 6.14 The Parish Council has expressed concern at the proposed footpath link into their coppice on the site's western boundary. It should be noted, however, that officers do not consider formation of this link is fundamental to the acceptability of this scheme. There are acceptable alternative routes to village facilities, which although not as direct, are within reasonable proximity.

Impact on Landscape Character

- 6.15 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 also 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.
- 6.16 The application site has no formal landscape designation. It lies in open countryside outside but adjacent the settlement boundary. Although categorised as a SHLAA significant constraints site this was on the basis that access was not demonstrated at the time of assessment; something that this proposal addresses. The Conservation Manager (Landscape) concludes 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). The officer considers that the site can accommodate development, although this is contingent on the Reserved Matters submission reflecting the need to retain, insofar as possible, the hedgerow features for which the Principal Settled Farmlands landscape typology is known and bolstering these features as appropriate. The Development Framework plan now reflects this requirement and enhances green infrastructure by drawing development away from the northern boundary onto Veldo Lane and from the copse on the western flank has acknowledged nature conservation interests to a greater extent than originally.

- 6.17 The application has also acknowledged the potential at the Reserved Matters stage to provide a small children's play area, which reflects the comments of the Parish Council in relation to the earlier refused application.
- 6.18 On the basis that conditions will be imposed requiring the protection of hedgerows, 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 Heritage Assets

- 6.19 The application site is 120m west of the Withington Conservation Area. Style House, at the entrance to Veldo Lane is one of several listed buildings that with St Peters Church, further to the east, form the nucleus of the Conservation Area. However, due to the intervening presence of Vine Tree Close and other features, the site exerts a relatively small visual influence upon the setting of these designated heritage assets.
- 6.20 In this case it is considered that any impact can be mitigated through appropriate and sensitive detailed design and landscaping and that as a consequence the harm to the significance of the designated heritage assets will be less than significant. Accordingly, as per NPPF paragraph 134, the harm should be weighed against the public benefits of the proposal, which in this case can be taken as the scheme's contribution towards boosting housing supply, the associated economic and social benefits and absence of any other significant adverse impacts. As such, and having regard to the nature of the proposal and the overarching context set by the lack of housing land supply, the harm to the setting of listed buildings is considered less than substantial.

Impact on Ecological Interests

- 6.21 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 as set out below, which include tree and hedgerow protection measures, the development is considered to accord with the provisions of the Development Plan and NPPF guidance.

Transport

- 6.22 The NPPF advises that development should only be prevented or refused when it can be demonstrated that it would result in residual cumulative impacts that are severe. Officers consider this is not the case here and the Transportation Manager has no objection.
- 6.23 The submitted drawing indicates 4.8m wide access road with 2.0m footways and 6m junction radii, which accords with the adopted Highways Design Guide for New Developments for a minor access road serving up to 50 dwellings, and the survey drawing indicates that this is achievable within the ownership of No 5.
- 6.24 Vine Tree Close itself from Withies Road to the point of access is 5.5m in width with 10m radii to Withies Road and therefore is of an adequate standard for a minor access road to serve up to

100 dwellings, and this figure is not exceeded by the existing and proposed development. Therefore the proposed access arrangement is considered acceptable. Pedestrian drop crossings will be required within the access road radii for the well used pedestrian route to the school and will form part of the S278 agreement.

- 6.25 The Traffic Manager concludes that the scheme is acceptable relative to the requirements of paragraph 32 of the NPPF.

Land Drainage and Flood Risk

- 6.26 The Land Drainage Officer has no objections to the proposed development subject to submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development prior to construction. A condition is recommended to ensure the submission of a fully integrated foul and surface water drainage system.
- 6.27 On the basis of this and earlier advice, the Council has not pursued the drainage related reason for refusal of the scheme now at appeal and officers reiterate that they do not consider a drainage-led refusal reason to be justified.

S106 Heads of Terms

- 6.28 The S106 draft Heads of Terms are appended to the report. 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. The Parish Council has requested that none of the affordable housing units be for Social Rent, but this position is not supported by the Council's Housing Development Officer. The precise tenure of the affordable housing can be negotiated further at the Reserved Matters stage; the caveat being that the 35% requirement (11 units) is met. A maintenance contribution towards the management of on-site public open space and any necessary SUDs system, which will be adopted by the Council, will also be required. The Parish Council has indicated previously that it may not be inclined to permit a footpath link into the coppice that they own. The draft Heads of Terms nonetheless maintain inclusion of this as a potential project in the event that there is a change of heart. Expenditure of the off-site highway and play monies will be undertaken in consultation with the Parish Council. Officers do not, however, consider that the inability to link through into the coppice materially affects the scheme's claim to sustainable development. There are other pedestrian routes to village facilities and amenities.

