

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<b>151752 - PROPOSED ERECTION OF 2 NO NEW DETACHED DWELLINGS AT LAND ADJACENT TO SEVEN ACRES, KINGS CAPLE, HEREFORDSHIRE, HR1 4TZ</b>  <b>For: Mr Brooke per Mr John Kendrick, Procuoro, St Owens Cross, Hereford, Herefordshire HR2 8LG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151752&amp;search=151752">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151752&amp;search=151752</a>
<b>Reason Application submitted to Committee – Contrary to Policy</b>	

**Date Received: 10 June 2015**

**Ward: Old Gore**

**Grid Ref: 356507,228780**

**Expiry Date: 5 August 2015**

Local Member: Councillor BA Durkin

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

- 1.1 Seven Acres is a large detached dwelling located in well appointed grounds whose landholding includes a large domestic curtilage, orchard, paddock and adjoining fields currently utilised it appears to graze and keep horses. Although the existing dwelling is not listed, it has an attractive appearance which is formed and enhanced through its setting.
- 1.2 The site is located adjacent to the existing built form of Kings Caple, a designated smaller settlement under policy H6 of the Herefordshire Unitary Development Plan. Kings Caple has a number of services and facilities including Primary School, Church, village hall and bus services, albeit limited. The site, as is the whole of Kings Caple and its environs, is located within the Wye Valley Area of Outstanding Natural Beauty, a statutory designated and protected landscape.
- 1.3 The application site is 0.22 hectares in extent and relates to land located east of and immediately adjacent to Seven Acres and is broadly rectangular in extent and is partly an orchard.
- 1.4 The proposal is an outline application for the erection of two dwellings, with layout, scale and access forming part of the application under assessment. Matters regarding detailed design and landscaping are reserved for future consideration. An indicative design has been provided.

## **2. Policies**

- 2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance:

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Further information on the subject of this report is available from Mr C Brace on 01432 261947

- Introduction – Achieving Sustainable Development
- Section 7 – Requiring Good Design
- Section 12 – Conserving and Enhancing the Historic Environment

## 2.2 Herefordshire Unitary Development Plan (UDP)

- S1 – Sustainable development
- S2 – Development requirements
- DR1 – Design
- DR2 – Land use and activity
- DR3 – Movement
- H4 – Main villages
- T8 – Road Hierarchy
- LA1 – Areas of Outstanding Natural Beauty
- LA2 – Landscape Character and Areas Least Resilient to Change
- LA3 – Setting of Settlements
- LA6 – Landscaping Schemes
- NC1 – Biodiversity and Development
- NC6 – Biodiversity Action Plan Priority Habitats and Species
- NC7 – Compensation for Loss of Biodiversity
- NC8 – Habitat Creation, Restoration and Enhancement
- NC9 – Management of Features of the Landscape Important for Fauna and Flora

## 2.3 Herefordshire Core Strategy:

- SS1 – Presumption in favour of Sustainable Development
- SD1 – Sustainable design and energy efficiency
- RA1 – Rural Housing Strategy
- RA2 – Herefordshire's villages
- LD1 – Landscape and townscape

2.4 Kings Cuple is preparing a Neighbourhood Development Plan however it is at an early stage and has not been through any regulatory consultations yet (stages regulation 14 and/ or 16).

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

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

## 3. Planning History

3.1 None

## 4. Consultation Summary

4.1 The Transportation Manager comments the turning area on the submitted plans should show a larger turning area as length of the shared drive is over 25 metres from the adopted highway. The applicant is referred to the Council's highways design guide.

Whilst the primary school is within walking distance from the proposed site, connections further afield are limited to a few bus services during the week, therefore reliance on car travel would be the only unrestricted option.

Kings Cuple is subject to a national speed limit, however due to the rural nature of the road, houses fronting the highway and a school in the vicinity vehicles are unlikely to attain these

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speeds. The site attached to this permission is part of the PROW therefore speeds will be low due to the short length and limited vehicle use therefore visibility requirements can be reduced. The lane/PROW is narrow and provision of a passing place should be provided.

