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| MEETING: | PLANNING COMMITTEE |
| DATE: | 7 OCTOBER 2015 |
| TITLE OF REPORT: | 151316 - PROPOSED RESIDENTIAL DEVELOPMENT FOR 24 DWELLINGS AT LAND OPPOSITE, PLAYING FIELDS, PYEFINCH, BURGHILL, HEREFORD For: Mr Edwards per Mr Mark Owen, Second Floor Offices, 46 Bridge Street, Hereford, Herefordshire, HR4 9DG |
| WEBSITE LINK: | https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=151316&search= |
| Reason Application submitted to Committee – Contrary to Policy | |

Date Received: 5 May 2015

Ward: Queenswood

Grid Ref: 347487,244590

Expiry Date: 5 August 2015

Local Member: Cllr PE Crockett

1. Site Description and Proposal

- 1.1 The application site comprises a broadly triangular parcel of grazing land that is 1.7 hectares in size and located adjacent to the main Hereford to Weobley Road, on the southern edge of Burghill Village. Immediately to the north of the site lies the residential properties that front Burghill Village Road this boundary is formed by a mix of hedges, landscaping and fencing. The eastern boundary of the site is formed by mature trees and hedgerow and across the lane lies The Copse recreation ground. To the west, the boundary is formed by a hedgerow, with Burghill Valley Golf club lying opposite.
- 1.2 Access to the site currently exists via an agricultural field gate off the main road, opposite the Golf Club and via gateway that lies between the Grade II listed dwelling known as Pyefinch House and Pearmain to the north of the site.
- 1.3 The application seeks planning permission for the erection of 24 dwellings with all matters except for access reserved for future consideration. The application is accompanied by a detailed Design and Access Statement, Flood Risk Assessment and Drainage Strategy and Ecological Report along with indicative site plan, access details and Heads of Terms.

2. Policies

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

Introduction - Achieving sustainable development
 Section 4 - Promoting sustainable communities
 Section 6 - Delivering a wide choice of high quality homes
 Section 7 - Requiring good design
 Section 8 - Promoting healthy communities

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

Section 11 - Conserving and enhancing the natural environment
Section 12 - Conserving and enhancing the historic environment

2.2 National Planning Practice Guidance

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 |
| H4 | - | Main Village: Settlement Boundaries |
| H7 | - | Housing in the Open Countryside Outside Settlements |
| H9 | - | Affordable Housing |
| H13 | - | Sustainable Residential Design |
| H19 | - | Open Space Requirements |
| 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 |
| CF2 | - | Foul Drainage |

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 – Draft Core Strategy

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|-----|---|--|
| SS1 | - | Presumption in Favour of Sustainable Development |
| SS2 | - | Delivering New Homes |
| SS3 | - | Releasing Land for Residential Development |
| SS4 | - | Movement and Transportation |
| 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 | - | Landscape and Townscape |
| LD2 | - | Biodiversity and Geodiversity |
| LD3 | - | Green Infrastructure |
| LD4 | - | Historic Environment and Heritage Assets |
| SD1 | - | Sustainable Design and Energy Efficiency |
| SD3 | - | Sustainable Water Management and Water Resources |
| SD4 | - | Wastewater Treatment and River Water Quality |
| ID1 | - | Infrastructure Delivery |

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

2.5 Neighbourhood Planning

Burghill Neighbourhood Area was approved under the Neighbourhood Planning (General) Regulations 2012 on 11/09/2013. Work has commenced on drafting of the plan however it has not reached Reg. 14 therefore the plan has no material weight for the purpose of determining planning applications.

2.6 Other Relevant National Guidance:

Planning for Growth - 2011
Laying the Foundations - 2011
Housing and Growth - 2012

3. Planning History

3.1 None

4. Consultation Summary

Statutory Consultees

4.1 Welsh Water raises no objection but recommends conditions be imposed on any permission.

Internal Council Consultations

4.2 Conservation Manager (Landscape)

The National Planning Policy Framework, Item 11, 109 states:

'The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and soils'

The loss of valued land to agricultural development should be compensated for by habitat creation where possible.

