

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>15 APRIL 2015</b>
<b>TITLE OF REPORT:</b>	<b>140554 - OUTLINE PLANNING APPLICATION FOR 5 NO. DETACHED DWELLINGS AND GARAGES AND ACCESS ONTO A49 AT LAND AT FORMER MUSHROOM FARM, MUCH BIRCH, HEREFORD, HR2 8HY</b>  <b>For: Mr Thorne per Mr J Murphy, 25 The Shires, Lower Bullingham, Hereford, Herefordshire HR2 6EY</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140554&amp;search=140554">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=140554&amp;search=140554</a>
<b>Reason Application Submitted to Committee – Contrary to Policy</b>	

**Date Received: 20 February 2014**

**Ward: Pontrilas**

**Grid Ref: 351402,229720**

**Expiry Date: 14 May 2014**

Local Member: Councillor J Norris

## **1. Site Description and Proposal**

- 1.1 Much Birch is a settlement comprised of four distinct clusters of development which all centre on the A49 Trunk Road. The application site is in the southernmost cluster, behind three dwellings to the east of the A49. Access to the site is directly from and to the A49 and runs along the southern boundary of 'Baron's Rest', the southernmost of the three dwellings, opposite Much Birch car sales garage.
- 1.2 The 0.53 hectare site was formerly a mushroom farm and the buildings and infrastructure of this former use are still very much evident though now in a dilapidated state. The site is bounded on all sides by hedgerow and hedgerow trees. Five dwellings border the site's north and west boundaries, whilst open agricultural fields are to the south and east. Site levels are fairly consistent, with negligible internal undulations.
- 1.3 This application seeks outline permission for the erection of five dwellings. All matters are reserved for later consideration save for access. An indicative plan has been submitted showing five dwellings in a linear fashion, running on a north-south axis all served by the singular access road.

## **2. Policies**

- 2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance to this application:

Introduction - Achieving Sustainable Development

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

Chapter 4	-	Promoting sustainable Transport
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

## 2.2 Herefordshire Unitary Development Plan 2007 (HUDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
H6	-	Housing in Smaller Settlements
H7	-	Housing in the Countryside Outside Settlements
H13	-	Sustainable Residential Design
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
CF2	-	Foul Drainage

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

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/unitary-development-plan>

## 2.4 Herefordshire Local Plan 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
MT1	-	Traffic Management, Highway Safety, Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geo-Diversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.5 The Examination in Public into the Draft Local Plan – Core Strategy (CS) has taken place and was completed on 25 February 2015. The majority of Core Strategy Policies were subject to objection and will likely be subject to modification, particularly the Rural Housing Policies which are most pertinent to this application. Therefore, the CS can only be attributed minimal weight in determining this application.

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Further information on the subject of this report is available from Mr Matt Tompkins on 01432 261795

## 2.6 Neighbourhood Plan

Much Birch has resolved not to produce a Neighbourhood Plan.

## 3. Planning History

### 3.1 SH911020PO Residential development for four dwellings: Approved 2 March 1992.

The application was approved by virtue of its location within the settlement boundary of Much Birch as designated with the local plan in place at that time. The scheme was never implemented and, as such, the permission lapsed.

### 3.2 DCSW2005/2843/O Outline residential application for four dwellings: Refused 25 October 2005. Appeal Dismissed 17 May 2006.

This application was all but a resubmission of the above approved scheme. It was however refused for the reason that the site now fell outside of areas deemed suitable for residential development in the incumbent development plans, the Hereford and Worcester County Structure Plan (1993) and the South Herefordshire District Local Plan (1999), in so much that Much Birch was not an identified settlement and the site was therefore in open countryside. Weight was also attached to the then emerging policies of the Herefordshire Unitary Development Plan by virtue of the plan's advanced stage of preparation. However, the emerging UDP limited residential development in this location to the infilling of single dwellings. The provision of five dwellings fell foul of this requirement. The inspector concluded that with regard to the tangible detriment of the scheme that the development would extend residential land uses further into the open countryside than is presently the case, notwithstanding the provision of agricultural buildings on the site. The refusal was upheld at appeal on grounds of being contrary to the development plan and the resultant impact on landscape character and appearance. The inspector did, however, find the site to be sustainably located.

