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| MEETING: | PLANNING COMMITTEE |
| DATE: | 2 SEPTEMBER 2015 |
| TITLE OF REPORT: | 151251 - PROPOSED ERECTION OF UP TO 38 DWELLINGS (INCLUDING DETAILS OF ACCESS) AT LAND ADJACENT TO THE B4222, LEA, ROSS ON WYE, HEREFORDSHIRE For: MLN (Land and Properties) Ltd per Mr Ben Wheatley, Knights, The Brampton, Newcastle under Lyme, Staffordshire, ST5 0QW |
| WEBSITE LINK: | https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151251&search=151251 |
| Reason Application submitted to Committee – Contrary to policy | |

Date Received: 28 April 2015

Ward: Penyard

Grid Ref: 366681,221870

Expiry Date: 10 August 2015

Local Member: Councillor H Bramer

1. Site Description and Proposal

- 1.1 The site is located on the south eastern side of the B4222 Aston Crews to Lea road immediately adjacent to the eastern side of Knightshill housing estate. The land rises up from the road and the site is bisected by a watercourse. It is presently an uncultivated meadow. A field access emerges onto the B4222 but the roadside boundary is otherwise comprised of a mature hedgerow. The remaining boundaries are also formed by field hedges with a small coppice at the south western corner
- 1.2 The proposal is to construct 38 dwellings centred around a new access road. The application is made in outline with all matters apart from access reserved for future consideration. Off site improvements are proposed along the B4222 towards the village centre and at the junction with the main A40 Ross to Gloucester Road to aid pedestrian movement. The scheme is a re-submission of an application previously refused by Planning Committee, contrary to officer recommendation, on 11 February 2015. The reasons for refusal are set out in the Planning History section of this report.
- 1.3 The application is accompanied with an indicative layout confirming that 38 dwellings can be developed together with a balancing pond for sustainable urban drainage and a landscape Strategy Plan. It also supported by the following documents:
- Planning Statement
 - Design & Access Statement (with addendum)
 - Landscape & Visual Impact Assessment (with addendum)
 - Flood Risk Assessment
 - Community Consultation Programme

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

- Transport Statement
- Ecology Survey
- Arboricultural Statement
- Draft Heads of Terms Agreement

1.4 The addendums to the Design & Access Statement and Landscape & Visual Impact Assessment attempt to address the reasons given for the refusal of the earlier application but the application is otherwise the same as previously considered.

2. Policies

2.1 National Planning Policy Framework (NPPF):

The following sections are of particular relevance:

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| Introduction | - | Achieving sustainable development |
| Section 4 | - | Promoting sustainable transport |
| 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 |

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

| | | |
|-----|---|---|
| S1 | - | Sustainable Development |
| S2 | - | Development Requirements |
| S3 | - | Housing |
| DR1 | - | Design |
| DR3 | - | Movement |
| DR4 | - | Environment |
| DR5 | - | Planning Obligations |
| DR7 | - | Flood Risk |
| H4 | - | Main Villages Settlement Boundaries |
| H7 | - | Housing in the Countryside Outside Settlements |
| H10 | - | Rural Exception Housing |
| H13 | - | Sustainable Residential Design |
| H15 | - | Density |
| H16 | - | Parking |
| H19 | - | Open Space Requirements |
| 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:

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|-----|---|--|
| SS1 | - | Presumption in Favour of Sustainable Development |
| SS2 | - | Delivering New Homes |
| SS3 | - | Releasing Land for Residential Development |
| SS4 | - | Movement and Transportation |

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|-----|---|--|
| SS7 | - | Addressing Climate Change |
| RA1 | - | Rural Housing Strategy |
| RA2 | - | Herefordshire's Villages |
| H1 | - | Affordable Housing – Thresholds and Targets |
| H3 | - | Ensuring an Appropriate Range and Mix of Housing |
| OS1 | - | Requirement for Open Space, Sports and Recreation Facilities |
| OS2 | - | Meeting Open Space, Sports and Recreation Needs |
| MT1 | - | Traffic Management, Highway Safety and Promoting Active Travel |
| LD1 | - | Local Distinctiveness |
| LD2 | - | Landscape and Townscape |
| LD3 | - | Biodiversity and Geodiversity |
| LD4 | - | Historic Environment and Heritage Assets |
| SD1 | - | Sustainable Design and Energy Efficiency |
| SD3 | - | Sustainable Water Management and Water Resources |
| ID1 | - | Infrastructure Delivery |

