

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 SEPTEMBER 2015</b>
<b>TITLE OF REPORT:</b>	<b>141559 - OUTLINE APPLICATION FOR 8 AFFORDABLE DWELLINGS, USE OF AND AMENDMENTS TO ACCESS AND PROVISION OF TREATMENT PLANT. AT LAND AT ETNA, ORCOP HILL, MUCH DEWCHURCH, HEREFORD,</b>  <b>For: Mr Jones per Mr B Griffin, The Cottage, Green Bottom, Littledean, Cinderford, Gloucestershire GL14 3LH</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141559&amp;search=141559">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=141559&amp;search=141559</a>
<b>Reason Application submitted to Committee -</b>	

**Date Received: 16 May 2014**

**Ward: Birch &  
Wormside**

**Grid Ref: 348124,228175**

**Expiry Date: 11 July 2014**

Local Members: Councillors DG Harlow and JF Johnson

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

- 1.1 The application site sits immediately to the north of Orcop Hill, a small settlement, 12km to the south-west of Hereford and 14km to the north-west of Ross-On-Wye. Orcop Hill is not listed in the Herefordshire Unitary Development Plan as a settlement but is a settlement identified for proportionate growth in the emerging Core Strategy.
- 1.2 The site measures approximately 0.14 hectares and sits to the north-east of an existing estate road known as Birch View, which was constructed to provide access to six dwellings at its terminus. Birch View adjoins the C1235. The A466 lies approximately 1.2km to the east. Land to the west, north and east of the site is agricultural land which gives way to a rolling landscape.
- 1.3 The boundary between the parishes of Much Dewchurch and Orcop dissects the site, whilst the road off which the site is accessed, Birch View, falls within the Parish of Llanwarne. The most westerly portion (c. 20%) of the site is within Orcop with the remainder of the site in Much Dewchurch.
- 1.4 The application seeks outline planning permission for the erection of 8 affordable dwellings. Approval is also sought for matters of access, layout and landscaping with matters of scale and appearance reserved for future consideration. The 8 dwellings are shown as being provided in 4 pairs of semi detached dwellings accessed off Birch View. The houses are shown in a row along the north side of Birch View. The existing access off Lyston Lane would be altered, with the removal of a dwarf brick wall and grading back the verge to create a suitable verge. Access onto the highway network would be via the existing junction between Birch View and the C1235. A footpath would also be provided along the southern flank of Birch View.

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

- 1.5 Amendments were made to the planning application to include a landscape plan which shows the planting of orchard to the east of the application site, a hedgerow being reinstated along the parish boundary of Much Dewchurch and Orcop and the provision of a hedgerow in place of a close boarded fence along the roadside boundary of the dwelling known as Etna. An ecology survey of the site was also submitted at the Council's Ecologist's behest. The application was re-advertised accordingly.

## 2. Policies

### 2.1 National Planning Policy Framework (NPPF)

The following sections are of particular relevance to this application:

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

### 2.2 Herefordshire Unitary Development Plan 2007 (HUDP)

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
S6	-	Transport
S7	-	Natural and Historic Heritage
DR1	-	Design
DR3	-	Movement
DR4	-	Environment
DR7	-	Flooding
H6	-	Housing in Smaller Settlements
H7	-	Housing in the Countryside Outside Settlements
H9	-	Affordable Housing
H10	-	Rural Exception Housing
H13	-	Sustainable Residential Design
T8	-	Road Hierarchy
LA2	-	Landscape Character and Areas Least Resilient to Change
LA5	-	Protection of Trees, Woodlands and Hedgerows
LA6	-	Landscaping
NC1	-	Biodiversity and Development
NC6	-	Biodiversity Action Plan Priority Habitats and Species
NC7	-	Compensation for Loss of Biodiversity
CF2	-	Foul Drainage

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

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

### 2.4 Herefordshire Local Plan Core Strategy

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

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SS6	-	Addressing Climate Change
RA1	-	Rural Housing Strategy
RA2	-	Herefordshire's Villages
H1	-	Affordable Housing – Thresholds and Targets
H2	-	Rural Exception Sites
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety, Promoting Active Travel
LD1	-	Local Distinctiveness
LD2	-	Landscape and Townscape
LD3	-	Biodiversity and Geo-Diversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.5 The Examination in Public into the Draft Local Plan – Core Strategy (CS) has taken place and was completed on 25 February 2015. The Inspector found conflict between a number of Core Strategy policies and the NPPF. The Council have modified those policies to overcome the Inspector's concerns. The report of the inspector is awaited.