## 4. Consultation Summary

### Statutory Consultees

#### 4.1 The Highways Agency does not object to the application.

Initially, four holding objections were made by the Highways Agency, by virtue of the application's failure to demonstrate acceptable access onto and off the A49 trunk road. Upon providing detailed drawings specifying improvement works to the site access and after its engineers had conducted a site visit, the Highways Agency removed their objection commenting as follows: The applicant has submitted further design information in support of the proposals at Mushroom Farm. This has been submitted to our design standards team who have responded positively to this and the access improvements already made. Given the above and the previous planning history of the site, the existing access is now deemed to be of a sufficient standard to accommodate the five dwelling proposal. Accordingly, I am content that the outstanding access issues have been satisfied. Please find a revised TR110 form confirming our position as one of no objection.

### Internal Council Advice

#### 4.2 Transportation Manager comments that: The access onto the A49 is being dealt with by the HA. The internal layout for RM will need to accommodate turning for service vehicles to prevent reversing and suitable parking. If garages are to be used, 6x3m internal dimension is required.

4.3 Environmental Health Manager does not object to the application but recommends the appending of conditions to any permission given which are discussed within the officer appraisal.

## 5. Representations

5.1 The Parish Council objected to the initial application. Whilst the Council would like to encourage development of the site, there are concerns as to access to and from the A49 given that the developer does not own the land on either side of the access/exit point. The Council are minded to object to the application on the grounds of unsafe access and egress from the proposed site.

Upon being notified of the receipt of amended plans showing improvements to the highways access, the Parish Council maintained their objection adding the further comment that: It is believed that the A49 speed limit from the "Axe and Cleaver" and past the site (currently 50mph in part) should be lowered to a uniform 40mph along the entire stretch of the A49 in this vicinity. The transition from 50mph to 40mph is believed to be unsatisfactory as it is likely that cars will continue to travel at the higher speed.

5.2 Two letters of objection were received raising the following concerns:

- The land is level over a considerable area and as such drainage will not be able to cope with the demands of a number of houses.
- Foul water could contaminate a nearby borehole.
- Surface water could 'water -log' fields. Water-logging has already happened on part of the neighbouring field.
- The applicants have suggested that there is adequate access to the site from the A49 though the hedge and verge to the south are not under their ownership.
- A considerable amount of asbestos sheeting is located on the mushroom farm which will need to be removed by a specialist firm. We are worried that the removal will not be managed properly and that air contamination of crops will take place.
- The amount of vehicles that would access the proposed site would constitute a high safety risk for vehicles and pedestrians entering and exiting the shared access lane. At this present time have difficulty exiting the lane with our vehicle due to the volume of traffic and the lack of visibility to the North due to the dip in the road. With a lot of vehicles entering and exiting particularly at the same time this could cause severe congestion on the main A49 road in both directions.
- There is no space in the lane for two vehicles to pass each other travelling in different directions. There is a lack of visibility from the proposed site to the main entrance to the lane. There are no lights on the lane at this present time and this alone will cause safety issues particularly with pedestrians, children and animals.
- On the proposed plan it states that the hedge to the east is to be cut to 2 metres though the hedge is not under their ownership.
- If the hedge were trimmed, the privacy afforded would be eroded. This also includes the hedge and trees to the west (front) of the house.
- Some of the land included within the application site is not within the applicant's ownership.

5.3 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

### Policy Context

6.1 S38 (6) of the Planning and Compulsory Purchase Act 2004 (PCP) 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.*

6.2 Therefore, the first consideration is for the proposal's compliance with the development plan. The Council's current development plan is the Herefordshire Unitary Development Plan 2007 (UDP). UDP Policy H6 is a saved policy and is relevant to the principle of providing housing in this location, the application site being within the small settlement of Much Birch. UDP Policy H6 resists residential development comprising anything other than one 'infill' dwelling. The provision of five dwellings as per this proposal would therefore be contrary to the development plan.