2.4 Neighbourhood Planning:

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

2.5 Other Relevant National and Local Guidance/Material Considerations:

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

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

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

3. Planning History

3.1 142410/O – Proposed outline consent for the erection of up to 38 dwellings – Refused 11 February 2015 for the following reasons:

1. The proposal represents the addition of a significant residential development in Lea where; in the context of this village location, other large-scale development has recently been approved. It is therefore considered that this proposal represents an over-development that would detrimentally change the rural character of the eastern fringe of the village, contrary to Policies DR1, H13 and LA3 of the Herefordshire Unitary Development Plan. The Council does not consider that the visual impacts of the development can be mitigated through the imposition of conditions. The scheme fails to contribute to the protection or enhancement of the natural or built environment and therefore the proposal also fails to meet the aims of the National Planning Policy Framework.
2. The application is not accompanied by a completed Section 106 agreement which is considered necessary to make the development acceptable. It is therefore contrary to Policy DR5 of the Herefordshire Unitary Development Plan and the Council's Supplementary Planning Document on Planning Obligations.

3.2 The applicant has appealed the decision to refuse the application and have requested that it be dealt with as an Inquiry. At the time of writing the Planning Inspectorate have yet to confirm the method by which the appeal will be heard.

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water:

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

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

Internal Council Consultations

4.2 Transportation Manager - As previously agreed the visibility shown in appendix 5 of the Transport Statement are agreed. Draft terms have also been agreed. A safety audit would be required as part of the S278 agreements.

We would be reluctant to adopt the bridges shown on the indicative layout plans as it would require maintenance and commuted sums. Possible alternatives to the bridge should be sort due to the reluctance to adopt a bridge on to the network. The turning heads needs to confirm to HC design guide. The visibility splays around the proposed bridge should also meet HC design criteria. To prevent pedestrian movements from traversing the highway on a number of occasion footways could be kept to one side.

4.3 Conservation Manager:

Ecology

This resubmission is accompanied by the original ecological report which I have again reviewed. Notwithstanding, the previous application which was refused, my comments remain the same as before:

The grassland is species poor so much so that the Millennium Phase 1 Habitat Map has recorded it as improved. However, there is much opportunity for site ecological enhancement. I would also note that the watercourse should be protected from the activities involved in construction which should be detailed in a Construction Environmental Plan.

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

On this basis no objection is raised to the application subject to the imposition of conditions.

Archaeology - No objection.

4.4 Housing Officer:

In principle the housing team support the application for 38 dwellings of which 13 will be made available as affordable housing. As the application is outline all detailed information is absent therefore a discussion with the developer is required to confirm tenure and bed size. It would be requested that the affordable units be allocated to those with a local connection to Lea in the first instance.

4.5 Parks & Countryside Officer:

There are 3 areas on site of POS:

- Site A: SuDs area with informal recreation POS: 0.34ha (3465sq m)
 - Site B: small entrance amenity space with limited play value: 0.05ha (500sq m)
 - Site C: linear landscape buffer required by landscape to lesson the visual impact with limited recreational value: 0.24ha (2,400sq m)
- Total 0.63ha (6,300sq m)**

This is in excess of policy requirements for informal open space and amenity space but given the nature of the areas as described above the recreation value of them will potentially be limited. For example, the SuDs area will require careful design to take account of health and safety issues of standing water but can provide good opportunities for wildlife, informal recreation and natural play if done accordingly.

The applicant has not provided any formal play provision on site. As the site is adjacent to the only play area in the village at Rudhall View this is supported and as part of the development the applicant will provide pedestrian and cycle connections between existing and proposed open spaces/play area to benefit both new and existing residents. An off-site contribution may therefore be sought towards improving the quality of the play offer at Rudhall View as in accordance with the Play Facilities Study and Investment Plan it has room to expand. It would be calculated in accordance with the SPD on Planning Obligations but would be dependent on what is provided on site in respect of informal play opportunities which would be taken into account. It is noted that the applicant has indicated that further negotiations will be needed with the Council during the course of the planning application to ascertain whether any developer contributions will be required towards public open space. Gloucester Housing Association who own the play area should also be consulted as part of this process.