Impact on Adjoining Residential Amenity

- 6.29 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 south and Vine Tree Close to the east. Clearly this will be contingent on detailed consideration at the Reserved Matters stage and in this respect the Development Framework plan identifies development exclusion zones within which no dwelling would be sited. Adoption of this approach, which can be subject to a planning condition, would ensure adequate separation distances, although 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.
- 6.30 Concern has also been expressed in relation to the impact of the proposals upon Nos.4 and 6 Vine Tree Close, between which the access route would pass. Officers do not consider this issue, in the weighing of benefits and adverse impacts, would equate to a reason for refusal. This perspective is reinforced by the Environmental Health officer's comments at 4.11.

Foul Drainage and Water Supply

- 6.31 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.

Sustainable Design

- 6.32 The applicant has confirmed that all dwellings shall follow a fabric first approach to energy efficiency. It is envisaged that energy consumption and carbon emissions will be reduced by building to a minimum of code 4 of the code for sustainable homes. The site offers good opportunity to construct on an orientation that ensures optimum exposure to passive solar gain and for solar thermal and PV panels.

Loss of Grade 2 Agricultural Land

- 6.33 Defra mapping suggests the site is Grade 2 agricultural land. Saved policy E15 requires that development resulting in the loss of such land should only be permitted where there is a lack of suitable development opportunities within the boundaries of the existing urban areas or on previously developed sites or where there is an established need for the development of agricultural land; in which case poorer quality land should be utilised first. This is enshrined in NPPF paragraphs 112 and 143. In this instance the case for releasing such sites is entwined with the housing land supply issue and the loss of the best and most versatile agricultural land should be weighed against the need for the development and other attendant benefits. In this case, the site is well-related to the village and the loss of 2.2ha of Grade 2 land is not considered to represent a sound basis for refusal in the circumstances.

The Neighbourhood Plan

- 6.34 Withington Group Parish Council has designated a neighbourhood plan area. Work has been progressing towards the formulation of the plan for a considerable period. 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'*.
- 6.35 The Neighbourhood Plan is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking and planning applications cannot, in these circumstances, be refused because they are potentially prejudicial to the neighbourhood plan.

Summary and Conclusions

- 6.36 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.
- 6.37 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 significant constraints on the basis of lack of access as opposed to being unsuitable or inappropriate in other respects. Withington is, having regard to the NPPF, 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).

- 6.38 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 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.
- 6.39 The Conservation Manager (Landscape) confirms the application site has the ability to accommodate residential development subject to the retention of landscape features and a margin against the copse and Veldo Lane and the Development Framework Plan responds positively to these requirements. The site is some 120m from the Conservation Area, but development would exert relatively little influence on the setting of the Conservation Area and the listed buildings within it. Certainly any impact such as there may be is likely to result in less than substantial harm to the significance of the heritage assets. This is in the context of the safeguard provided by detailed assessment of the layout, landscaping, scale and appearance at the Reserved Matters stage.
- 6.40 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 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 Section 106 Planning Obligation and appropriate planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 31 and to formulate an integrated foul and surface water run-off scheme. 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 Commencement of development**
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 substantial accordance with the Development Framework Plan 763-05A received on 4 March 2015.**

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

6. The development shall include no more than 31 dwellings and no dwelling shall be more than two 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.

7. H06 Vehicular access construction
8. H18 On site roads - submission of details
9. H19 On site roads - phasing
10. H20 Road completion in 2 years
11. H21 Wheel washing
12. H27 Parking for site operatives
13. H29 Secure covered cycle parking provision
14. The recommendations set out in the ecologist's reports from Wilder Ecology dated April 2014 and July 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.