Following the above, amended plans were received, the Transportation Manager on being reconsulted agreed these amendments were satisfactory and has no objection to the proposal.

- 4.2 The Conservation Manager (Ecology) notes this site proposed partially includes an area of Traditional Orchard - a UK Biodiversity Action Plan priority habitat (now a Habitat of Principal Importance). As such, it is of significant value for their wildlife potential within the landscape. These orchards are habitat for a variety of species which are considered of local importance including noble chafer, lesser spotted woodpecker with many species of fungi and saproxylic beetles. Conservation of these habitats is especially important for the latter due to the maturity of the trees and wood decay within them. The NERC Act 2006 with a 2010 updated habitat and species list including Traditional Orchards as UK Priority Habitat.

As the Council's policy documents state, "*Policy NC6 of the UDP and the NPPF support the protection of priority habitats. Traditional Orchards are important features in the wider landscape and are protected under UDP Policy LA2.*" On the basis of the ecological importance of the above policy, there is presumption against development of these priority habitats and [I] would ordinarily object to any application which did not acknowledge this and which does not incorporate ecology within the plans.

However, the portion of the orchard site with trees appears to be part of a garden environment and trees are not of a decent qualifying size or age to significantly contribute to biodiversity. In addition, having read the ecological survey from NKM Associates, [I] would agree that the development is likely to have a low biodiversity impact but that there is potential for enhancement on the site. In particular features for nesting birds and some preservation/future planning for traditional orchard conservation might be built into the scheme for landscaping,

To secure this it is suggested that a non-standard condition is attached to any approval.

- 4.3 The Public Rights of Way Manager notes access will be via public footpath KC11. This is only maintainable to footpath status however he has no objection.
- 4.4 Welsh Water has no objection however request conditions are attached should permission be granted.

## 5. Representations

- 5.1 **Kings Cagle Parish Council** supports the application subject to the following conditions:

- Measures should be put in place to ensure that the visual impact of the development from Sellack and other locations in the valley is minimised due to the site's elevated position within the AONB. Any screening planting must be protected and maintained.
- The two properties should both be of similar materials rather than one in white render and one red brick.
- Safe access to the PROW KC11 (part of the Herefordshire Trail) must be ensured

- 5.2 A representation has been received from a local resident. Comments are summarised as –

- This is a relatively elevated site near the highest part of the central ridge in the village.
- The site is on the boundary of a nucleated settlement.
- There has been an approval, now lapsed, for an annex to Seven Acres, and this application involves some re-use of land currently occupied by outbuildings.
- The south facing slopes in the village are very sensitive in terms of the AONB viewpoints. Whatever the arguments for or against removing trees which form a part of a traditional

orchard, development here would need careful attention to screening from Sellack and from roads and paths in Kings Caple between the site and the river.

- In Kings Caple the relatively few larger houses are generally distinctive in design and individually sited
- In the rural villages of the Ross Housing Market Area identified in the Core Strategy (the district including Kings Caple) the requirement for 4-bedroom houses is 3.9% of the total. This would equate to one house of such size in Kings Caple required over the plan period.
- Kings Caple has no shop, pub or post office. There is no daily bus service.
- The houses proposed are large executive homes. Given local wage and salary levels these properties are likely to attract older buyers either commuting perhaps over relatively long distances or else retired. This development runs counter to the principles of the Core Strategy and the NPPF
- The site is suitable if adequately screened, but more modestly sized market housing would far better reflect the county's needs, the preferences of villagers, and national policy

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

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

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

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

## 6. Officer's Appraisal

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires local planning authorities to determine applications in line with the provisions of the local development plan unless material circumstances dictate otherwise.