POS Adoption: Suitable management and maintenance arrangements will be required to support any provision of open space and associated infrastructure within the open space in line with the Council's policies. This could be through an adoption by a Parish Council, or by use of a management company, but must be demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement or through local arrangements such as 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.

In this instance it is unlikely that the Herefordshire Council will consider adopting areas of POS given the location.

SuDs Adoption: With regard to the SUDS areas: With the changing legal issues/revising national guidance around SuDS following recent Govt consultations, at this time we are unable to advise a definitive answer on adoption and maintenance of any SuDS areas. Any adoption or maintenance agreements and associated commuted sums/management charges with any eligible body are subject to the powers, acts and national guidance that is live and relevant at the time of adoption.

4.6 Environmental Health (Contaminated Land):

Records indicate the proposed development is within 250 metres of a closed landfill site and as such I would recommend that any permission is subject to conditions.

5. Representations

5.1 Lea Parish Council

The newly elected Lea Parish Council met on 20th May 2015 and it was agreed unanimously by 7 Parish Councillors that they were not in favour of this application. It was highlighted that this application was no different whatsoever to Planning Application P142410/O and therefore the objections raised by the Parish Council to the previous application, P142410/O, are still true and valid.

5.2 Aston Ingham Parish Council

Object to this application mainly on the grounds of sustainability. Permission should not be granted on the basis of a presumption in favour of sustainable development, which the developers claim should override the policies in the UDP.

Specifically, the core principle of sustainability is that dwellings should be built close to sites of employment and other mainstream services, such as retail areas, medical centres and other public services. The fact that the minor facilities quoted in the proposal (village shop, pub and church) are within walking distance of the development is inconsequential, as residents will need to commute to work and otherwise travel to local towns for all other services.

The Parish Council considers that the existence of a bus route through the village to other towns contributes little to the sustainability equation. The service is under-utilised and subsidised, despite being close to existing housing developments in Lea, and it's future isn't guaranteed. It is very unlikely that the proposed development will change the dynamics in any meaningful way, and the Councillors feel that the proposal substantially under-estimates the number of private car journeys by a considerable margin, and therefore highway capacity and congestion problems. There are already serious concerns regarding the speed and volume of traffic on the B4222.

These major issues are of a scale which places them outside the scope of S.106 or reserved matters.

The Parish Council submits that this proposal must be considered in the context of other proposed developments in the village, as the total number of dwellings in the pipeline is far in excess of what is reasonable for a village of this size, amenities and infrastructure, and inherently contrary to the principles of sustainability. It is changing in an adverse way the character of Lea village.

In addition, the Councillors raised a number of concerns regarding over-development in the AGLV, visual impact, potential contamination by discharge of sewerage into the Ell Brook and local infrastructure capacity, and were sceptical of projections of local employment opportunities which would be created by the development.

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

5.3 West Mercia Police

I do not wish to formally object to the proposals at this time. However there are opportunities to design out crime and/or the fear of crime and to promote community safety in accordance with the Secured by Design scheme.

The principles and standards of the scheme give excellent guidance on crime prevention through the environmental design and also on the physical measures. The scheme has a proven track record in crime reduction and addressing quality of life issues around the fear of crime for residents.

5.4 Ross & District Civic Society

The earlier application, 142410, for this site was refused partially on the grounds that it would constitute 'over-development that would detrimentally change the rural character' of the parish. Nothing in the current Addendum to the Design & Access Statement effectively counters this argument. If 38 houses constituted over-development a few months ago, then they continue to do so now.

This current application must be placed in the context of other potential development at Lea: 141278 for 39 houses is still 'valid', 142108 for up to 44 houses is under appeal, 141368 for 14 houses has been refused but presumably could yet be the subject of appeal. We face a situation in which well over 100 houses could be built on various sites in the next few years. Although the latest draft Core Strategy now refers to minima rather to approximate target figures when discussing rural housing development, the proposals for Lea are grossly disproportionate & would inevitably compromise seriously the character of the area. As commented by us previously, the potentially intensive development of the A40 corridor from Overross to Lea, of which this application forms part, could not be envisaged by any reading of the Core Strategy in all its manifestations.