### 3. Planning History

3.1 List of relevant planning applications:

- **SH930279PF** Demolish 2 existing poultry houses and building replace with new, low profile bulk bins and ancillary works: *Approved*
- **DCSW2003/2651/O** Site for 11 dwellings with bio-disc treatment system after demolition of existing poultry houses: *Withdrawn*
- **DCSW20040407/O** Site for 6 dwellings (affordable housing) with bio-disc treatment system after demolition of existing poultry houses: *Approved*
- **DCSW2006/1534/RM(pursuant to the above mentioned outline application)** Six dwellings for affordable housing: *Approved*
- **DCSW2008/0202/O** Provision of six affordable dwellings bio-disc treatment plan and use of existing access: *Refused*
- **DCSW2009/0298/O** Provision of six affordable dwellings on site of former poultry unit bio-disc treatment plan and use of existing access: *Refused*
- **132383/O** Provision of fourteen dwellings (8 affordable) on site of former poultry unit bio-disc treatment plan and use of existing access: *Withdrawn*

3.2 Of the above applications, DCSW2006/1534/RM has been implemented and is the permission for the 6 dwellings at the terminus of the Birch View. Otherwise, the most pertinent decision is the refusal of planning permission DCSW2009/0298/O. This sought permission for 6 affordable units on a site similar to this one and was refused for the following reasons:

- a. The proposal constitutes development in open countryside where there is a strong presumption against new residential development unless there are exceptional circumstances to justify otherwise. The development will not meet an identified local need for affordable housing and does not satisfy the requirements of the rural exceptions policy. The proposal is therefore contrary to Policies H7 and H10 of the Herefordshire Unitary

Development Plan and the guiding principles of PPS7 - Sustainable Development in Rural Areas.

- b. The proposal by reason of its isolated rural location would not be sustainable in terms of reducing the need to travel by private car as required by Policies S1, S6 and DR2 and as set out in Government advice contained in PPS7 - Sustainable Development in Rural Areas and PPG13 - Transport.

3.3 It is worth members noting at this point, that permission DCSW2009/0298/O was for a similar development, but was refused for being contrary to UDP Policy H10. This application was determined at a time when the UDP was the sole development plan against which development proposals fell to be determined. No material considerations were found to erode the weight which may have been apportioned to the UDPs policies. In retaining full weight and in failing to demonstrate a need for the proposed affordable housing, the development failed the exception test of UDP Policy H10 and was therefore non-exceptional development in the open countryside contrary to the UDP. The present day policy climate is significantly more complex and, as is discussed below in more detail, the UDP cannot be solely relied upon to determine the acceptability of this application.

3.4 Also of relevance is application 132383/O which was on a similar but larger site and proposed the provision of 14 dwellings, 8 of which were to be affordable. The application was withdrawn on officer recommendation given concerns for the size and scale of the development.

#### **4. Consultation Summary**

4.1 The Council's Transportation Manager does not object:

*As previously mentioned, the development utilises an existing road layout that serves a number of properties, the road has not been adopted, if you are minded to approve, the layout needs to be adopted or a robust planning condition is required as to how the road will be maintained for the life of the development.*

*The updated plan shows a footway which provides no crossing points/dropped crossing and on the northern side the footway has no end.*

*Parking spaces should be a minimum of 4.8 x 2.4, however as these will be classed as drives should be extended to 6 metres. The driveway adjacent to the amenity space does not have a complete parking space. Parking areas within the site to allow for a car to park and pedestrian access adjacent.*

*If hedgerows are to be planted adjacent to the wooden fence which fronts the highway then they should reduce visibility.*

*CAE, CAH, CAJ, CAL, CAP  
I11, I09, I45, I08, I07, I05, I51, I47, I35*

4.2 The Council's Conservation Manager (Ecology) does not object:

*I note the intention to ascertain whether or not the pond to the north is habitat for great crested newts. To ensure information is received on this and enhancement measures are put in place I recommend that a non-standard condition is attached to any approval.*

4.3 The Council's Conservation Manager (Landscape) does not object to the principle of development. A framework of mitigation measures and landscape improvement works was also provided.