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 the Herefordshire Unitary Development Plan

15. L01 Foul/surface water drainage
16. L02 No surface water to connect to public system
17. L04 Comprehensive & integrated draining of site
18. G04 Protection of trees/hedgerows that are to be retained
19. G10 Landscaping scheme
20. G11 Landscaping scheme - implementation
21. G14 Landscape management 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. **HN08 Section 38 Agreement & Drainage details**
3. **HN15 Affected street lighting or illuminated signs**
4. **HN28 Highways Design Guide and Specification**
5. **HN05 Works within the highway**
6. **An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**
7. **N02 Section 106 Obligation**

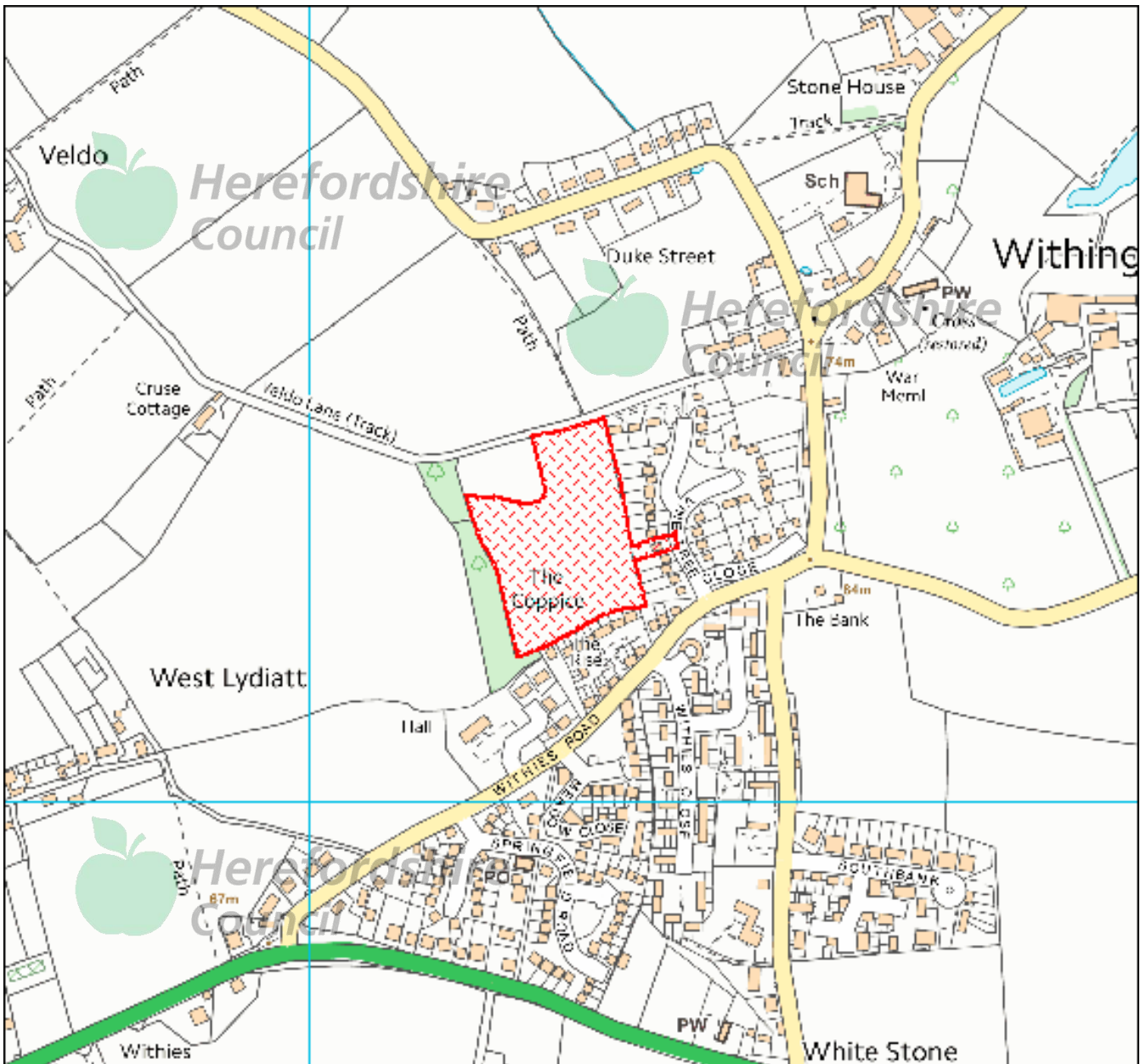
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 150067/O

SITE ADDRESS : LAND ADJACENT VINE TREE CLOSE, WITHINGTON, HEREFORDSHIRE

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DRAFT HEADS OF TERMS
Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1st April 2008. All contributions in respect of the residential development are assessed against general market units only. **The contributions are calculated on an indicative scheme of 19 open market units as the proposal involves the demolition of an existing 4 bedroom dwelling.**

Planning application: P150067/O

Proposed erection of up to 31 dwellings (20 open market and 11 affordable), construction of a new vehicular access and associated works on land adjacent to Vine Tree Close, Withington, Herefordshire.