5.5 Nine letters of objection have been received from local residents. In summary the points raised are as follows:

Policy and cumulative effects of development

- The current proposal is identical to that which was refused in February. The reasons for refusal are still valid.
- Lea is identified for 14% housing growth in the emerging Core Strategy. There are recently approved schemes in the village that have already met this criteria.
- In combination with other approved schemes the proposal will constitute severe over development in this rural context and is contrary to policies DR1 and LA3 of the UDP.
- The provision of 13 affordable homes is excessive given that much of the housing in the immediate locality already falls into this category.

Flooding and drainage

- The site is subject to flash flooding and drains poorly.
- Existing problems at the centre of the village with regard to surface and foul water flooding.
- Properties on Rudhall View were amongst those flooded in the most recent event in November 2012.

Highway safety

- Extra vehicles generated by the development are likely to cause highway safety problems on the B4222.
- Visibility splays are inadequate in view of the nature of the road.

- Footpaths along this part of the B4222 and at the junction with the A40 are not good and potentially dangerous.
- The development would lead to congestion on the B4222.

Sustainability

- There is insufficient infrastructure in the village to cope with additional development.
- The proposal is not in close proximity to local services. The school is 1.5 kilometres away and parents are more likely to drive to school.
- Concerns over flooding place a major question mark over the development's sustainability.

Landscape impact

- The proposal is detrimental to the landscape value of the locality.
- The visual impact of the development cannot be mitigated through the imposition of conditions.
- Development would make the village into a sprawling dormitory town.

5.6 The consultation responses can be viewed on the Council's website by using the following link:-

<http://news.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx>

Internet access is available at the Council's Customer Service Centres:-

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

6. Officer's Appraisal

6.1 As outlined in the planning history section of this report, planning permission has recently been refused for a housing scheme of 38 dwellings – an identical scheme to this proposal. The decision to refuse planning permission was made by Planning Committee contrary to the advice of its officers, who considered the proposal to be acceptable. The applicants have exercised their right to re-submit the application and have commented on the reasons for refusal in the addendums to their Design & Access Statement and Landscape & Visual Impact Assessment. They have concluded that the proposal is compliant with the policies outlined in the reasons for refusal and that the application should be approved.

6.2 Lea is identified within the adopted Unitary Development Plan as a main village and is also allocated as a main village within the Ross-on-Wye Housing Market Area within the emerging Local Plan – Core Strategy with a 14% minimum growth target over the plan period. This equates to approximately 43 dwellings over the plan period. The application is made in the context of the housing land supply deficit.

6.3 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, nature conservation interests, flooding 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

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

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

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

6.6 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).”

6.7 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*.

6.8 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.

6.9 The Council’s published position is that it cannot demonstrate a five year supply of housing land. This has been reaffirmed by the recently published Housing Land Supply Interim Position Statement – May 2014. This, in conjunction with recent appeal decisions, confirms that the Council does not have a five year supply of deliverable housing land, is significantly short of being able to do so, and persistent under-delivery over the last 5 years renders the authority liable to inclusion in the 20% bracket.

6.10 In this context, therefore, the proposed erection of approximately 38 dwellings, including 6 affordable, on a deliverable and available site is a significant material consideration telling in favour of the development to which substantial weight should be attached.

6.11 Taking all of the above into account, officers conclude that in the absence of a five-year housing land supply and advice set down in paragraphs 47 & 49 of the NPPF, the presumption in favour of sustainable development expressed at Paragraph 14 of the NPPF is applicable if it should be concluded that the development proposal is sustainable. As such, the principle of development cannot be rejected on the basis of its location outside the UDP settlement boundary.

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

- 6.12 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*.
- 6.13 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use resources prudently and moving towards a low-carbon economy.
- 6.14 In this instance officers consider that in terms of access to goods and services the site is sustainably located whereas the delivery of up to 38 dwellings, together with contributions towards public open space, sustainable transport, flood defences and education infrastructure would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development. The sustainable credentials of the village have previously been accepted through the recent grant of planning permission for up to 37 dwellings on land to the rear of the petrol filling station (141278/O).