4.4 The Council' Commissioning Officer (Housing Development) supports the application:

*The Parishes of Much Dewchurch and Orcop have an unmet identified housing need so the delivery of affordable housing within these parishes is welcomed. The developer has proposed that all of the dwellings will be for Low Cost Market housing, a hugely popular tenure within the County and a tenure greatly in demand, however there is also a need for all forms of affordable rented housing in the County. The dwellings would be advertised for local connection to the parishes in the first instance and any over subscription would then then the cascading to the surrounding parishes.*

*Further discussions will need to take place with the developer prior to reserved matters.*

4.5 The Campaign to Protect Rural England object. The summary of their objection is as follows:

*I note that a previous application for 6 houses submitted in 2008 was refused on the grounds that it would be:*

- 1. Development in open countryside, contrary to H7, H10, PPS7*
- 2. It is an elevated site and the development would detract from the character of the locality, contrary to DR1, H13*
- 3. The site is isolated, with minimal transport or other facilities and thus not sustainable contrary to S1, S6, DR2, PPS7, PPG13*

*It is HCPRE's view that the same constraints are still valid.*

4.6 Welsh Water do not object:

*As the applicant intends utilising a private treatment works we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal.*

4.7 The Council's Public Rights Of Way Officer does not object.

## **5. Representations**

5.1 Much Dewchurch Parish Council neither object, nor support the application but comment that:

*MDPC still has the following concerns: 1. No proof of a local demand for this number of houses in a very rural location has been shown. 2. No local facilities so vehicles are vital, poor local bus route. There would be an excessive increase in traffic on this rural road which is poorly maintained and inaccessible in winter. 3. Would mean further loss of a green field site.*

5.2 Orcop Parish Council objects to the application:

*The Application is UNSUPPORTED by Orcop Parish Council as the proposed development is in open countryside, not in keeping with the rural setting of the parish, There would be an increase in traffic on Lyson Lane which is very narrow. Concerns with regard to the bio disc system and the effluent treated by the bio disc as there is no water course nearby to which the treated effluent can flow into. The proposed development is considered unsustainable and therefore is contrary to policy SS1.*

5.3 Llanwarne and District Group Parish Council supports the application.

5.4 Letters of representation were received from 10 households and Birch View Community Group. All letters object to the proposal. Whilst full copies of the representations can be viewed on the Council's website via the link in paragraph 5.5, the points raised are summarised as follows:

- Only one affordable dwelling is required in the parish of Orcop / no affordable housing is necessary in Orcop;
- The proposal would result in the loss of further greenfield grazing land;
- Lyston Lane is single track road with limited passing places and further traffic will cause highway safety issues with existing agricultural vehicles and lorries;
- Parking is limited;
- Emergency vehicles could have their way blocked;
- The bus service in Orcop is limited and is under review to be withdrawn;
- Orcop's facilities are limited;
- The bus service only offers one trip per day;
- The plan shows planting but no formal play area or parking provision;
- The land registry plan shows some of the land edged in blue to be under the ownership of a third party;
- The applicant has no right to alter Birch View;
- The applicant has no right to pass over the part of Birch View necessary to access the application site;
- Gardens along the cul-de-sac get water logged and the road itself floods in times of heavy rainfall;
- There is no indication of where the treatment plant is to be located;
- There is specific landscape harm in the form of the removal of an ancient hedgerow labelled A-B on the plan;
- It was stated by members at a previous planning meeting (2006) that there would be no more development along this road;
- Some market properties should be allowed on the site; and
- Street lighting would ruin the dark night sky.

5.5 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 S38 (6) of the Planning and Compulsory Purchase Act 2004 (PCP) states:

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

6.2 Therefore, the first consideration is for the proposal's compliance with the local development plan. As Orcop Hill is not mentioned in the exhaustive list of settlements in which the UDP's housing policies seek to allow residential development, the application site must be considered in open countryside. UDP Policy H7 seeks to resist non-exceptional residential development unless one of 7 specific circumstances is demonstrated. This proposal seeks to meet exception circumstance no.7 which allows the provision of rural exceptions sites in the open countryside where the more detailed objectives of UDP Policy H10 are met. The proposal is for more than one dwelling and does not adjoin a settlement identified under the UDP and as such, fails to meet criterion no.7 of UDP Policy H10. The development would therefore be contrary to the UDP.

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6.3 Notwithstanding that the proposal is contrary to the development plan, the two-stage process set out at S38 (6) also requires an assessment of other material considerations. In this instance, and in the context of the housing land supply deficit reported in greater detail below, the NPPF is the most significant material consideration to the determining of this application.