The Herefordshire Unitary Development Plan, following policies state:

S1. Sustainable Development, *'Respecting patterns of local distinctiveness and landscape character in both town and country, safeguarding landscape quality and visual amenity'*

The site is potentially visible from a variety of locations at varying distances from a number of private and public areas. Appropriate native tree and hedgerow proposals should be clearly indicated on the proposed landscape plan to mitigate these proposed visual impacts and to enhance the visual amenity of the surrounding area.

LA2. Landscape Character and areas resilient to change, *'Proposals should demonstrate that landscape character has influenced their design, scale, nature and site selection. Where appropriate, developers will be encouraged to restore degraded or despoiled landscapes to their inherent character'*

The proposal should clearly show that the design, scale, materials and colours for the proposal reflect the landscape character of the area.

LA5. Protection of trees, woodlands and hedgerows, *'Through the enhancement and protection of individual trees, tree groups woodlands and hedgerows'*

Any construction access arrangements should identify if any existing vegetation is to be removed on site or on the site boundary. Trees close to the construction works should have appropriate root protection measures during the operations on site. TPO trees on site should be clearly marked on Landscape plans and also be clearly identified on site including appropriate tree protection measures.

On the basis of the above landscape comments, I would recommend that conditions be attached.

4.3 Conservation Manager (Historic Buildings Officer)

The site is located on the edge of the north western sector of the village, to the rear of the houses on the south side of the lane. The site is triangular in shape and bordered by 2 roads along the south west and south east boundary. The site is prominent in views from the southern point and the lane along the south western edge. An unregistered park and garden associated with Burghill Court lies just beyond the south east boundary of the site. Pyefinch Farmhouse which is a grade II listed building backs on to the northern boundary of the site.

The site has a strong tree and hedgerow boundary along south eastern edge. Provided this is retained it would effectively screen the development from the unregistered park and garden.

Pyefinch Farmhouse is located within a row of mostly modern housing development just beyond the northern edge of the site. The north side of the lane predominantly consists of modern housing estates. The rear of the listed farmhouse is therefore seen from the south / south west in the context of modern residential development. A key view of the farmhouse is obtained from the lane that it fronts. From here views beyond Pyefinch Farmhouse to the open countryside are obtained. This view, primarily through the gap to the west of the house contributes to its setting and is a reminder of the buildings former use. If this proposed development is to go ahead it is important that a sufficient area of landscaped open space is retained to the south of the listed building to retain a sense of openness when viewed from the road. It is noted that the site plan shows open space in this area which would be used for attenuation

4.4 Transportation Manager

The cycle pedestrian link and treatment where it joins the village street by Pearmain is unclear, as it attainment of visibility at this junction. Clarification is required.

The remainder of the overall layout and vehicular access junction with C1095 is considered acceptable.

Section 106 contributions would be required in line with our SPD.

Subject to resolution of the above points, I would have no objections.

Street lighting provision will need to be discussed with the parish council.

4.5 Housing Manager

In principle the housing team support the above application for 24 dwellings of which 8 will be made available for affordable housing. However the mix is not suitable and a suggested mix would be:

- 2 x 2 bed social rent
- 3 x 2 bed intermediate housing
- 2 x 3 bed social rent
- 1 x 3 bed intermediate housing

4.6 Parks and Countryside Manager

UDP Policy H19 Policy Requirements: It is noted that the applicant makes no reference to policy requirement for POS arising from this development in accordance with UDP policy H19 either as an on-site provision or an off-site contribution. The Design and Access statement doesn't include anything and there are no draft heads of terms accompanying the application. In accordance with UDP policy H19 developments of this size are required to provide a small children's play area and although the proposal is opposite the existing recreation ground and play area at Bakers Furlong this is not a reason for them not meeting this policy requirement. Evidence provided in the Play Facilities study and investment plan acknowledges that the existing play area at Bakers Furlong, although fairly new and built in 2011 as a community project, still requires additional investment to create a larger neighbourhood facility to cater for all ages appropriate to a village this size.