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 goes further, however, and confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapter 11 of the NPPF.
- 6.16 The addendum to the Landscape and Visual Impact Assessment (LVIA) that has been submitted with the current application considers that the site, consisting of scrub and grassland bound by intermittent hedgerows, is not typical of the key characteristics of the wider landscape found further east, north and south. The comments from the Council's Landscape Officer accord with this view as she notes that the site is less sensitive due to its current condition.
- 6.17 The site has no formal landscape designation. It lies in open countryside outside but adjacent to the settlement boundary and the late 20th century residential development of Rudhall View. SHLAA has identified that the site has low/minor constraints and the Landscape Officer comments that the site is visually contained. This visual containment limits the prominence of the site.
- 6.18 The Landscape Officer has also suggested that the re-development of the site can offer enhancements, although this is contingent on the Reserved Matters submission reflecting the need to enhance landscaping as identified. The landscape plan partly reflects this requirement with enhanced green infrastructure, and the addendum to the LVIA acknowledges that there is an opportunity to provide improvement and enhancement to the settlement edge by introducing landscape planting along the northern and eastern boundaries of the site.
- 6.19 In light of the eroded quality of the application site and the limited contribution that it currently makes to the wider landscape and the setting of the village, it remains the opinion of your officers that the scheme is not detrimental to the character or appearance of the landscape or

to the setting of Lea. The proposals offer an opportunity for landscape enhancement, subject to the submission of appropriate details through a reserved matters application, and therefore the proposal accords with policies DR1, LA2 and LA3 of the UDP and the NPPF.

Highway Safety

- 6.20 The issue of highway safety was raised by objectors when the first application was submitted and was fully considered by officers at that stage. The first application was not refused on highways safety grounds and it was considered that the highway impacts that the development would have could be mitigated through the imposition of conditions and through a series of off-site improvements to be secured through a combination of Section 278 works and through Section 106 contributions for highway improvements.
- 6.21 Paragraph 32 of the NPPF states that:
Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.22 Some amendments were made to the scheme which included a revision to the visibility splays at the junction of the site with the B4222 and improvements to enhance pedestrian movement along the B4222 and at its junction with the A40. The amendments were accepted by the Council's Transportation Manager and the current proposal is based on those amendments.
- 6.23 The visibility splays and highway improvements can be secured through the imposition of appropriately worded conditions and; in the case of the improvements at the B4222 / A40 junction, through a Section 278 Agreement.
- 6.24 The introduction of 38 new dwellings will clearly result in an increase in traffic movements along the B4222 and at its junction with the A40. This may result in an increase in number and frequency of vehicles queuing at the junction, but officers are satisfied that there is capacity within the road network to accommodate this. The Transport Statement includes a seven day speed survey which does show that vehicle speeds are in excess of the 30mph. The visibility splays shown on the plans take account of this and consequently exceed the usual requirements for visibility within a 30 mph zone.
- 6.25 Your officers conclude that the highway impacts of the development proposed are not severe and therefore it accords with paragraph 32 of the NPPF. Moreover, it offers an opportunity to improve pedestrian safety around the junction of the B4222 / A40, a move that is considered to be necessary to promote increased pedestrian activity by existing residents and those resultant residents should planning permission be granted for this scheme. Accordingly the proposal is also considered to accord with policies DR2 and T6 of the Herefordshire UDP.

Land Drainage and Flood Risk

- 6.26 The centre of Lea suffers from flooding and is an identified flood risk area. The Council has commissioned a report to identify the issues and means to alleviate the situation. The findings of this report are due shortly. Due to the topography of the area and with the centre of Lea located within the 'dip' all waters gravitate towards the centre of the village. This has resulted in flooded properties and the closure of the main A40 road.
- 6.27 The previous report to Planning Committee included draft heads of terms which included a contribution towards a flood attenuation scheme. The monies were calculated on the basis of a reduced affordable housing provision of only six dwellings with a commuted sum of £420,000 for the remaining seven to be used for flood attenuation. The approach is the same to that taken for the site adjacent to the petrol filling station in Lea.
- 6.28 The exact figure for the flood attenuation works is not yet known. However by establishing funding towards a scheme, its implementation will inevitably be brought forward and enable additional inward investment from other agencies to fund the scheme. Any monies remaining will be used to provide additional off site-affordable housing. This is considered to be a key

economic and social aspect to the scheme which should be given significant weight in the decision making process.