6.4 At paragraph 14, the NPPF sets out its requirements of decision makers:

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

*For decision-taking this means:*

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

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

6.6 The NPPF was published in March 2012 and its 12 month adoption period has expired. As such, the test of paragraph 215 is applicable and the UDP's policies must be appraised for their degree of consistency with the NPPF. If the UDP's policies comply with the aims and objectives of the NPPF then an application must be determined against the UDP as laid out at paragraph 6.2 of this report. Alternatively, if the UDP's policies conflict with the NPPF then the application must be determined favourably if it is found to be representative of sustainable development.

6.7 Chapter 6 of the NPPF is relevant to Council's supply of housing land and consequently the weight which may be apportioned to the housing policies of the UDP. Paragraph 47 requires that Local Planning Authorities have an identified five year supply of housing land plus a 5% buffer. Where there has been a record of persistent under delivery of housing, local planning authorities should increase this buffer to 20%. Paragraph 49 requires that the relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.

6.8 Herefordshire Council cannot currently demonstrate a five year housing supply neither have they identified a sufficient quantity of land on a persistent basis – a position recently upheld at appeal – triggering the requirement for a 20% buffer. The Council's housing policies therefore conflict with the provisions of paragraphs 47 & 49 of the NPPF. On this basis, and as per the compliance tests of paragraphs 215 and 49 of the NPPF, the Council's housing policies cannot be relied upon to determine the location of housing. 'Saved' UDP Policies H6 and H7 are not therefore up-to-date policies in the context of this planning application.

6.9 Turning to the emerging Herefordshire Local Plan Core Strategy (CS), the NPPF requires, at paragraph 216, that decision-takers give weight to relevant policies in emerging plans according to:

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- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

6.10 The Examination in Public into the Draft Local Plan – Core Strategy (CS) has taken place and was completed on 25 February 2015. The Inspector found conflict between a number of Core Strategy policies and the NPPF. The council has modified those policies to overcome the Inspector’s concerns. Public consultation has now concluded for the amended policies. However, until the Inspector’s report is received, significant weight cannot be apportioned to CS policies in the determination process.

6.11 Given that insufficient weight can be apportioned to policies of the UDP and CS to determine the principle of development in this instance, the second limb of paragraph 14 becomes the test of the development’s acceptability. Essentially the NPPF supersedes the UDP given the inconsistency in approach and objectives. Therefore, and having failed to identify specific policies of the NPPF which individually would indicate that development should be restricted, permission must be granted unless:

*Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

6.12 Members may wish to note that Orcop Parish Council have not as yet drafted a Neighbourhood Plan and as such no regard can be had for a local document.

Locational sustainability having regard for the sites proximity to services and facilities

6.13 Within the foreword to the NPPF the purpose of planning is described as being to help achieve sustainable development. The Government’s definition of Sustainable Development is considered to be the NPPF in its entirety though paragraph 17 lays out a concise set of ‘core planning principles’. Amongst these principles are that planning should:

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

6.14 The NPPF expands on this core principle at paragraphs 29 and 32 requiring development proposals to afford people a real choice about how they travel, having particular regard for public transport provision, and providing safe and suitable access for all. Moreover, paragraph 55 requires development to be sited as to enhance or maintain the vitality of rural communities and paragraph 69 requires development to be safe and accessible, containing clear and legible pedestrian routes.

6.15 Also of relevance to this application are paragraphs 47 and 50 which encourage local authorities to make provision for affordable dwellings. Paragraph 54 requires that local authorities are responsive to local circumstances and plan housing development to reflect local needs, particularly affordable housing, including through rural exception sites where appropriate. In officer opinion, the application site should be considered as a ‘rural exception site’, which is defined by the NPPF as being:



*Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection.*

- 6.16 Although based on now superseded government policy, similar aims to those of the NPPF are manifested in UDP Policies S1 and DR2 which require, amongst other things, that development proposals be directed to locations which reduce the need to travel, securing safe and convenient accessibility between land uses by modes other than personal motor transport. Given their level of consistency with the NPPF, UDP Policies S1 and DR2 continue to attract significant weight.
- 6.17 In determining the application site's ability to represent a 'sustainable location' within the context of the aforementioned, the following are relevant considerations:
- The level of amenities within a walking distance of the site;
  - The availability of truly usable public transport; and
  - The nature of the route between services and facilities and its ability to provide safe and convenient access thereto.

It should be noted that the NPPF at paragraph 29 concedes *some* use of the private motor vehicle is likely to be necessary in rural localities.