Therefore, in this instance it is appropriated to ask for an off-site contribution towards providing additional equipment at Bakers Furlong. In accordance with the SPD on planning obligations and based on market housing only we would ask for the following:

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

SUDS: It is noted that there is an area on site for SuDS and attenuation ponds. The applicant as not made this clear whether or not this will be publically accessible. With careful design to take account of health and safety these areas can provide both informal recreation to include natural play opportunities, enhance biodiversity and create habitats via ponds and areas of wetlands for amphibians and reptiles. If this is to be the case and the applicant makes provision for natural play as part of the SuDS it would potentially reduce the need to provide an off-site contribution.

SuDS areas need to be designed in accordance with national SUDS guidance and will require a detailed ecological/site management plan and annual work plan. The Council doesn't as yet have a SuDS strategy and advises developers to use CIRA guidance but with reference to DEFRA's draft of the revised SuDS guidance (currently being finalised) and to reference other useful SUDS and wildlife guidance from the Wildfowl & Wetland/RSPB available from the susdrain website.

Adoption/Future Maintenance:

POS/Play: If this is to be provided as part of the SuDS 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 a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement.

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

Waste Operations Manager

The area proposed for development is currently served by a 26tonne Refuse Collection Vehicle therefore any new developments in this area would also be covered by this size vehicle. Please consider this with regards to access and vehicle movement for collections of refuse and recycling. The vehicle will need to access once per week to all properties.

4.7 Land Drainage Manager makes the following comments:

Fluvial Flood Risk

Figure 1 indicates that the site is located in the low risk Flood Zone 1, where the annual probability of flooding from fluvial sources is less than 0.1% (1 in 1000). As the site is greater than 1 ha, a Flood Risk Assessment (FRA) is required in accordance with National Planning Policy Framework (NPPF) as part of the planning application. A FRA has been provided by the Applicant, which confirms the low fluvial flood risk at the site.

Other Considerations and Sources of Flood Risk

As required by NPPF, the FRA also gives consideration to flood risk from other sources. The potential flood risk from surface water, groundwater, impounded bodies of water and sewers have been assessed and considered to be of low risk. We concur with this assessment.

Surface Water Drainage

The submitted FRA states that the results of soil infiltration tests indicate that infiltration is not feasible on site. No soil infiltration results were submitted for our review. As this information contradicts information provided on the Cranfield University Landis Soils map, which indicates that the site is underlain by freely draining soils, it is recommended that the Applicant submits the results of soil infiltration tests with a drawing showing the location of where the tests were undertaken to confirm whether infiltration is feasible or not.

No watercourses are identified in the vicinity of the site. Therefore, the submitted FRA states that surface water runoff from the proposed development is proposed to be discharge to the existing public sewer located approx. 50m to the north of the site. The report noted that it will require a new connection, which will be subject to approval and agreement with Dwr Cymru Welsh Water (DCWW).

The Applicant submitted the existing greenfield runoff rates calculated for the proposed development site. The rates are shown in Table 1.

| Return Period | 30 year | 100 year |
|------------------------------|---------|----------|
| Greenfield runoff rate (l/s) | 5.5 | 6.8 |

It is proposed that the discharge rate to the public sewer is limited to the existing 1 in 100 year greenfield runoff rate. This approach is not in accordance with Defra's Non-statutory technical standards for sustainable drainage systems (March 2015) that states 'For greenfield developments, the peak runoff rate from the development to any highway drain,

sewer or surface water body for the 1 in 1 year rainfall event and the 1 in 100 year rainfall event should never exceed the peak greenfield runoff rate for the same event'.

Whilst limiting discharge from the site to the existing 1 in 100 year greenfield runoff rate is acceptable during the 1 in 100 year design scenario, discharge during smaller events should be limited to a lower runoff rate. The Applicant should demonstrate why a lower discharge rate cannot be achieved and, if a lower discharge rate is not feasible, the Applicant should confirm that a higher discharge rate is acceptable to DCWW without posing increased flood risk elsewhere.