6.3 The two-stage process set out at S38 (6) necessitates an assessment of other material considerations. In this instance, and in the context of the housing land supply deficit discussed below, the NPPF is the most significant material consideration for the purpose of decision-taking. It should be noted however that the NPPF does not override the legislative requirements of PCP. Indeed the NPPF at paragraph 210 reinforces the supremacy of S38 (6) of PCP for decision taking requirements:

*Paragraph 210: Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.*

6.4 At paragraph 14, the NPPF sets out its relevance to and requirements of decision takers:

*At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.*

*For decision-taking this means:*

- *approving development proposals that accord with the development plan without delay; and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in this Framework indicate development should be restricted.*

6.5 Therefore the first question is whether or not the development plan is absent or silent or its policies are out-of-date. In this regard and in the context of decision taking, paragraphs 211, 212, 214 and 215 of the NPPF are relevant – 213 relates to plan making only.

*211. For the purposes of decision-taking, the policies in the Local Plan should not be considered out-of-date simply because they were adopted prior to the publication of this Framework.*

212. However, the policies contained in this Framework are material considerations which local planning authorities should take into account from the day of its publication. The Framework must also be taken into account in the preparation of plans.

214. For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.

215. 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 may be given).

- 6.6 The UDP has a plan period of 2007-2011. However and as per the guidance of paragraph 211, the UDP and its policies are not rendered obsolete merely by virtue of its plan period having lapsed. The NPPF was published in March 2012 and its 12 month adoption period has expired. As such, the test of paragraph 215 is applicable and the UDPs policies must be appraised for their degree of consistency with the NPPF. Therefore and in the context of paragraph 14 of the NPPF, should the UDPs policies be found to comply with the NPPF then the application must be considered against the UDP. Alternatively, should the UDPs policies be found to be in conflict with the NPPF then the second bullet point of the decision taking part of paragraph 14 becomes the relevant method of determination.
- 6.7 Paragraphs 47 & 49 of the NPPF are relevant to a Council's supply of housing land and subsequently the applicability of the UDPs housing policies. Paragraph 47 requires that Local Planning Authorities have an identified five year supply of housing plus a 5% buffer. Where there has been a record of persistent under delivery of housing, local planning authorities should increase this buffer to 20%. Paragraph 49 requires that the 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.
- 6.8 Herefordshire Council cannot currently demonstrate a five year housing supply neither have they identified a sufficient quantity of land on a persistent basis – a position recently upheld at appeal – triggering the requirement for a 20% buffer. The Council's housing policies therefore conflict with the provisions of paragraphs 47 & 49 of the NPPF. On this basis, and as per the compliance tests of paragraphs 215 and 49 of the NPPF, UDP Policy H6 cannot be relied upon to determine the location of housing.
- 6.9 Having established that the Council's housing supply policies are out-of-date, including UDP Policy H6, the second limb of paragraph 14 is the pertinent test of a development's acceptability and permission must be granted unless:
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in this Framework indicate development should be restricted.*
- 6.10 It is officer opinion that there are no specific policies of the NPPF which individually would indicate that development should be restricted. The first bullet point above is thus the applicable method of determining this application and permission must be granted unless harm arising from the proposal can be demonstrated to significantly outweigh the benefits of the scheme in the context of the NPPF as a whole.

#### Principle of Development

- 6.11 Within the foreword to the NPPF the purpose of planning is described as being to help achieve sustainable development. The Government's definition of Sustainable Development is

considered to be the NPPF in its entirety though paragraph 17 lays out a concise set of 'core planning principles'. Amongst these principles, and crucial to the determination of this application, are that decision taking should:

- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable; and
- take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

6.12 Leading on from the first 'core principle' highlighted in the preceding paragraph, Chapter 4 of the NPPF represents the government's more detailed guidance on movement. Of particular relevance to this application are paragraph 32, which advises that safe and suitable access to a site should be achieved for all people, and paragraph 29, which advises that people should be given a real choice about how they travel. Moreover paragraph 55 of Chapter 6, requires that development be sited as to enhance or maintain the vitality of rural communities and paragraph 69 of Chapter 8 requires development to be safe and accessible, containing clear and legible pedestrian routes.