- 6.18 Facilities at Orcop Hill are limited to The Fountain Inn public house (presently closed) 300 metres from the site; and a bus stop (providing a once daily service to and from Hereford) 100 metres from the site. A village hall and church are provided within the wider area though are remote from the site and village. Orcop does not benefit from many pavements along its roads or street lighting. The roads along which one would walk are narrow with limited forward visibility in places though some pedestrian refuge is offered on verges and private drives. The limited facilities at Orcop Hill allied with the restrictive nature of the route to and from those facilities renders the application unsustainably located when this issue is considered in isolation.
- 6.19 The above notwithstanding, it is important to note that the application is promulgated as being a purely affordable housing scheme, (no open market housing is proposed) for which the Council's Commissioning Officer confirms there is a need. The latest available housing need studies confirm a need for 14 affordable units in the Parish of Much Dewchurch and 1 affordable unit in the Parish of Orcop. On this basis, and by virtue of its small size and rural location, the site is considered to qualify as a 'rural exception site' as defined at paragraph 6.15 of this report. Therefore, the application site's inability to represent a sustainable location for open market housing should not innately be a defining matter in this instance. This is a significant change in circumstances to when the previous application, DCSW2009/0298/O, was refused for a lack of identified affordable housing need.
- 6.20 It is officer opinion that, by virtue of the NPPFs inferred relaxation of locational sustainability requirements for 'rural exception sites' allied with an identified local affordable housing need, the application site, being contiguous with an established rural settlement, is suitable for development in the prescribed manner.

#### Landscape impact, character and appearance

- 6.21 The second pertinent 'core planning principle' of the NPPF cited at paragraph 17 is that decision taking should:

*“Take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.”*

- 6.22 In more detail, paragraph 55 of the NPPF seeks to direct development towards existing settlements to avoid isolated dwellings in the countryside. Paragraph 58 requires that development responds to local character and history, and reflects the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. Paragraph 61 requires development to integrate with the existing natural, built and historic environment.
- 6.23 Locally, UDP Policy S1 seeks to ensure that development proposals respect patterns of local distinctiveness and landscape character in both town and country. UDP Policy H13, supported by UDP Policy DR1, similarly requires that development should promote or reinforce the distinctive character of the locality particularly in terms of settlement pattern, layout, orientation, density, scale, massing, detailed design and material use. UDP Policy LA2 seeks to protect and uphold the character and appearance of the County’s landscape types as defined by the Herefordshire Council Landscape Character Assessment (LCA). These policies are generally consistent with the advice on design and distinctiveness set out in the NPPF (chapter 7) and so continue to attract considerable weight.
- 6.24 The application site is located on the edge of Orcop Hill. In the context of the village itself, the area of influence of the site is mainly limited to the northern edge due to local topography, vegetation and built form. The proposed development would extend this small village northwards into open countryside, where the landscape is sensitive to change and has very limited capacity to absorb new built development even on a small scale.
- 6.25 Orcop Hill is representative of many smaller rural settlements, being comprised of scattered, wayside dwellings of a cottage vernacular, individually accessed off a sinuous and narrow network of hedge lined roads. Birch View, the road off which the site is accessed, is atypical in this regard being a wide and highly engineered estate road providing access to six dwellings, akin to a small housing estate. The application site is therefore of a unique disposition being a part of a matrix of agricultural fields whose rural character is severely eroded by the existence of Birch View and the dwellings thereon. Indeed the site’s character is more closely associated with the rather untidy, modern built edge of the village as opposed to the open countryside beyond. Whilst in principle the site’s location represents a departure from the traditional individually accessed wayside settlement pattern of Orcop Hill, regard must be had for the existing provision of the engineered and surfaced cul-de-sac.
- 6.26 Although higher than existing properties on Birch View, those existing properties are a part of views already and the proposed dwellings would be seen against that backdrop. It is imperative that the appearance and scale of the dwellings are of very high quality to reflect the sensitivity of the location and the design and specification should be based on an assessment of local characteristics, elements and features. So long as the Reserved Matters fulfil this requirement the proposed development could be accommodated in this location without significant adverse effects on landscape character and visual amenity.
- 6.27 In the context of the above, the Council’s Conservation Manager (Landscape) finds the impact of the development to be minor at a county scale and moderate negative locally. Furthermore, opportunities to improve the character and appearance of the local landscape have been identified to offset the identified harm. The applicant has provided a landscape plan based on the identified opportunities as follows:
- a) Land between the application site and C1225 to the south was historically orchard. This has since been removed. The application proposes the reinstatement of the orchard of benefit to

the landscape character as well as improving the appearance of the locality, filtering views of the proposed and existing development as one approaches Orcop Hill from the north;