The submitted FRA states that surface water runoff generated from the majority of the new development will be attenuated for up to and including the 1 in 100 year storm event with 30% climate change allowance. Surface water runoff is proposed to be attenuated in a balancing pond located within the site boundary. It is proposed that the entire basin excavation is lined with impermeable geomembrane to ensure that groundwater will not enter the pond. The preliminary calculations indicate that approx. storage volume of 245m³ may be required. It is proposed to provide an additional 300mm freeboard above the maximum water level during the 1 in 100 year event and the top of bank level. We agree with this approach, however we recommend that the Applicant demonstrates how exceedance of the drainage system will be managed during extreme storm events and/or blockage to ensure no increased risk of flooding to properties and people. Specifically, how runoff that cannot enter the drainage system instantaneously (i.e. because of the capacity of the gullies and below ground sewers) will be temporarily attenuated and/or managed in a controlled way to ensure that this is directed to the pond and not permitted to drain from the site in an uncontrolled manner.

The Applicant states that due to topography of the site, surface water runoff from the south-west corner of the site is proposed to be discharged to a pumping station and then pumped via a 60m long raising main to the gravity-fed surface water drainage system serving the remainder of the site. In accordance with building regulations, the pumping station must be located a minimum of 15m away from any habitable building. It is recommended that prior any works, the Applicant confirms that the proposed pumping station fulfils this requirement.

We also recommend that that Applicant confirms the depth to the groundwater table to justify the need to line the proposed attenuation pond. If the maximum groundwater level is in excess of 1m below the base of the proposed attenuation pond, we would promote the use of an unlined system that maximises infiltration potential even if during smaller rainfall events.

The Applicant intends for the surface water drainage to be offered to DCWW for adoption under a S104 agreement. The adoption will also include the balancing pond, attenuated outfall to the existing public sewer, the pumping station and the raising main. In our experience, DCWW are often reluctant to adopt above ground attenuation features and/or features that provide attenuation for events greater than the 1 in 30 year event. We recommend that the Applicant confirms this with DCWW as soon as possible and that the Council request this information to be provided as soon as possible.

The submitted FRA states that all highway gullies and gully connections will be adopted and maintained by Herefordshire Council Highways Authority as part of a S38 agreement. Maintenance of all private drainage within individual property boundaries will be the responsibility of each individual home-owner. We recommend that this is confirmed with Herefordshire Council Highways Authority.

The Applicant makes no reference to the treatment of surface water prior to discharge. Evidence of adequate separation and/or treatment of polluted water should be provided to ensure no risk of pollution is introduced to groundwater or watercourses, both locally and downstream of the site.

Foul Water Drainage

Foul water generated on the site is proposed to be discharged to the existing public foul sewer located at the south of the site. The existing public foul water sewer that crosses the eastern part of the site will be diverted so as to connect into the proposed foul water system – subject to agreement with DCWW. We recommend that the Applicant confirms this approach with DCWW and that the Council request this information to be provided for review

Overall Comment

Overall, we do not object in principal to the proposed development on flood risk and drainage grounds. However, we recommend that the following information is submitted prior to the Council granting outline planning permission:

- Results of soil infiltration testes undertaken throughout the site and showing the location of these tests to confirm that infiltration techniques are not feasible for this site.
- Confirmation of the depth to the groundwater table to justify the need to line the proposed attenuation pond.
- Confirmation that a lower discharge rate will be strived for during rainfall events less than the 1 in 100 year event in accordance with Defra's Non-statutory technical standards for sustainable drainage systems, and if this is not achievable then confirmation that DCWW would accept a higher discharge rate.

If infiltration is found to be feasible, the surface water drainage system should be revised to incorporate infiltration techniques as much as possible and submitted to the Council for approval.

Prior to construction, it is recommended that the Applicant submits the following information as part of any subsequent reserved matters application and/or planning conditions:

- A detailed drainage strategy with supporting calculations that confirms no flooding from the drainage system during the 1 in 30 year event and no increased risk to people and property up to and including the 1 in 100 year event and allowing for the potential effects of climate change.
- Details of any proposed attenuation systems, including cross section and proposed inlet/outlet structures.
- Details of the proposed pumping station including supporting calculations, noting that the pumping station should be designed in accordance with Sewers for Adoption 7th edition.
- Information on how surface water runoff will be managed in the case of the exceedance of the drainage systems and/or blockage.
- Demonstration that appropriate pollution control measures are in place prior to discharge.
- Confirmation from DWCC that surface water runoff and foul water from the development can be discharged to the existing public surface water and foul water sewers respectively.