6.13 Although based on expired government policy, similar aims to those of the NPPF are manifested in UDP Policies S1 and DR2 which require, amongst other things, that development proposals should be directed to locations which reduce the need to travel, securing safe and convenient accessibility between land uses by modes other than personal motor transport. Given their level of consistency with the NPPF, UDP Policies S1 and DR1 continue to attract considerable weight in this regard.

6.14 In determining the application site's ability to represent a 'sustainable location' within the context of the above two paragraphs, the following are relevant considerations:

- The level of amenities within a walking distance of the site;
- The nature of the route and its ability to provide safe and convenient access to those amenities; and
- The availability of truly usable public transport.

It should however be noted that the NPPF concedes that some use of the private motor vehicle is likely to be necessary in rural localities.

6.15 The application site is located within the southernmost cluster of development centred on the A49 which together with the three clusters of development to the north-west are known as 'Much Birch'. The following facilities and services are within reasonable proximity of the application site with the distance to the facilities from the site in brackets, measured approximately and as one would walk rather than as the crow flies:

- Axe and Cleaver Public House (150 metres);
- Parish Church (1,300 metres);
- Community Centre (1,300 metres);
- Doctors Surgery (1,300 metres).
- Primary school (1,750 metres); and
- The Pilgrim Hotel (1,800 metres).

6.16 Two bus stops, one on either side of the road, providing access to the number 33 bus service are located 150 metres to the north of the site at and opposite the junction of Hollybush Lane with the A49. The number 33 bus service provides approximately 12 half hour trips a day to

and from the more extensive facilities of Hereford and the same number of similarly timed trips to Ross.

- 6.17 It is considered that the above represents a good level of facilities for a village in a rural location and that these facilities are within a distance which one could regularly walk to although the school and hotel are at the extreme of such a distance. The frequency and journey times of buses to the largest serviced settlement in the County represents a truly usable service. The most part of one's journey between the application site and the aforementioned amenities would benefit from a designated pedestrian footpath which is however unlit. In having to cross the A49 to access a large proportion of the village's facilities, one would have to negotiate a large volume and disparate type of vehicular traffic within 40mph and 50mph limited zones. However the A49 is not considered to be an undue barrier to safe and convenient pedestrian flow throughout the village by virtue of the straightness of the road, the good visibility in each direction and designated, dropped kerb crossing points.
- 6.18 Recognising that sustainable transport solutions will vary from urban to rural areas as highlighted by paragraph 29 of the NPPF it is considered that the application site offers reasonable opportunity to utilise a good level of local facilities along a safe pedestrian route as well as being well connected to the County's major service centres. It is officer opinion that occupiers of the proposed dwellings would feel as though they had a genuine choice about how they may travel. For these reasons the site is considered to be sustainably located.
- 6.19 For the sake of clarity, the provision of a pedestrian crossing on the A49 is not considered integral to the application's acceptability in terms of the site's location nor would the works required to provide a crossing be of a scale commensurate to the proposed development. Such a provision by way of a 278 agreement would not therefore be reasonable.
- 6.20 The second core principle cited in the paragraph 6.11 of this report requires decision taking to take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. Paragraph 55 expands on this seeking to resist new isolated homes in the countryside other than in special circumstances. Paragraph 58 of the NPPF requires development to respond to local character and history and paragraph 61 requires development to integrate with the existing natural, built and historic environment. Paragraph 111 encourages the reuse of Brownfield land over greenfield sites.
- 6.21 These national requirements are reflected locally in UDP Policies S1, DR1 and H13 which require development to protect and enhance the natural environment, to safeguard the quality and character of the landscape and to promote or reinforce the distinctive character of the locality respecting the context of the site. UDP Policies S1, DR1 and H13 are generally consistent with the advice on design and distinctiveness set out in the NPPF (chapter 6) and so continue to attract considerable weight for this purpose.
- 6.22 The application is for outline permission only with matters of landscaping, scale, layout and appearance, reserved for later consideration. It must therefore be considered whether the site offers *potential* for an appropriate layout; scale and design of building; and landscaping scheme to be forthcoming having regard to the distinctiveness and history of the locality and the appearance and character of the landscape.
- 6.23 The application site is within the cluster of built development which, although undefined, is tangibly a part of Much Birch. When viewed in plan form and from the A49, the site relates to the existing settlement, being surrounded on two sides by residential development. Furthermore, the site itself is comprised of built form, albeit of an agricultural appearance. The site would be reasonably prominent to views from the south as one approaches Much Birch on the A49 and from the east across agricultural fields though existing trees bounding the site's north-east and south-east edges do filter views of the existing buildings. However on balance