- b) 19th century maps show that the larger field in which the site sits was once subdivided by a hedgerow which almost certainly marked the parish boundary. This important hedgerow boundary would be reinstated;
- c) Some field boundaries have been replaced with fencing and some are in a poor condition. The application proposes the reinstatement of all field boundaries with native species hedgerow.
- d) The dwelling known as Etna is the first roadside dwelling encountered as one approaches Orcop Hill from the north. Thus it plays a prominent local role in comprising the gateway to the village. At present, the roadside boundary of Etna is marked by a 6 foot close boarded fence, a particularly suburban feature which belies the rurality of the locale. It is proposed to replace this close boarded fence with a native species hedgerow.

6.28 With the proposed mitigation in place, the level of effects identified above would be reduced, resulting in localised enhancement to landscape character by restoring lost, traditional landscape elements, removal of stark fencing, and screening/filtering views of the development from the village road.

6.29 To conclude on this matter, the provision of 8 dwellings in the prescribed manner would, when considered in isolation give rise to moderate negative local landscape harm, by virtue of extending the settlement into open countryside in a manner uncharacteristic of the historic settlement pattern of Orcop Hill. The strength of this concern is not greater given the existence of the infrastructure on which the proposed dwellings would rely and that the application site's backdrop when viewed from long range vantage points to the north-east of the site is of modern residential development. The magnitude and detail of the proposed mitigation, to include the planting of an orchard and the reinstatement of traditional hedgerows, would result in localised enhancement to the landscape character and appearance. On this basis, and subject to the appearance and scale of development being appropriate, the application is considered to respect the role and character of the area upholding the intrinsic beauty of the countryside as required by the NPPF and UDP.

#### Other Matters

6.30 The Conservation Manager (Ecology) does not object to the proposal. The ecology survey submitted with the proposal sufficiently appraises the scheme's ecological impact which, subject to the implementation of mitigation measures, will not be unduly detrimental. It will however be necessary to ascertain whether or not the pond to the north is habitat for the great crested newt. To ensure information is received on this and enhancement measures are put in place a condition should be appended to any approval given to ensure the survey's biodiversity mitigation and enhancement is carried out.

6.31 The application site is accessed off a well engineered road known as Birch View, which is of sufficient construction to accommodate the proposed increase in traffic travelling thereon. The intensification of the use of the junction between Birch View and the Lyston Lane (C1225) would not unduly impact on highway safety given the acceptable visibility thereto. A footpath is to be provided along the eastern flank of the roadway. The Council's Transportation Manager does not object to the application but recommends that conditions be appended to any permission given requiring detail of road construction works and the design and construction of parking, access and turning be submitted prior to development commencing. Furthermore, the applicant will be required to enter into section 38 and section 278 agreements to ensure the proper engineering detail of works within the highway.

6.32 The closest of the proposed dwellings would be approximately 16 metres from the nearest existing dwelling, and its orientation is such that the two competing dwellings would be side on to each other. There is one modest window on the side elevation of the existing dwelling which

the proposed building design will need to take into account. There is however scope for a suitably designed scheme to provide suitable levels of residential privacy and amenity for both existing and proposed dwellings.

- 6.33 Third party representations refer to the historic provision of poultry buildings at the site and that asbestos has been buried beneath the site. The site's application history confirms that poultry units were historically located on the site and permission was granted for their removal. Such a use of land is potentially contaminative and as such, it would be reasonable and proportionate to require investigative works prior to the commencement of any development of the land to establish the contaminated of the land. If the site were found to be contaminated, remediation works would be necessary. This concern is compounded by anecdotal evidence suggesting that asbestos remains buried beneath ground level.
- 6.34 A number of representations refer to the applicant not having the necessary legal right to provide access to the site along Birch View, being restricted by covenants. This is a civil matter and cannot be considered in the determining of this planning application. The physical ability of Birch View and the surrounding highway network to provide safe access to the application site is a material consideration but ownership rights or the right to pass or repass over the land are not. This notwithstanding, the granting of planning permission would not supersede or erode any legal mechanism which presently exists.