6.2 The Council's published position is that it cannot demonstrate a 5 year supply of housing land with buffer. The most recently published figure puts the supply of housing land at between 2.09 and 2.6 years depending on the method of assessment. The Council accepts that the housing supply policies of the UDP are out-of-date and that the application should be considered in the light of the positive presumption enshrined in paragraphs 14 and 49 of the NPPF. This presumption is, however, contingent on the appeal scheme being able to contribute to the attainment of sustainable development.

6.3 Paragraph 14 of the NPPF clearly defines '*presumption in favour of sustainable development*' as the golden thread running through the NPPF. It goes on to state that for decisions taking this means:

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

6.4 Paragraph 215 of the NPPF stipulates that the level of weight which shall be afforded to local policies shall depend on their level of consistency with the policies of the NPPF.

6.5 Paragraph 47 of the NPPF requires LPAs demonstrate that there are deliverable sites sufficient to provide five years worth of housing with a 5% buffer. This buffer shall increase to 20% where

the LPA have consistently failed to demonstrate a five year housing land supply. The Council acknowledges it's under provision and accepts UDP housing supply policies carry no weight.

- 6.6 The NPPF is clear, however, that even in this context, the three dimensions of sustainable development are indivisible. This assessment demonstrates that the adverse impacts associated with granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. In Paragraph 8 of the NPPF sets out the economic, social and environmental roles of planning should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions.
- 6.7 Paragraph 9 of the NPPF states pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, Including (but not limited to) improving the conditions in which people live, work, travel and take leisure
- 6.8 The Ministerial forward to the NPPF states *our standards of design can be so much higher. We are a nation renowned worldwide for creative excellence, yet, at home, confidence in development itself has been eroded by the too frequent experience of mediocrity* and goes on to set out the Government's policies, aims and objectives in Section 7 Requiring Good Design, paragraphs 56-68.
- 6.9 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states planning policies and decisions should aim to ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
  - optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
  - respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
  - create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
  - are visually attractive as a result of good architecture and appropriate landscaping.

Whilst LPA's are advised not to impose architectural styles, paragraph 60 states it is proper to seek to promote or reinforce local distinctiveness.

- 6.10 Paragraph 61 acknowledges that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.
- 6.11 Paragraph 64 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

- 6.12 Local Plan policies DR1, DR2, DR3 and H13 are considered to be in conformity with these policies, aims and objectives of the NPPF. In addition and in order to establish a degree of consistency in the absence of housing policies that are considered to be up-to-date with the National Planning Policy Framework (NPPF), the Council has adopted an interim protocol for the consideration of applications that would otherwise be contrary to Policy H7 of the UDP. It accepts that appropriate residential development outside the development boundaries of main settlements may be permitted to help address the housing shortfall, subject to all other material planning considerations, and specifies that sites should be located adjacent to main settlements defined by Policy H4 of the UDP. This approach is consistent with the NPPF which presumes in favour of sustainable development.
- 6.13 Kings Caple is considered a sustainable location for residential development by virtue of its current local plan designation as a designated smaller settlement under policy and its designation in the emerging Core Strategy under Policy RA2 as a settlement. Whilst Kings Caple is wholly within the Wye Valley Area of Outstanding Natural Beauty, this does not preclude development in sustainable locations on suitable sites. This would in the main only comprise sites within or adjoining existing sustainable settlements.
- 6.14 As neither the existing local plan nor the emerging one can be relied upon to determine the principle of residential development, as per the test laid out at paragraph 14 of the NPPF, where the development plan is out-of-date or otherwise silent, the presumption in favour of sustainable development will be engaged unless:
1. specific policies of the NPPF indicate otherwise; or
  2. where harm associated with the development would outweigh its benefits when held against the NPPF as a whole – ‘the planning balance’.
- 6.15 Development within the AONB is listed within the NPPF as being a scenario whereby bullet point no.1 may be pertinent. In more detail, the appropriate method of determination in the context of the above hinges on whether or not the scheme is considered ‘major development’ in the context of paragraph 116:
- If the development is found to meet the definition of major development then the cost-benefit analysis required by paragraph 116 becomes the test of acceptability; or
  - If the scheme does not meet the definition of major development, the planning balance remains the relevant test of acceptability albeit with great weight afforded to retaining the landscape character and scenic beauty of the AONB required at paragraph 115.
- 6.16 Officers do not consider the provision of two dwellings to represent major development in the context of Kings Caple and paragraph 116 of the NPPF. The planning balance therefore applies here.
- 6.17 If a proposal is considered to represent sustainable development, then the decision taker is required by paragraph 14 of the NPPF to engage the positive presumption in favour of the proposal. The Government’s definition of sustainable development is considered to be the NPPF in its entirety, though a concise list of core planning principles is offered at paragraph 17. In terms of residential development, bullet points 5 and 11 of this paragraph to be most relevant in requiring that planning:
5. takes account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; and

