

MEETING:	PLANNING COMMITTEE
DATE:	2 SEPTEMBER 2015
TITLE OF REPORT:	150431 - PROPOSED RESIDENTIAL DEVELOPMENT OF UP TO 50 HOMES AT LAND OPPOSITE BROOK FARM, MARDEN, HEREFORDSHIRE, HR1 3ET For: Mr Paske per Hook Mason Limited, 41 Widemarsh Street, Hereford, Herefordshire, HR4 9EA
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=150431&search=150431
Reason Application submitted to Committee – Contrary to Policy	

Date Received: 12 February 2015 **Ward: Sutton Walls** **Grid Ref: 352008,247929**
Expiry Date: 14 May 2015
Local Member: Councillor KS Guthrie

1. Site Description and Proposal

- 1.1 Outline planning permission with all matters bar access reserved is sought for the erection of up to 50 dwellings, including 35% affordable, with associated access, parking and landscaping on land within part of a field of improved pasture on the northern edge of Marden, opposite Brook Farm. Marden is a main village as identified within the Unitary Development Plan and is also defined as a village within which proportionate growth will be sought during the lifetime of the emerging Core Strategy.
- 1.2 Levels descend to the north from a high point on the southern boundary at 64m AOD. Public Right of Way MR45 traverses the field but passes outside the application site from the C1120 road, heading south-west where it joins the C1122 road.
- 1.3 There are wide-ranging views from the high-point of the site to the north and westwards. The River Lugg SSSI/SAC meanders a short distance beyond the site in the valley floor to the west.
- 1.4 The site's southern boundary is defined principally by relatively modern brick built dwellings in Brook Orchard. Further west the Cornish style properties in Laystone Green are prominent. These have open gardens that exploit views across the site towards open countryside.
- 1.5 The site was considered during the 2009 SHLAA to have significant constraints. This related to the apparent inability to provide continuous off-road pedestrian access to the existing footway network and consequently village amenities. The application seeks to address this via the introduction of a footway across the site frontage, extending southwards to join the existing. The school/village hall and shop lie within 800m from the proposed access point, which lies at the mid-point of the eastern boundary with the C1120. The illustrative material

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

identifies the provision of the footway is contingent on the removal of hedgerow, with new hedgerow planting proposed at the rear of the footway.

- 1.6 The application is accompanied by the following technical reports and supporting information:-
- Planning Statement
 - Design and Access Statement
 - Landscape and Visual Impact Assessment
 - Flood Risk Assessment
 - Ecology Survey &
 - Transport Statement.
- 1.7 The illustrative plan reflects site conditions by locating single-storey properties against the southern boundary and locating an attenuation basin on lower-lying land to the north-west.
- 1.8 The application is also accompanied by a Draft Heads of Terms, which specifies financial contributions in line with the adopted Planning Obligations SPD. The Planning Statement also mentions non-CIL compliant contributions by the landowner, including financial contributions to fund a new community tennis court, repair of the church bells and dedication of land for a new cricket pitch. These contributions are not 'CIL Regulation' compliant and cannot be afforded any weight in the determination of this application. To attribute weight to these contributions would render any resolution to approve potentially unlawful.
- 1.9 The development has been assessed against the Environmental Impact Regulations. The Council has adopted a Screening Opinion which concludes that the scheme is not EIA development.
- 1.10 The Core Strategy housing requirement for Marden parish requires a minimum of 18% growth, which taking account of existing commitments and completions stands at 69 dwellings. In accordance with modifications to the CS policy RA2, the Neighbourhood Development Plan may choose to allocate sites across the qualifying settlements of Marden, Burmarsh, Litmarsh and Vault. The draft NDP focusses exclusively on allocating sites in Marden. This site is not one of them.

2. Policies

- 2.1 National Planning Policy Framework 2012. In particular chapters:

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

- 2.2 National Planning Practice Guidance 2014

- 2.3 Herefordshire Unitary Development Plan 2007

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S7	-	Natural and Historic Heritage
DR1	-	Design

DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H7	-	Housing in the Open Countryside Outside Settlements
H9	-	Affordable Housing
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
H15	-	Density
H19	-	Open Space Requirements
E15	-	Protection of Greenfield Land
HBA4	-	Setting of Listed Buildings
HBA9	-	Protection of Open Areas and Green Spaces
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA3	-	Setting of Settlements
LA5	-	Protection of Trees, Woodlands and Hedgerow
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
ARCH6	-	Recording of Archaeological Remains
CF2	-	Foul Drainage

2.4 Herefordshire Local Plan - Draft Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.5 Neighbourhood Planning

Marden Parish Council has designated a Neighbourhood Area under the Neighbourhood Planning (General) Regulations 2012. The Parish Council is in the process of preparing a Neighbourhood Development Plan for the area. Although having progressed to Regulation 14, the draft plan is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking.