- 6.29 Welsh Water have outlined their concerns regarding overland flooding downstream of this proposal which in turn has had significant detrimental effect on the public sewerage network. However, they do not object to the development in terms of the capacity of the treatment works to cater for the additional foul waste flow or provision of a water supply, subject to the imposition of appropriately worded conditions.

Impact on Ecological Interests

- 6.30 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 and subject to the imposition of conditions and informatives as set out below, the development is considered to accord with policies NC1 and NC7 of the UDP and the NPPF.

Impact on Adjoining Residential Amenity

- 6.31 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site is possible without undue impact on adjoining property, particularly those dwellings adjoining the site to the west and south. Clearly this will be contingent on detailed consideration at the Reserved Matters stage. However your officers consider this can be achieved.
- 6.32 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.

S106 Contributions

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

Summary and Conclusions

- 6.34 Your officers remain of the view that the proposal is acceptable and that the reasons given for the refusal of the earlier application are not capable of being defended on appeal.
- 6.35 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.
- 6.36 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site lies outside but directly adjacent the settlement boundary on a SHLAA site that was designated as having low/minor constraints. Lea 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).

- 6.37 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 should be regarded as a material consideration. In providing a greater supply of housing and breadth of choice, including 6 affordable homes and in offering enhancements to footway and pedestrian crossing facilities locally, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development. In addition the contribution towards the flood attenuation scheme is considered to carry significant weight in the planning balance.
- 6.38 The Conservation Manager (Landscapes) confirms the application site has the ability to accommodate residential development subject to the enhanced landscaping of the eastern boundary and retention of other boundary features and the Development Strategy Plan responds positively to these requirements. The site does not exert any influence on the setting of any heritage asset.
- 6.39 Officers conclude that there are no highways, ecological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore concluded that the presumption in favour of sustainable development should be engaged and that planning permission should be granted subject to the completion of a legal undertaking and planning conditions. The conditions will include a requirement to limit the number of dwellings to no more than 38 and to formulate an integrated foul and surface water run-off scheme. The commencement of the development will also be controlled to run in parallel with the flood alleviation scheme. Finally officers would also recommend the developer conducts further consultation with the Parish Council and local community as regards the detail of any forthcoming Reserved Matters submission.

RECOMMENDATION

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

- 1. A02 Time limit for submission of reserved matters (outline permission)**
- 2. A03 Time limit for commencement (outline permission)**
- 3. A04 Approval of reserved matters**
- 4. B01 Development in accordance with approved plans**
- 5. C01 Samples of external materials**
- 6. The development shall include no more than 38 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. H03 Visibility splays**

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

8. **H06 Vehicular access construction**
9. **H09 Driveway gradient**
10. **H11 Parking - estate development (more than one house)**
11. **H17 Junction improvement/off site works**
12. **H18 On site roads - submission of details**
13. **H19 On site roads - phasing**
14. **H20 Road completion in 2 years**
15. **H21 Wheel washing**
16. **H27 Parking for site operatives**
17. **H29 Secure covered cycle parking provision**
18. **H30 Travel plans**
19. **L01 Foul/surface water drainage**
20. **L02 No surface water to connect to public system**
21. **L04 Comprehensive & Integrated draining of site**
22. **G04 Protection of trees/hedgerows that are to be retained**
23. **G10 Landscaping scheme**
24. **G11 Landscaping scheme - implementation**
25. **K4 Nature Conservation - Implementation**
26. **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.

27. The Remediation Scheme, as approved pursuant to condition no. (26) 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.

28. 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.

Informatives:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. HN10 No drainage to discharge to highway
3. HN08 Section 38 Agreement & Drainage details
4. HN07 Section 278 Agreement
5. HN04 Private apparatus within highway
6. HN28 Highways Design Guide and Specification
7. HN27 Annual travel Plan Reviews
8. HN25 Travel Plans
9. N11A Wildlife and Countryside Act 1981 (as amended) - Birds
10. The assessment required by condition 26 of this permission is required to be undertaken in accordance with good practice guidance should be carried out by a suitably competent person as defined within the National Planning Policy

Framework 2012. All investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.