- Confirmation that the proposed pumping station is located a minimum of 15m away from any habitable building.
- Confirmation and evidence of agreement in principle from the authority(s) responsible for the adoption and on-going maintenance of all aspects of the proposed drainage system.

5. Representations

5.1 Burghill Parish Council objects to the application for outline planning permission for the following reasons:

1. This site was considered during Burghill PC's neighbourhood development plan (NDP) assessments and was scored following HC's recommended scoring mechanism. On a scale of 1 to 4, 1 being a site most suitable for development and 4 being the least, this site was scored 2.57.

2. A high proportion of comments received during the initial consultation phase of the NDP gave the view that smaller developments with a maximum of 10-12 dwellings would be more suitable and acceptable in a rural location.

3. Burghill's Parish Plan and its subsequent update in 2010 specified that development at 'Pyfinch Triangle' should be protected from development (54% of residents responding to a parish wide questionnaire supported this statement).

4. The PC considers the development of this site would form an unacceptable extension to the village harmful to the rural character of a village situated in open countryside.

5. There is considerable concern regarding the capacity of drains to cope with increased demand. The site is known to become waterlogged in wet weather and drainage problems already exist in the village. The PC considers the ongoing discussions with Welsh Water regarding the SUDS and attenuation pond should be completed before a decision is taken on this site, as the question of adoption and maintenance of the system, and adequate protection of the pond from a safety perspective are of considerable importance locally.

6. Road safety was raised by a high proportion of residents attending the parish council meeting held to discuss the application; the site access will be very close to a particularly hazardous crossroads where a number of accidents, collisions and near misses have occurred (there has been a fatality at this crossroads, milkman was killed). Herefordshire Council Unitary Development Plan currently designates this zone around Burghill as open countryside therefore this type of development, and this location in particular is not in keeping with the rural nature of the village and would have a detrimental effect on the character and appearance.

5.2 14 letters of objection have been received that raise the following comments and issues:

Highway Safety

- Tillington Road is very busy and dangerous;
- Crossroads by the Copse has been site of fatal accident and other serious accidents; Lose sight of cars for several seconds;

- Close proximity to the busy junction at the Golf Club;
- Additional car movements (105 spaces provided) will add to an already dangerous stretch;
- Will this become a 30mph road?;

Services

- Power cuts;
- Overloaded sewerage system, problems;
- Site is mainly clay – land drainage problems in future. Testing done in largely dry winter;
- Who will be responsible for the drainage pond?

Character and appearance

- Rural village, this housing estate will change character;
- If street lighting introduced then this would be urbanising;
- Traffic noise and light pollution will harm character;
- Wildlife haven, wildlife corridor welcomed. Dispute aft that the site has low ecological value.
- One tree on southern boundary has TPO.
- A housing estate will change the character of the village.

Neighbourhood Plan

- Should not be discounted, there are smaller sites that can cumulatively provide the growth;
- NP was supportive of peppercorn growth;
- Wishes were for this site to be 12 dwellings not 24;
- Premature to decide this without adopted CS. UDP site was dismissed by inspector;
- Site is outside the envelope / settlement boundary;

Other

- Ditch across site that has been filled in;
- Site is not sustainable with its facilities (shop, school and public house) being in next hamlet. Not in easy walking distance. Therefore high dependency on the motorcar;
- What are the benefits to the local community?
- 6 buses a day is not regular.
- Two storey dwellings will impact on the privacy and amenity of the nearby residents;
- How would safety of the and be dealt with? If approved S106 should be used for The Copse Leisure area opposite (sports pavilion and courts that have planning permission);
- What is the proportion of social housing?

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 Burghill is identified within the adopted Unitary Development Plan as a main village and is also allocated as a main village within the Hereford Housing Market Area within the emerging Local Plan – Core Strategy with an 18% minimum growth target over the plan period across the Burghill and Tillington area. This equates to a minimum of 124 dwellings, to 2031. As there are a number of planning permissions already secured in the area, the residual minimum requirement over the lifetime of the Core Strategy is a minimum of 106 and therefore remains in excess of the 24 units proposed.