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:-

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

3. Planning History

3.1 None on site.

3.2 Off-site: Current application - 150989/O – Site for the erection of up to 90 dwellings on land adjacent New House Farm, Marden.

4. Consultation Summary

Statutory Consultees

4.1 Welsh Water:

- Removal of holding objection relating to foul drainage.
- Retention of holding objection relating to potable water supply.

“Further to recent conversations I write to you confirming the outcomes of the recent investigations at Mardon Waste Water Treatment Works (WwTW). We have undertaken the feasibility study on the WwTW, which has indicated no investment is required at the WwTW, and no detriment will be caused by the proposal connecting to the public sewerage system. We can therefore remove our objection on the basis of treating foul flows based on this information.

However we are currently working to establish a solution to supply potable water to the site. While we are finalising these matters we would still provide a **holding objection** on the application until such time a suitable solution is identified. We hope to have a detailed response in respect to the potable water supply shortly.”

Internal Consultees

4.2 Transportation Manager: No objection.

The access proposed is acceptable. The increase in traffic generated by the development is well within the capacity of the local highway network. The footway along the frontage and connecting to the existing footway network is welcomed.

4.3 Conservation Manager (Ecology): No objection subject to conditions.

Welsh Water’s removal of their holding objection deals with the concerns in relation to the prospect of a non-mains drainage solution.

The response from the consultants specifying how a detention basin will accommodate rain water run-off with maintenance to act as a cleansing facility prior to attenuation pond capture for hard-surface contaminants is acceptable.

Likewise, affirmation relating to the capacity of the pond is acceptable at this stage. In line with the Land Drainage comments I am happy to accept the proposals in principle and the arrangement whereby full details will be forthcoming as reserved matters.

In discussion with the ecologists regarding a buffer zone and disturbance/construction impact upon otters, it was agreed that a 50 metre buffer zone between the development and the R. Lugg should remain. This should be free from any construction traffic, materials storage and any development activity. I would suggest that this can be secured by a Construction

Environmental Management Plan which should be required for the whole site's development anyway.

With these points in mind, I suggest that the following conditions should apply:

The recommendations set out in the ecologist's report from Worsfold Bowen dated September 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a species protection and habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

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

Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006

And

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

Reasons:

To ensure that all species and sites are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire's Unitary Development Plan.

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

With these arrangements in place I believe there will be No Likely Significant Impact to the R. Lugg part of the SAC.

4.4 Conservation Manager (Landscape): Qualified comment.

Proposals for a pedestrian link to the village should be designed to prevent the removal of the existing southern section of the eastern boundary hedgerow. The proposed pedestrian link should therefore be on the western side of the southern section of the existing eastern hedgerow. This footpath link should have an amenity value safe from road traffic.

A detailed SUDs proposals plan for the site should be forwarded showing cross sections of proposed swales, retention ponds and details of the outflow from the final retention pond into the adjacent third party land water flow system.

A landscape management plan with long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens should be forwarded with these detailed soft and hard landscape plans. The landscape maintenance should be for a period of 5 years. As part of this, four specific measures are recommended:-

1. The north western area of the proposed site should not be built on and should be a biodiversity habitat buffer zone between the new proposed housing and the River Lugg.
2. If hedgerow removal is required for sight lines associated with traffic leaving the site, then the replanting of a new native hedgerow parallel to the existing hedgerow should be proposed. This is for habitat mitigation and screening of the new development and the retention of the visual character of this intimate village lane, which is presently a green hedgerow lane.
3. The northern and western existing hedgerows should be restored, enhanced and conserved to reduce visual impact when seen from the nearby public right of way.
4. Associated with the new entrance to the proposed site there should be a new footpath proposal to run parallel with the existing road for public access to the village.

4.5 Conservation Manager (Historic Buildings): No objection.

The site is currently agricultural land located on the northern edge of the village. The village does not have a conservation area but there are a few listed buildings not too distant from the site. Brook Farmhouse, a grade II listed timber-frame building dating from the 17th – 18th century is found close to the north east corner of the site on the opposite side of the lane. Ivy Cottage, a 17th century, grade II listed building is on the east side of the lane, opposite the south east corner of the site. Policy HBA4 Setting of the listed buildings should therefore be applied when assessing a proposal for this site.