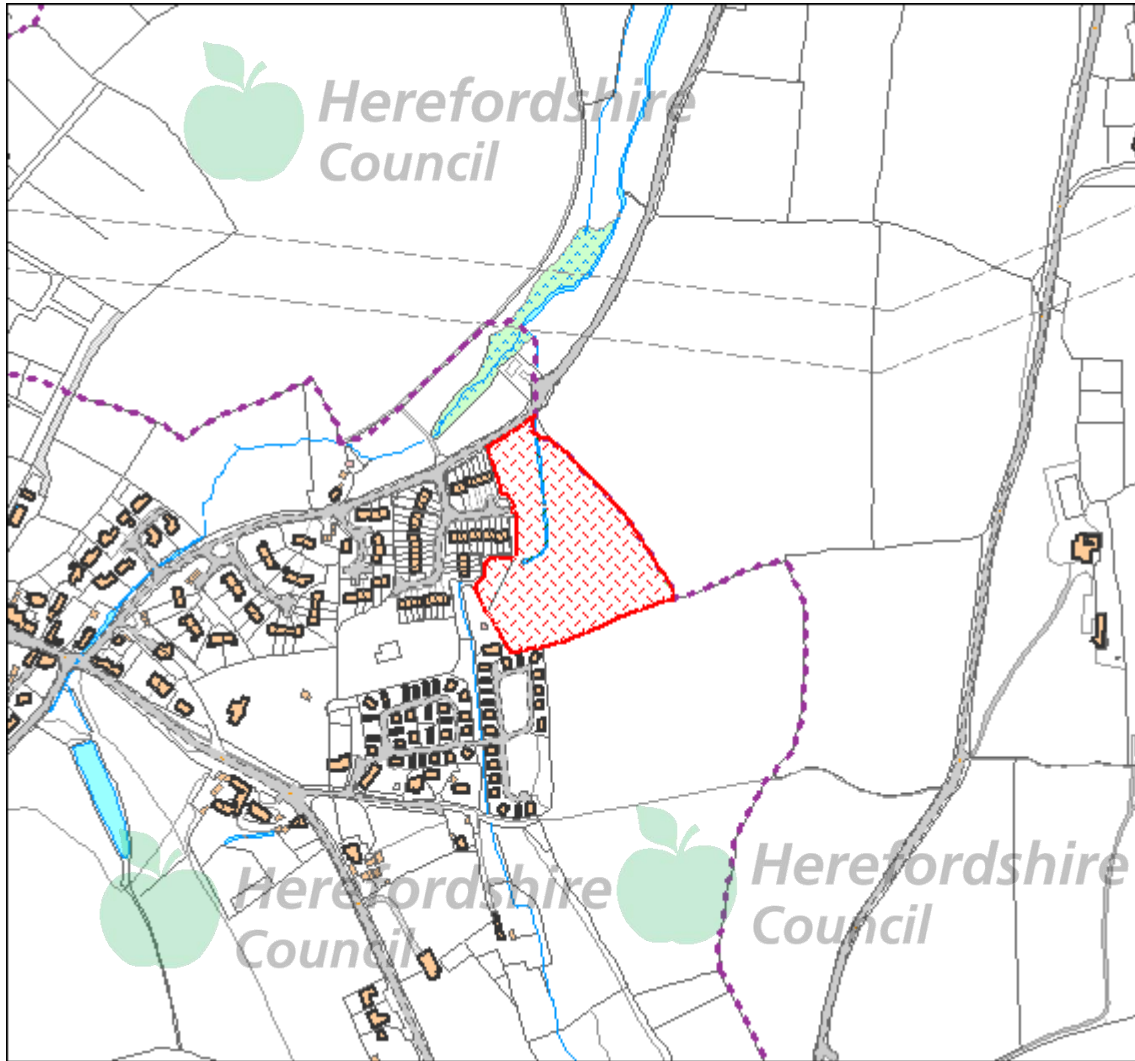
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 151251

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

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