and by virtue of the brownfield nature of the site and the removal of existing buildings of a large scale and dilapidated state which the site's development would require, there is potential for a well designed scheme to have no measurable negative impact on the appearance of the landscape.

- 6.24 The site is of a size which affords opportunity for dwellings of an appropriate design and scale to be forthcoming. The site's location within the wider settlement does, however, to a certain extent, dictate its ability to provide development which would acquiesce with the existing pattern of built form. Development within this part of Much Birch and throughout other parts of the village does tend to be of a linear nature, flanking the sides of the A49 or roads and bridleways which fork off from the A49. However, by virtue of the number of such roads and their proximity to one another, the resultant form of development, particularly within this part of Much Birch appears as a deeper, clustered pattern of development rather than a truly linear pattern. Therefore, this development, although located away from the road's edge, would not in my opinion be inherently contrary to the perceivable pattern of development and there is potential for an appropriate layout to be provided.

#### Highways Safety

- 6.25 Access is a matter for which approval is now sought. The site is accessed immediately off the A49(T) which is the major north-south thoroughfare of Herefordshire and, in being a trunk road, the Highways Agency are the relevant authority on the acceptability of the site access and its potential intensification of use.
- 6.26 The site's former use was as a mushroom farm. No substantiated figures have been provided, though anecdotally the applicant has suggested that vehicle movements would equate to 200 lorries per week plus staff vehicles with morning and afternoon peaks. The Highways Agency agrees that these figures tally with what one would expect to associate with a mushroom farm of this size.
- 6.27 At the site's access, the road's speed limit is 50mph. Visibility to the nearside edge of the carriageway looking south (the 'Y distance), from a point 2.4 metres back from the carriageway edge is c.425 metres until the road bends in a westerly direction obscuring visibility beyond. The Y distance to the north, from a point 2.4 metres back from the carriageway edge is 143 metres until changes to the road's elevation forms a hump in the road, thereby unduly obscuring visibility beyond this point – a driver's eye height of 1.05m has been assumed for this measurement. The relevant document to setting visibility splays onto trunk roads is 'Vehicular Access to All Purpose Trunk Roads – TD 41/95'. At 2.22, the minimum Y distance for a trunk road of this design is stated as being 160 metres. The available Y distance is therefore 17 metres short of the required distance.
- 6.28 Alterations have already been undertaken to the access including the cutting back of a hedgerow and the provision of a close boarded fence. This has resulted in the first 6 metres of the access road being of a width which would allow two cars to pass.
- 6.29 In removing their objection to the application, the Highways Agency has found the improvements to the existing access and the change in type and volume of traffic using the site access to outweigh the deficiency of the northern visibility splay, particularly in the context of the previous 'no objection' to a scheme for 4 dwellings. On this basis, and in the context of paragraph 32 of the NPPF, the proposal is not considered to give rise to severe impacts on transportation.
- 6.30 The applicant also proposed to increase the northern radius of the access to 6 metres so as to allow vehicles to turn off the A49 with greater ease. However, the Highways Agency states that these works should not be undertaken as they would not meet their minimum standards.

No conditions are therefore requested by the Highways Agency should this application be approved.