At the moment there is a distinct edge to the built up part of the village on this northern side and beyond Ivy cottage the landscape becomes rural, albeit the access and the agricultural buildings at Brook Farm have more in common with an industrial estate than a rural farmstead. Retaining the rural character of the lane with appropriate landscaping along the frontage of the site will be helpful in mitigating any potential harm to the setting of the listed buildings. The landscape masterplan indicates that there would be a hedgerow retained to the south east boundary with the planting becoming more robust beyond the access road to the north. If this principle is applied as the scheme develops, the site has the potential to be developed in a way that would not harm the setting of the listed buildings.

4.6 Conservation Manager (Archaeology): No objection.

4.7 Housing Development Officer: No objection.

In principle I support the application for (9) Social rented and (8) Intermediate (shared ownership, intermediate rent or low cost market) as it meets the requirements to provide 35% affordable housing.

The Draft Heads of Terms confirms that the units will be built to Homes and Communities Design and Quality Standards, Lifetime Homes and Level 4 of the Code for Sustainable Homes with local connection to Marden in the first instance.

I note that the developer wishes to provide low cost market. I would advise that the initial sale price will need to be in line with our affordability levels as outlined in Herefordshire Councils Provision of Affordable Housing Technical Data. In addition to this 2 open market

valuations will also need to be provided for the affordable units in order for the % discount to be set for subsequent sales.

The exact location and mix will need to be agreed prior to reserved matters.

4.8 River Lugg Internal Drainage Board: Qualified comment.

No objection subject to standard requirements being met.

4.9 Land Drainage Officer: Qualified comment.

Overall, for outline planning permission, we have no objections to the proposed development on flood risk and drainage grounds. However, all new drainage systems for new developments must meet the new National Standards for Sustainable Drainage (currently in draft) and will require approval from the Lead Local Flood Authority (Herefordshire Council). Therefore, should the Council be minded to grant outline planning permission, we recommend that the submission and approval of detailed proposals for the disposal of foul water and surface water runoff from the development is included within any reserved matters application. The detailed drainage proposals should include:

- Confirmation that the finished flood levels of all dwellings are located a minimum of 600mm above the 1 in 100 year fluvial flood level.
- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including on-ground conveyance and storage features;
- Evidence that the Applicant has sought and agreed permissions to discharge foul water from the site with the relevant authorities;
- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to greenfield rates for all storm events up to and including the 1 in 100 year rainfall event, with a 30% increase in rainfall intensity to allow for the effects of future climate change;
- Evidence that the Applicant is not posing a risk of flooding to people or property within the site in the 1 in 100 year rainfall event, with a 30% increase in rainfall intensity to allow for the effects of future climate change;
- Demonstration that appropriate pollution control measures are in place prior to discharge;
- Confirmation of adoption and maintenance arrangements.

4.10 Parks and Countryside Manager:

In accordance with UDP policy H19 developments of 50 houses are required to provide a children's play area. In this instance in accordance with pre-application comments it has been agreed to provide this as an off-site contribution given Marden already has a neighbourhood play area which although some distance away is considered to be within a reasonable access threshold from the development site and is in need of investment. In accordance with the Play Facilities Study and Investment Plan, Marden play area, which caters for infants and juniors only, is in need of improvements and refurbishment in order to adequately provide play in a village of this size. It has room to expand and improve both the offer for older children and the play value as a whole. The Parish Council in consultation with the local community has developed a scheme to accommodate some of these changes. A

contribution from this development will help to support the creation of a good sized local play area meeting the needs of both this development and the village as a whole.

It is noted in the draft heads of terms the applicant has provided an off-site contribution based on market housing only in accordance with the SPD on Planning Obligations as follows which is supported:

2 bed: £965 3 bed: £1,640 4+ bed: £2,219.

5. Representations

5.1 Marden Parish Council: Objection. Summary of key points set out below:-

Planning application P150431/O should be refused for the following reasons:

- The site is isolated from the main village services, and it would be difficult to integrate with the adjacent built form and results in an unnatural and incongruous extension to the settlement to the detriment of the character of the village.
- The site is not considered to be a sustainable location and would be contrary to the NPPF and to Policy S1 and H4 of the Herefordshire UDP.
- The application is contrary to the emerging Marden Neighbourhood Development Plan in that there are two sequentially more appropriate and sustainable sites identified through the Neighbourhood Plan and the SHLAA process which are available for development for future housing for the village, and have the backing of the community within Marden village. These sites contribute to Herefordshire Council's five-year housing supply. The addition of this further site would result in a disproportionate growth of Marden village.
- The development will lead to an isolated, housing development that will be a significant visual intrusion in to the local landscape affecting the setting of Marden when viewed in close proximity and at a significant distance from the north and the west. This would be contrary to Herefordshire UDP policy LA3 - Setting of Settlements. These impacts cannot be mitigated and the application is therefore contrary to Policy LA2 "Landscape Character" of the UDP.
- A development of 50 dwellings, in a rural area, where car ownership is significantly high due to the lack of public transport, will create an increased number of am and pm peak trips. This, coupled with the existing problems associated with the lane and the nature of the traffic using it, will undoubtedly
- create traffic issues and highway safety problems in the immediate vicinity, leading to pedestrian and vehicular conflict to the detriment of highway safety in the area. This proposal is therefore contrary to Policy S6 of the Herefordshire UDP and Paragraph 32 of the NPPF.
- It is considered that the data and assumptions provided in the Transport Statement are flawed and under represents the use of private cars in the rural village of Marden.
- In addition, the current footpath to the south of the site is not wide enough to accommodate two people to walk side by side. This in conjunction with the narrowness of the lane, and the constant passage of HGV's is not conducive to pedestrian safety. This proposal is contrary to Policy S6 of the Herefordshire UDP and Paragraph 32 of the NPPF.
- The proposed footpath will not connect with the existing footpath as there is an area between the two that is in private ownership. This will result in pedestrians walking in to the road to the detriment of highway and pedestrian safety. This proposal is contrary to Policy S6 of the Herefordshire UDP and Paragraph 32 of the NPPF.
- There are existing noise issues associated with the packing shed. The proposed site provides a buffer area between these operations and the existing housing of the village. The proposed development will expose new development at a closer range, to the noise generated from the site, creating a poor residential amenity for future occupiers. In addition this would create restrictions for the operators at the site. This is contrary to Policies HBA9 and DR13 of the Herefordshire UDP and Paragraph 123 of the NPPF.

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

- The application site lies very close to the River Lugg SSSI and Special Wildlife Site. The development proposes attenuation ponds and a detention basin. Given the SSSI and the flow through to the River Wye SAC, the Parish Council consider the proposed development would be detrimental to the SSSI, the SWS and the River Wye SAC. Surface water if not managed correctly will have a detrimental effect
- On the flora, fauna and the wildlife in the River Lugg and the River Wye. This is contrary to the NPPF paragraph 118 and to Herefordshire UDP policy S7 - Natural and historic heritage.

5.2 Ten letters of objection have been received. The content is summarised below:-

- This site is the least favoured of all potential housing sites considered by the Neighbourhood Development Plan.
- In conjunction with the preferred site at New House Farm, development here would be disproportionate to Marden's housing requirement over the lifetime of the Core Strategy.
- The site would not integrate with the village, but would be a self-contained cul-de-sac.
- The submitted Transport Statement is not credible. It understates the volume of HGV and other traffic associated with S&A Davies, Britain's largest independent soft fruit producer.
- The proposed access is at a narrow point of the road, between two junctions associated with S&A. Large vehicles often meet and overrun the verge in order to pass. Further narrowing the road to provide a pavement is not a good idea and would not be safe.
- The site is too far removed from village facilities and will not reduce traffic movements. People will rely on the car. This is why the site adjacent the school, village hall, shop and hairdresser is favoured.
- The site is above the R. Lugg flood plain, but will nonetheless threaten pollution through run-off.
- Loss of hedgerow for the access cannot be described a minor and would impact ecological interests.
- The development would overlook properties to the south, resulting in loss of privacy.
- The site is clearly visible in a range of viewpoints from the north.
- Noise from activities at Brook Farm has not been accounted for. There are complaints from existing residents in relation to generators and the packing shed activities and residents of the proposed site would be closer still.

5.3 Four letters of support have been received. Three relate directly to the applicant's proposed gift of land for a cricket pitch within the village. The fourth refers to the applicant's proposed financial contribution towards upgrading the village tennis courts. Neither the gift of land for a cricket pitch or contribution towards the tennis courts, made voluntarily by the applicant, is material to the determination of this application as these contributions are not compliant with the CIL Regulations that govern legal undertakings relating to development proposals. These letters of support cannot, therefore, be given any weight in making a determination on this application. The applicant is, however, preparing a Unilateral Undertaking to commit to these contributions, which would then be enforceable by the Council. What is clear, however, is that Members must not attribute these contributions any weight when taking a decision, which must be based solely on material planning considerations.