11. actively manages patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable.

- 6.18 The site comprises land associated with Seven Acres and relates to in the main domestic curtilage although would be some loss of orchard. The South boundary of the existing property and its curtilage is considered a significant demarcation that should not be breached by development in the interests of maintaining and protecting the AONB and its high value landscape character and appearance hereabouts. Development follows this advice and is contained within land readily adjacent to the dwelling and results in a rounding off to the village at this edge and transition from built form to open countryside. Further landscaping will strengthen this important Southern boundary as required by suggested conditions. On the basis of the above, and having regard to context and scale of development, it is considered there is no significant detrimental impact on the character and appearance of the AONB.
- 6.19 Whilst appearance is a reserved matter, the scale and layout of the development is for consideration. It is acknowledged these are larger dwellings, however it is considered they relate to their context and setting, resulting in no significant adverse impact on adjoining land uses or the character and appearance of the area and furthermore there is no basis to enforce smaller or affordable dwellings on such a site. The layout respects the context and landscape pattern hereabouts, utilising the existing building line of the retained dwelling and not breaking through important boundaries or enclosures. Development is kept within and relates to the existing developed area and pattern rather than encroach in a harmful manner into well defined open countryside. Furthermore the main section of the proposed dwellings is set slightly behind the building line of the existing dwelling in order to ensure the original property retains a sense of prominence when accessing the site.
- 6.20 In response to the comments from the Parish Council, detailed design and materials would be considered against a subsequent Reserved Matters application. This would be open to public comment and consultation, however it is clearly useful the Parish Council has expressed their opinion on this matter at this stage and the applicant would be recommended to consider these comments.
- 6.21 On the basis of the above, approval with the conditions, below, is recommended.

## **RECOMMENDATION**

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

1. **A02 – Time limit for submission of reserved matters (outline permission)**
2. **A03 – Time limit for commencement (outline permission)**
3. **A04 – Approval of reserved matters**
4. **A05 – Plans and particulars of reserved matters**
5. **Foul water and surface water discharges shall be drained separately from the site.**  
**Reason: To protect the integrity of the public sewerage system.**
6. **Foul water and surface water discharges shall be drained separately from the site.**  
**Reason: To protect the integrity of the public sewerage system.**
7. **Prior to commencement of the development, a habitat protection and 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.

**Reasons:** To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), NERC Act 2006, the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6, NC7, NC8 and NC9 of Herefordshire Unitary Development Plan.

- 8. 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), NERC Act 2006, the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6, NC7, NC8 and NC9 of Herefordshire Unitary Development Plan.

- 9. C89 – Retention of existing trees/hedgerows: scope of information required
- 10. C90 – Protection of trees/hedgerows that are to be retained
- 11. G09 – Details of Boundary treatments
- 12. G10 – Landscaping scheme
- 13. G11 – Landscaping scheme - implementation

**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. If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.

Decision: .....