### Conclusion

- 6.35 Given the Council's lack of a published five-year housing land supply, the housing policies of the UDP are considered out of date. The appropriate method of determining this application is therefore the 'planning balance' required by the first limb of the second bullet point of the decision taking part of paragraph 14. Unless it can be demonstrated that the harm associated with the scheme would substantially outweigh its benefits, then the development must be considered sustainable and the positive presumption engaged.
- 6.36 The NPPF, at paragraph 7, offers a structure within which the potential benefits and harm of development should be assessed. Development must essentially fulfil the three dimensions of sustainable development: social, economic and environmental. It is important to note that whilst this framework is provided, in weighing up the scheme the three dimensions of sustainable development should not be considered in isolation. Indeed paragraph 8 requires that gains in all three dimensions should be jointly sought meaning that a scheme which robustly fulfils two dimensions may be unacceptable for its failure to fulfil the outstanding dimension – thus the planning balance.
- 6.37 The scheme's economic benefits include short term job creation in the construction industry during the building phase and the long term support for local businesses. Whilst the new homes bonus would be afforded to the Council should the development be built, it is not regarded as a material consideration. The social dimension acknowledges the benefit of providing affordable housing where there is an identified need as well as the scheme's contribution to the county's holistic supply of housing land. A poor level of local community, leisure, education and employment facilities proximal to the site does however reduce the magnitude of the aforementioned benefits given a lack of meeting places. Furthermore and in terms of its environmental role, the lack of local facilities and public transport services would promote the use of the private motor vehicle giving rise to inflated carbon emissions although the NPPF acknowledges that some use of the private motor vehicle will be inevitably necessary in rural areas. The proposal is not considered to represent development which would unduly harm the appearance or character of the landscape or the villages setting in principle, whilst the scheme has made the most of opportunities to reinstate historic and traditional landscape features eroded by previous development proximal to the site which would result in an environmental benefit, both in terms of landscape character and biodiversity.

6.38 On the above basis, it is officer's opinion that the social, economic and environmental benefits of the scheme identified above and throughout this report, outweigh the economic and social disbenefits associated with the application site's isolation from local facilities and services. The scheme is therefore representative of sustainable development and accords with the provisions of paragraph 14 of the NPPF. It is recommended that planning permission be granted.

## **RECOMMENDATION**

That authority be delegated to officers named in the Scheme of Delegation to grant outline planning permission for the development subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement providing the requisite legal mechanism to provide and secure the provision of affordable unit and subject to the following conditions:

1. **A02 Time limit for submission of reserved matters (outline permission) – Landscaping & Scale**
2. **A03 Time limit for commencement (outline permission)**
3. **A04 Approval of reserved matters – Landscaping & Scale**
4. **A05 Plans and particulars of reserved matters – Landscaping & Scale**
5. **B01 Development in accordance with the approved plans**
6. **The recommendations for species survey and mitigation with habitat enhancements set out in the ecologist's report from Wydean Ecology dated December 2014 should be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. On completion of further surveys specified, confirmation of the results together with any mitigation required should be made in writing to the local planning authority together with enhancement measures proposed.**

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.

7. **G11 – Landscaping scheme - implementation**
8. **I51 Details of slab levels**
9. **C01 Samples of external materials**
10. **H06 - Vehicular access construction**
11. **H09 - Driveway gradient**

12. **H11 - Parking - estate development (more than one house)**
13. **H13 - Access, turning area and parking**
14. **H17 - Junction improvement/off site works**
15. **I18 Scheme of foul drainage disposal**
16. **I20 Scheme of surface water drainage**
17. **Prior to the first occupation of the dwellings hereby approved, adoption and maintenance schemes for the foul and surface water drainage systems shall be submitted to and approved in writing by the local planning authority. The foul and surface water drainage systems shall be adopted and maintained in accordance with the approved details.**

**Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy DR4 of Herefordshire Unitary Development Plan.**

18. **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.**

19. **The Remediation Scheme, as approved pursuant to condition no. 18 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.**

20. 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.