5.4 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 In the context of the Council's lack of housing land supply with buffer, housing applications must be considered in the light of paragraph 49 of the National Planning Policy Framework and the presumption in favour of sustainable development. Thus, if a housing proposal is considered to represent sustainable development, it should be approved without delay unless the adverse impacts associated with approval would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF when read as a whole. This is the presumption in favour of sustainable development as enshrined at paragraph 14 of the NPPF.
- 6.2 The effect of an under-supply of housing land is that policies within the UDP that are 'relevant to the supply of housing' cannot be considered up to date and attract no weight for the purposes of decision taking. In practical terms this means that no reliance can be placed on Policy H4 and the fact that a site falls outside a UDP defined settlement boundary. Instead, individual sites must be considered on their individual merits in the light of the NPPF and the 'saved' policies of the UDP that continue to attract weight – the UDP remains the statutory Development Plan. Whether UDP policies can continue to be attributed weight depends on the degree of consistency with the NPPF and has been subject to an increasing number of appeal decisions. In the main, Inspectors have held that the landscape and heritage policies in the UDP, although lacking the cost-benefit analysis inherent in the NPPF, share the same principles and thus continue to attract weight.
- 6.3 NPPF Paragraph 14 states that for decision making, the presumption in favour of sustainable development means:
- *“Approving development proposals that accord with the development plan without delay; &*
 - *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-*
 - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.”
- 6.4 In the context of the UDP and the Council's acknowledged shortfall of housing land supply it is the second bullet point and the weighing of positive and negative impacts that is relevant in this case. The decision-taker must decide whether the development before them is representative of sustainable development having regard to the NPPF as a whole if the positive presumption is to be engaged.
- 6.5 Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions.
- 6.6 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land, which is further reinforced in Chapter 6 – Delivering a wide choice of high quality homes. Paragraph 47 requires that local authorities allocate sufficient housing land to meet 5 years' worth of their requirement with an additional 5% buffer. Deliverable sites should also be identified for years 6-10 and 11-15. Paragraph 49 states:
- “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”*
- 6.7 The social dimension *also* refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a

mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity.

- 6.8 In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located and capable, with the addition of a new footway, of being made more sustainable relative to access to local goods and services. Moreover the delivery of 50 dwellings, including 35% affordable, and open space would contribute towards fulfilment of the economic and social roles. These are significant material considerations telling in favour of the development.

Impact on landscape character, visual amenity and heritage assets

- 6.9 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It goes further, however, and confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with chapters 11 and 12 of the NPPF.
- 6.10 The Conservation Officer (Historic Buildings) is satisfied that if the principles of the soft landscaping proposals shown on the submitted drawings are followed, the development should not unduly affect the setting of the listed buildings opposite (Brook Farm and Ivy Cottage). Further consideration can be given to this at the Reserved Matters stage, but for the present, the officer is satisfied that the proposals should not offend HBA4, the building conservation policies of the NPPF or the duties imposed by the Listed Buildings and Conservation Areas Act.

Transport

- 6.11 The site is adjacent the UDP defined settlement boundary on a SHLAA significant constraints site; the constraint relating to the apparent inability to provide continuous off-road pedestrian connectivity to the village. The scheme attempts to address this with the provision of a pavement along the C1120, linking to the existing pavement.
- 6.12 Concerns expressed locally relate to the deliverability of the proposed footway link to the south. The Traffic Manager has considered this point and concludes the connection can be made and that the scheme, including the proposed junction, is acceptable.
- 6.13 It is considered that the proposal would not result in residual cumulative impacts that are severe and that the impacts described in the NPPF as warranting refusal do not exist in this case.

Impact on adjoining residential amenity

- 6.14 Loss of amenity arising from direct and prejudicial overlooking is a material consideration. In this case, officers are satisfied that development of the site in the manner envisaged by the illustrative layout i.e. with units backing onto the dwellings to the south being single-storey the relationships in terms of window-to-window distance are not considered to warrant refusal based on loss of amenity. Clearly this will be contingent on detailed consideration at the Reserved Matters stage. At this stage, however, officers are satisfied that an appropriate

layout at the Reserved Matters stage would be capable of according with the requirements of saved UDP policy H13 and NPPF paragraph 12, which demands good standards of amenity.

Ecology

- 6.15 The Council's Ecologist has no objection to the proposal subject to a connection to mains drainage being feasible (which has now been confirmed) and other conditions set out in the response at 4.3 above. The revised illustrative masterplan denotes a larger buffer against the R.Lugg SAC/SSSI such that the impacts of the development are capable of mitigation if this strategy is pursued at the Reserved Matter stage.