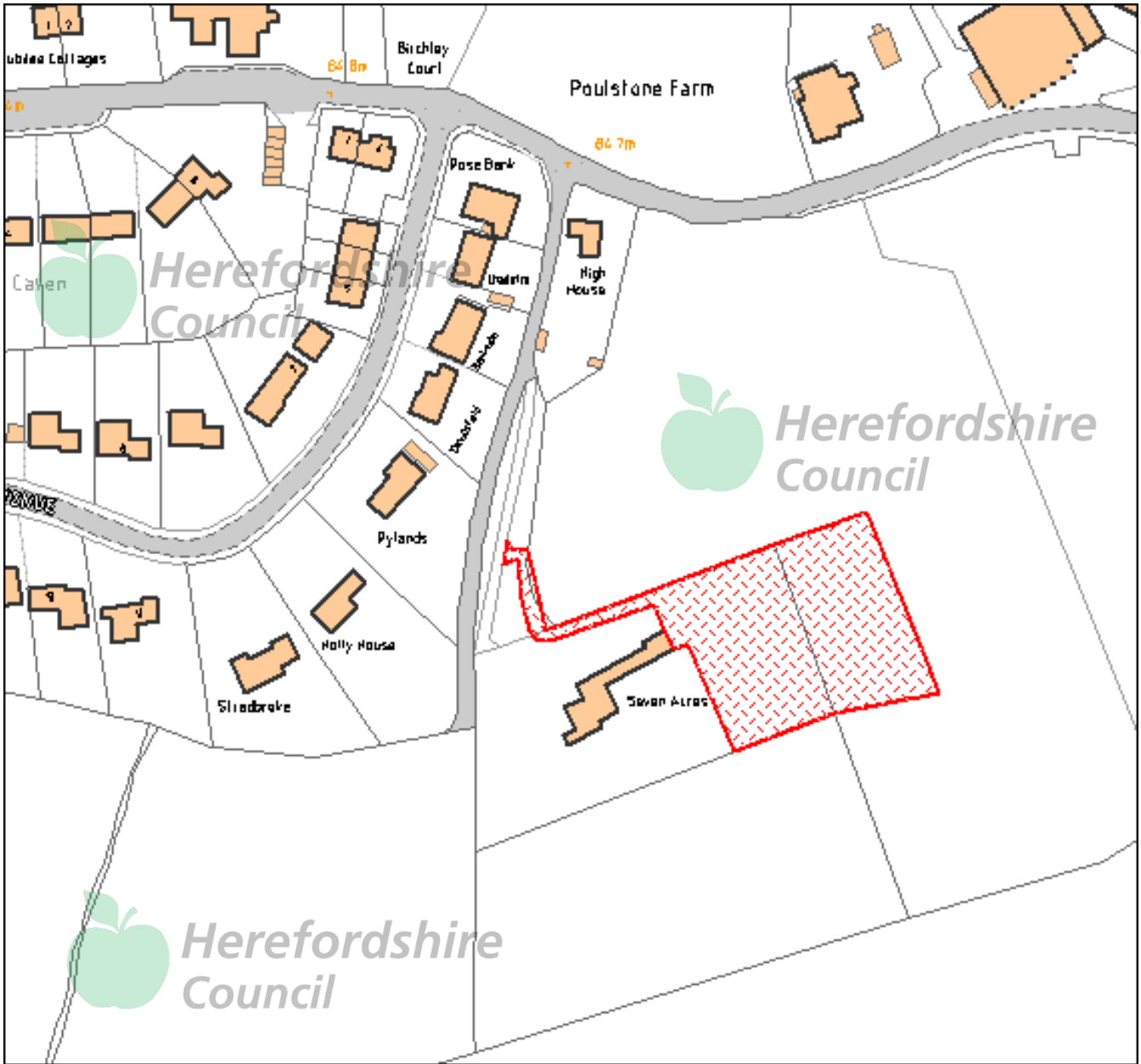
Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** 151752

**SITE ADDRESS :** LAND ADJACENT TO SEVEN ACRES, KINGS CAPLE, HEREFORDSHIRE, HR1 4TZ

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