21. I16 Restriction of hours during construction

#### **INFORMATIVES:**

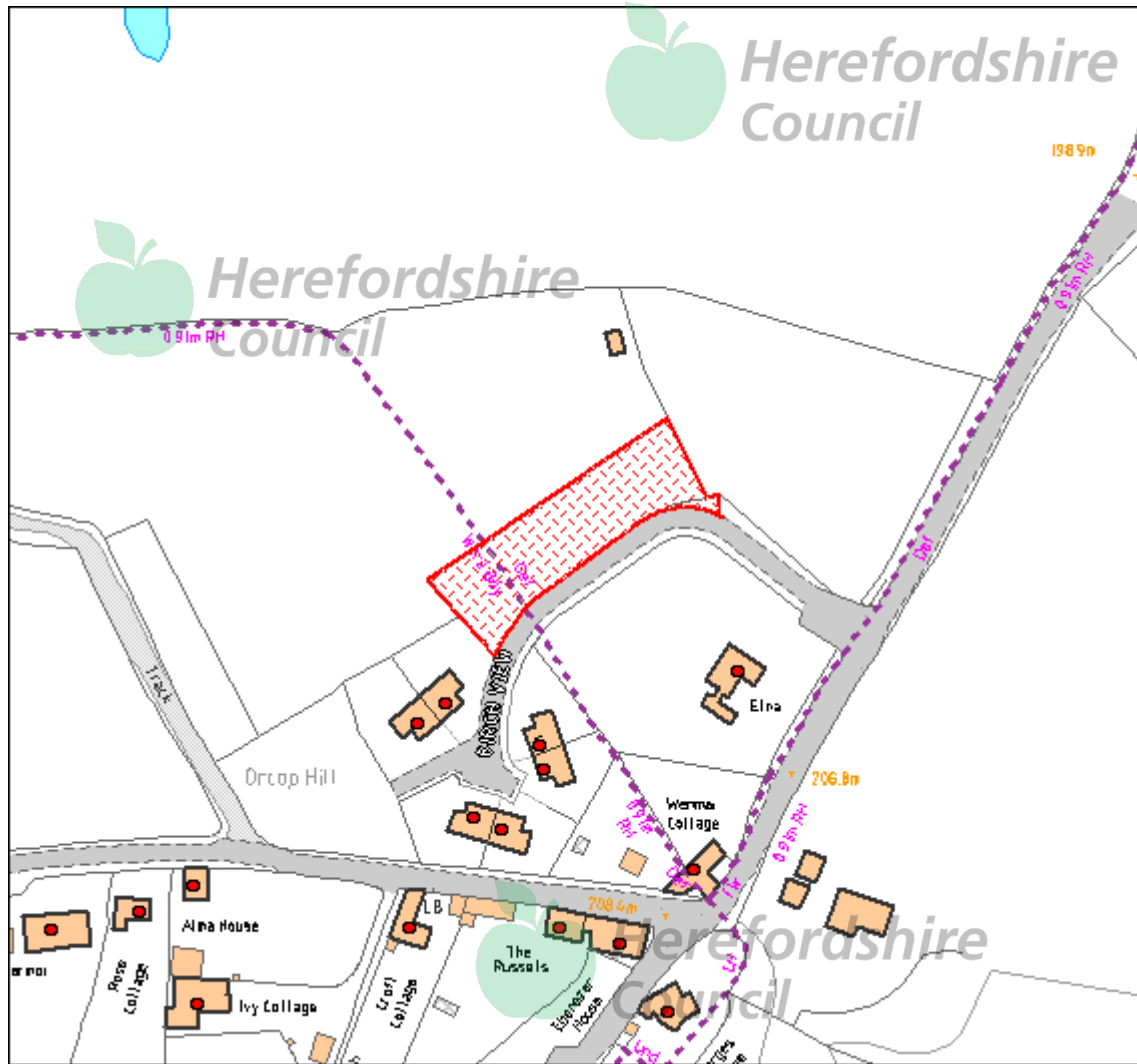
1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. HN01 – Mud on highway
3. HN04 – Private apparatus within the highway (Compliance with the New Roads and Streetworks Act 1991, the Traffic Management Act 2004 and the Highways Act 1980)
4. HN05 – Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)
5. HN07 – Section 278 Agreement
6. HN08 – Section 38 Agreement & Drainage details
7. HN10 – No drainage to discharge to highway
8. HN22 – Works adjoining highway
9. HN24 – Drainage other than via highway system
10. HN28 – Highways Design Guide and Specification
11. The contaminated land assessment required to by condition 18 of this permission must be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.
12. All investigations of potentially contaminated sites must undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.

#### **Background Papers**

Internal departmental consultation replies.

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



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**APPLICATION NO:** 141559

**SITE ADDRESS :** LAND AT ETNA, ORCOP HILL, MUCH DEWCHURCH, HEREFORD, HEREFORDSHIRE

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