Foul drainage and water supply

- 6.16 The Water Authority has no objection to the development in relation to foul drainage, confirming that the treatment of domestic discharges from this site can be accommodated by the existing Waste Water Treatment Works. At the time of writing a holding objection remains in relation to the supply of potable water and the recommendation reflects this.

Capacity at the local Primary School

- 6.17 The NPPF identifies the importance of ensuring a sufficient choice of school places for existing and new communities and recognises that local planning authorities will need to work proactively in order to meet this requirement (paragraph 72).
- 6.18 Marden Primary School is presently at capacity in one year group. The Schools Capital and Investment Officer has confirmed that subject to a S106 contribution, the pupils generated by this development could be accommodated.

S106 contributions

- 6.19 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been negotiated and are summarised as follows:
- 'Education Contribution'
 - £1,084 for each 2 bedroom Open Market apartment; and
 - £1,899 for each 2/3 bedroom Open Market dwelling; and
 - £3,111 for each 4 or more bedroom Open Market dwelling
 - 'Sustainable Transport Contribution'
 - £1,920.00 for each 2 bedroom Open Market Unit; and
 - £2,580.00 for each 3 bedroom Open Market Unit; and
 - £3,440.00 for each 4 or more bedroom Open Market Unit

The Sustainable Transport Contribution would be used to fund sustainable transport infrastructure serving the Development for any or all of the following:

Improvements to pedestrian and cycle facilities in the locality of the Development;
Improvements to sustainable and public transport facilities serving the Development;
Provision of or improvements to community transport serving the development; and / or
Provision of or improvements to safer routes to school.

- 'Off site play'
 - £965 for each 2 bedroom Open Market Unit; and
 - £1,640 for each 3 bedroom Open Market Unit; and
 - £2,219 for each 4 or more bedroom Open Market Unit

- 'Waste & Recycling' - £80 per Open Market Unit.

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

A maintenance contribution towards the management of on-site public open space and the SUDs basins, if to be adopted by the Council, will also be required.

The proposal relative to development of the Neighbourhood Plan

6.21 Marden Parish Council has designated a neighbourhood plan area. Work has been progressing towards the formulation of the plan and many representations refer to the prejudicial nature of large-scale proposals relative to the localism agenda as enshrined at paragraph 17 of the NPPF, which states that planning should be *'genuinely plan led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of an area'*.

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

Noise

6.23 The Parish and neighbours have expressed concern at the potential for noise nuisance arising from S&A Davies. The Noise Policy Statement for England is reflected in the NPPF. It is clear that noise must not be considered in isolation of economic, social and environmental dimensions of the development proposed, although in severe cases where noise is noticeable and disruptive, development should be avoided. This issue has not been taken into account in the application submission but is considered unlikely to be so severe as to warrant refusal of the application; particularly at the outline stage. NPPG guidance sets out potential options for mitigating noise impacts and these can be considered at the Reserved Matters stage should outline planning permission be granted.

Summary and Conclusions

6.24 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.

6.25 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 in what is, having regard to the NPPF, a sustainable location with reasonable access to local services. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).

6.26 The contribution the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of

the economic role. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 35% affordable, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.

- 6.27 The tension, in this case, relates to the environmental role. In ecological terms, officers conclude that there is no overriding evidence of significant or demonstrable harm to nature conservation interests in the form, principally of the R. Lugg SAC/SSSI. As such, although the harm arising from the loss of the existing roadside hedgerow is acknowledged, the decision taker must weigh the significance of this harm against the benefits of the scheme and consider the potential for planting in mitigation. This is particularly so in the context of an application site that is not subject to any national or local landscape designation.
- 6.28 Officers conclude that there are no highways, drainage, ecological or archaeological issues that significantly and demonstrably outweigh the benefits associated with approval. It is therefore recommended that planning permission be granted subject to the completion of a legal undertaking and planning conditions.

RECOMMENDATION

Subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report and removal of Welsh Water's Holding Objection relating to the supply of drinking water, 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. **The development shall include no more than 50 houses and no dwellings shall be more than 2 storeys high**

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

5. **H06 Vehicular access construction**
6. **H13 Access, turning area and parking**
7. **H17 Junction improvement/off site works**
8. **H18 On site roads - submission of details**
9. **H19 On site roads – phasing**
10. **H29 Secure covered cycle parking provision**
11. **L01 Foul/surface water drainage**
12. **L02 No surface water to connect to public system**

13. **L03 No drainage run-off to public system**
14. **L04 Comprehensive & integrated drainage of site**
15. **G04 Protection of trees/hedgerows that are to be retained**
16. **G10 Landscaping scheme**
17. **G11 Landscaping scheme – implementation**
18. **G14 Landscape management plan**
19. **H20 Road completion in 2 years**
20. **The recommendations set out in the ecologist's report from Worsfold Bowen dated September 2014 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a species protection and habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

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

Reasons: To ensure that all species and sites are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire's Unitary Development Plan.