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

£861.00 (index linked) for a 2 bedroom open market dwelling
£1,302.00 (index linked) for a 3 bedroom open market dwelling
£2,318.00 (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for enhanced educational infrastructure at North Hereford City Early Years, St Francis Xavier Roman Catholic Primary School (5% of overall contribution), St Mary's Roman Catholic Secondary School (8% of overall contribution), post 16, Hereford City youth services and the Special Education Needs Schools (1% of overall contribution). The sum shall be paid on or before first occupation of the 1st open market dwellinghouse, and may be pooled with other contributions if appropriate. **Based on the indicative submitted scheme the total contribution would be £36,200.00.**

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

£1,720.00 (index linked) for a 2 bedroom open market dwelling
£2,580.00 (index linked) for a 3 bedroom open market dwelling
£3,440.00 (index linked) for a 4+ bedroom open market dwelling

The contributions will provide for sustainable transport infrastructure to serve the development, which sum shall be paid on or before occupation of the 1st open market dwellinghouse and may be pooled with other contributions if appropriate. **Based on the indicative submitted scheme the total contribution would be £60,200.00.**

The sustainable transport schemes would comprise;

- A new footpath along Veldo Lane from the development site to the existing footpath;
- Improvements to the footways on Vine Tree Close with re-surfacing and the provision of dropped kerbs.
- Improvements to the footway link through the adjacent coppice to the village hall and sport/play facilities.

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

£965.00 (index linked) for a 2 bedroom open market dwelling
£1,640.00 (index linked) for a 3 bedroom open market dwelling
£2,219.00 (index linked) for a 4 bedroom open market dwelling

The contributions will either provide for on/off-site play facilities at the existing village play facilities, which may include changing facilities for local sports clubs. The split between on/off site play provision will be informed in consultation with the Parish Council. The sum shall be paid on or before occupation of the 1st open market dwellinghouse and may be pooled with other contributions if appropriate. **Based on the indicative submitted scheme the contribution would be £38,590.00.**

4. The maintenance of the on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

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

£120.00	(index linked) for a 1 bedroom open market dwelling
£146.00	(index linked) for a 2 bedroom open market dwelling
£198.00	(index linked) for a 3 bedroom open market dwelling
£241.00	(index linked) for a 4+ bedroom open market dwelling

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 scheme submitted the contribution would be £4,390.00.

6. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£120.00** (index linked) per 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 scheme submitted the contribution would be £2,400.00.**
7. The developer covenants with Herefordshire Council that 35% (up to 11) of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations (2008).
8. Of that 35% Affordable Housing units, at least 50% shall be made available for social rent with the remaining 50% being available for intermediate tenure occupation.
9. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 80% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
10. The Affordable Housing Units must be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
- 10.1 registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
 - 10.2 satisfy the requirements of paragraph 12 of this schedule
11. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of who has:-
- 11.1 a local connection with the parish of Withington;
 - 11.2 in the event there being no person with a local connection to the parish of Withington the adjoining parishes;
 - 11.3 in the event there being no person with a local connection to the above parish any other person ordinarily resident within the administrative area of Herefordshire Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 10.1 above
12. 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:
- 12.1 is or in the past was normally resident there; or
 - 12.2 is employed there; or
 - 12.3 has a family association there; or
 - 12.4 a proven need to give support to or receive support from family members; or
 - 12.5 because of special circumstances
13. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to a subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph

Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.

14. 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.
15. In the event that Herefordshire Council does not for any reason use the sum specified in paragraphs 1, 2, 3, 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.
16. The sums referred to in paragraphs 1, 2, 3, 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.
17. 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.
18. 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.

Yvonne Coleman
Planning Obligations Manager