### Other Matters

- 6.31 Layout is not a matter before the Council and, as such, it is not possible to ascertain exact distances between the proposed dwellings and neighbouring dwellings to ensure that privacy and amenity are definitively acceptable. However, the dwelling closest to the edge of the application site is 20.5 metres and the application site's size is large enough to ensure that a scheme can be provided which would allow the privacy, daylight and outlook levels of occupiers of external dwellings to be maintained at an acceptable level. Similarly the size of the site allows for a scheme which is devoid of internal conflict. The indicative layout which accompanies this application would provide satisfactory levels of amenity and privacy for all.
- 6.32 The application site is 'brownfield' and the applicant mentions within the covering letter to this application that it is 'industrial' in nature. The presence of 'hazardous materials' is also mentioned. There also appears to be asbestos sheeting on site which would require removal. The Council's Environmental Health Manager recommends that more information is required with regard to the exact nature of the hazardous materials on site and how such materials would be dealt with. It must subsequently be demonstrated that the site is both safe and suitable for its intended use. Conditions should be appended to any permission given requiring this detail and potential mitigation.
- 6.33 It is mentioned within a letter of objection that the application site may not be entirely within the applicant's ownership. However, there is no evidence before the Council which confirms this to be the case. The applicant has completed certificate 'A' to confirm his ownership within the red line boundary as submitted with the application.

### Conclusion

- 6.34 Given the Council's lack of a published five-year housing land supply, the housing policies of the UDP are considered out of date. The appropriate method of determining this application must therefore be the 'planning balance' required by the first limb of the second bullet point of the decision taking part of paragraph 14. Unless it can be demonstrated that the harm associated with the scheme would substantially outweigh its benefits, then the development must be considered sustainable and the positive presumption engaged.
- 6.35 The NPPF, at paragraph 7, offers a framework within which the potential benefits and harm of development should be assessed. Development must essentially fulfil the three dimensions of sustainable development: Social, Economic and Environmental. It is important to note that whilst this framework is provided, in weighing up the scheme the three dimensions of sustainable development should not be considered in isolation. Indeed, paragraph 8 requires that gains in all three dimensions should be jointly sought meaning that a scheme which robustly fulfils two dimensions may be unacceptable for its failure to fulfil the outstanding dimension – thus the planning balance.
- 6.36 The scheme's economic benefits include short term job creation in the construction sector during the building phase and the long term support for local businesses. Likewise the new homes bonus afforded to the Council should be regarded as a material consideration. In providing a greater supply of housing in a location which offers the opportunity to contribute to the community of Much Birch, the scheme also fulfils the social dimension of sustainable development. In terms of its environmental role, the proposal is not considered to represent development which would unduly harm the appearance or character of the landscape or the village's setting. Furthermore, the site's location provides potential occupiers of the proposed dwellings with genuine alternative methods of transport to the private motor vehicle, thus helping to minimise the carbon output of the development. Therefore, in failing to identify

demonstrable harm, it is officers' opinion that the application is representative of sustainable development and that outline planning permission should be granted.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 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. A05 - Plans and particulars of reserved matters**
- 5. B01 – Development in accordance with the approved plans**
- 6. G02 – Retention of trees and hedgerows**
- 7. H03 - Visibility splays**
- 8. H06 - Vehicular access construction**
- 9. H11 - Parking - estate development (more than one house)**
- 10. H17 - Junction improvement/off site works**
- 11. H20 - Road completion in 2 years**
- 12. H21 - Wheel washing**
- 13. H27 - Parking for site operatives**
- 14. H29 - Covered and secure cycle parking provision**
- 15. I18 – Scheme of foul drainage disposal**
- 16. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:**
  - a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice**
  - b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors**
  - c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations**

where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

**Reason:** In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment as required by Policy DR10 of the Herefordshire Unitary Development Plan and the NPPF.

17. **The Remediation Scheme, as approved pursuant to condition no. 14 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.**

**Reason:** In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment as required by Policy DR10 of the Herefordshire Unitary Development Plan and the NPPF.

18. **If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.**

**Reason:** In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment as required by Policy DR10 of the Herefordshire Unitary Development Plan and the NPPF.