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

Informative:

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. **HN04 - Private apparatus within highway**
3. **HN05 - Works within the highway**

- 4. **HN07 - Section 278 Agreement**
- 5. **HN08 - Section 38 Agreement & Drainage details**
- 6. **HN10 - No drainage to discharge to highway**
- 7. **N11C - General**

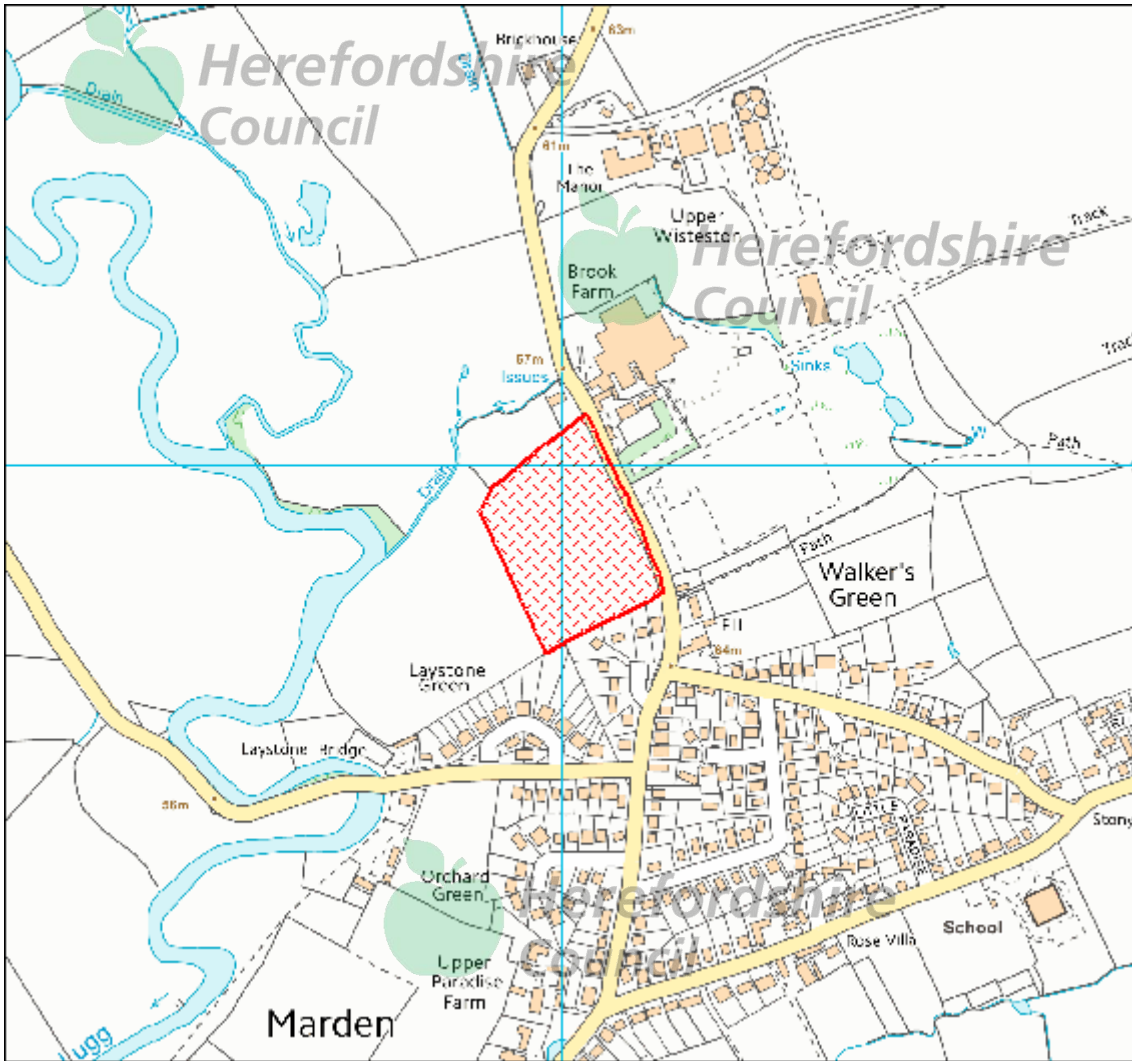
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 150431

SITE ADDRESS : LAND OPPOSITE BROOK FARM, MARDEN, HEREFORDSHIRE, HR1 3ET

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

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

Proposed erection of up to 50 dwellings on land opposite Brook Farm, Marden – 150431/O

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 on general market units only unless otherwise stated.

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of (per open market unit):

£1,084 for each 2 bedroom Open Market apartment; and
£1,899 for each 2/3 bedroom Open Market dwelling; and
£3,111 for each 4 or more bedroom Open Market dwelling
to provide enhanced educational infrastructure at Marden Primary School. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

£ 1,920 (index linked) for a 2 bedroom open market unit
£ 2,580 (index linked) for a 3 bedroom open market unit
£ 3,440 (index linked) for a 4+ bedroom open market unit
to provide a sustainable transport infrastructure to serve the development, which sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.

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

- a) Improvements to pedestrian / cycle facilities
- b) Improvements to sustainable and public transport facilities
- c) Community transport
- d) Safer routes to school

3. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £80 (index linked) per open market dwelling. The contribution will provide for waste reduction and recycling in Hereford. The sum shall be paid on or before occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.

4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sums of (per open market unit):

£ 965 (index linked) for a 2 bedroom open market unit
£ 1,640 (index linked) for a 3 bedroom open market unit
£ 2,219 (index linked) for a 4+ bedroom open market unit

To be used to further develop the neighbourhood play area. The sum shall be paid on or before occupation of the 1st open market dwelling, and may be pooled with other contributions if appropriate.

Adoption/Future Maintenance/Commuted Sums: *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 by adoption by Herefordshire Council with a 15 year commuted sum plus appropriate replacement costs – given the location this is highly unlikely; or 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 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.*

Any on site surface water attenuation basin will be transferred to the Council with a 60 year commuted sum. This will be done as part of the land transfer.

5. The developer covenants with Herefordshire Council that 35% (17 units – on the basis of development of 49 dwellings) of the residential units shall be “Affordable Housing” which meets the criteria set out in policy H9 of the Herefordshire Unitary Development Plan or any statutory replacement of those criteria and that policy including the Supplementary Planning Document on Planning Obligations. 9 units shall be social rented tenure and 8 shall be of intermediate tenure (shared ownership, intermediate rent or low cost market).
6. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 50% of the general market housing or in accordance with a phasing programme to be agreed in writing with Herefordshire Council.
7. The Affordable Housing Units must at all times be let and managed or co-owned in accordance with the guidance issued by the Homes and Communities Agency (or any successor agency) from time to time with the intention that the Affordable Housing Units shall at all times be used for the purposes of providing Affordable Housing to persons who are eligible in accordance with the allocation policies of the Registered Social Landlord; and satisfy the following requirements:-
 - 7.1. registered with Home Point at the time the Affordable Housing Unit becomes available for residential occupation; and
 - 7.2. satisfy the requirements of paragraphs 9 & 10 of this schedule
8. The Affordable Housing Units must be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
 - 8.1. a local connection with the parish of Marden
 - 8.2. in the event of there being no person with a local connection to Marden to the adjoining parishes of Bodenham, Wellington, Sutton St. Nicholas, Moreton-on-Lugg and Preston Wynne;
 - 8.3. any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all

reasonable efforts through the use of Home Point have found no suitable candidate under sub-paragraph 9.1 above.

9. For the purposes of sub-paragraph 9.1 of this schedule 'local connection' means having a connection to one of the parishes specified above because that person:
 - 9.1. is or in the past was normally resident there; or
 - 9.2. is employed there; or
 - 9.3. has a family association there; or
 - 9.4. a proven need to give support to or receive support from family members; or
 - 9.5. because of special circumstances;
10. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to the Homes and Communities Agency 'Design and Quality Standards 2007' (or to such subsequent design and quality standards of the Homes and Communities Agency as are current at the date of construction) and to Joseph Rowntree Foundation 'Lifetime Homes' standards. Independent certification shall be provided prior to the commencement of the development and following occupation of the last dwelling confirming compliance with the required standard.
11. In the event that Herefordshire Council does not for any reason use the sums in paragraphs 1, 2, 3 and 4 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.
12. The sums referred to in paragraphs 1, 2, 3 and 4 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.
13. The developer covenants with Herefordshire Council to pay a surcharge (to be confirmed) 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.
14. 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.

August 2015