19. **C01 Samples of external materials**
20. **G10 – Landscaping scheme**
21. **G11 – Landscaping scheme – implementation**
22. **I16 – Restriction of hours during construction**

**Informatives:**

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **N11C – General**

3. **The contaminated land assessment pursuant to conditions 14, 15 & 16 is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.**
  
4. **All investigations of potentially contaminated sites will be required to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.**

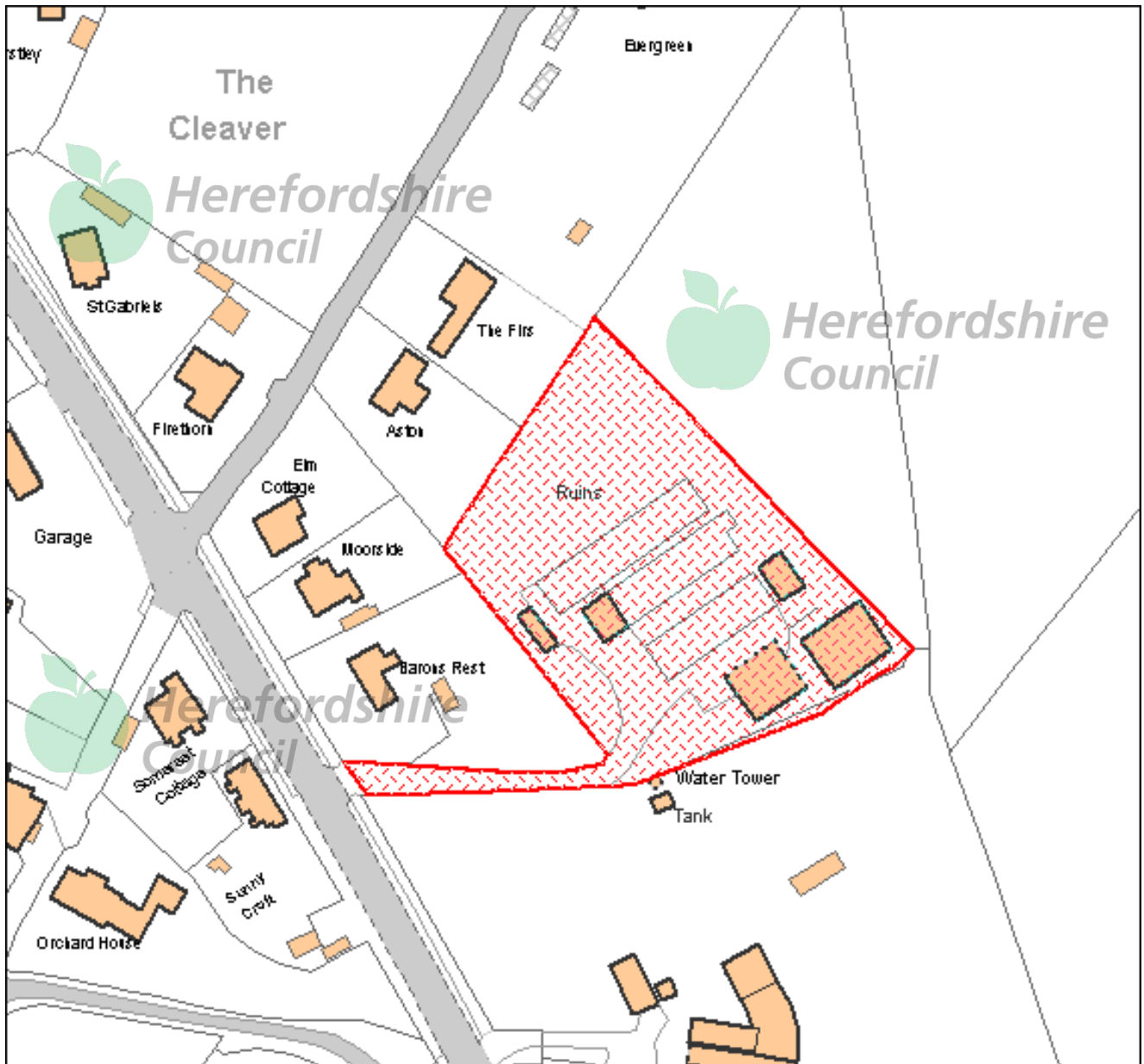
Decision: .....

Notes: .....

.....

### **Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 140554

**SITE ADDRESS :** LAND AT FORMER MUSHROOM FARM, MUCH BIRCH, HEREFORD, HR2 8HY

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