6.2 Taking the characteristics of the site into account the main issue is whether, having regard to the supply of housing land, the proposals would give rise to adverse impacts, having particular regard to the likely effects upon the character and appearance of the area, impacts arising from foul drainage, nature conservation interests and highway safety, that would significantly and demonstrably outweigh the benefits of the development so as not to contribute to the achievement of sustainable development.

The Principle of Development in the context of 'saved' UDP policies the NPPF and other material guidance

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

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

6.4 In this instance the Development Plan for the area is the Herefordshire Unitary Development Plan 2007(UDP). The plan is time-expired, but relevant policies have been 'saved' pending the adoption of the Herefordshire Local Plan - Core Strategy. UDP policies can only be attributed weight according to their consistency with the NPPF; the greater the degree of consistency, the greater the weight that can be attached. The Local Plan – Core Strategy Examination in Public took place during February 2015. Although the Inspector's report is anticipated shortly, Core Strategy Policies presently attract no weight for the purposes of decision taking.

6.5 The two-stage process set out at S38 (6) above requires, for the purpose of any determination, assessment of material considerations. In this instance, and in the context of the housing land supply deficit, the NPPF is the most significant material consideration for the purpose of decision-taking. NPPF Paragraph 215 has the effect of superseding UDP policies with the NPPF where there is inconsistency in approach and objectives. As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence over the UDP housing supply policies and the presumption in favour of approval as set out at NPPF paragraph 14 is engaged *if* development can be shown to be *sustainable*.

6.6 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."

- 6.7 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 in the 'planning balance' 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 policies of the NPPF as a whole if the positive presumption is to be engaged.
- 6.8 Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions.
- 6.9 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.”*
- 6.10 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.
- 6.11 Burghill is a village that is closely related to the hamlets of Tillington and Tillington Common. The Neighbourhood Plan is being progressed inclusive of both of these areas. Whilst Burghill village has a clear core, the goods, services and employment opportunities are dispersed in a linear manner along Tillington Road and serve the wider area. These include the school, shop and public house (The Bell) as well as the recreation ground, cricket and golf clubs. Occupants of the proposed dwellings would support these services and facilities and improve their economic growth. The sites location is considered to be sustainable.

Assessment of the scheme's sustainability having regard to the NPPF and Housing Land Supply

- 6.12 The NPPF refers to the pursuit of sustainable development as the golden thread running through decision-taking. It also identifies the three mutually dependent dimensions to sustainable development; the economic, social and environmental dimensions or *roles*.
- 6.13 The economic dimension encompasses the need to ensure that sufficient land is available in the right places at the right time in order to deliver sustainable economic growth. This includes the supply of housing land. The social dimension also refers to the need to ensure an appropriate supply of housing to meet present and future needs and this scheme contributes towards this requirement with a mix of open market and affordable units of various sizes. Fulfilment of the environmental role requires the protection and enhancement of our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use resources prudently and moving towards a low-carbon economy.
- 6.14 In this instance officers consider that in terms of access to goods, services and employment opportunities the site is sustainably located. The delivery of up to 24 dwellings, including 35% affordable, together with contributions towards public open space, sustainable transport and education infrastructure would contribute towards fulfilment of the economic and social roles.

These are significant material considerations telling in favour of the development. The scheme's contribution towards fulfilment of the environmental role is discussed below.

Impact on landscape character

- 6.15 NPPF Paragraph 109 states that valued landscapes should be protected and enhanced. Paragraph 113 advises local authorities to set criteria based policies against which proposal for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. It goes further, however, and confirms that *'distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.'* Appeal decisions have also confirmed that although not containing the 'cost-benefit' analysis of the NPPF, policies LA2 (landscape character), LA3 (setting of settlements), NC1 (biodiversity and development), NC6 (biodiversity action plans), NC7 (compensation for loss of biodiversity) and HBA4 (setting of listed buildings) are broadly consistent with sections 11 and 12 of the NPPF.
- 6.16 The application site has no formal landscape designation. It lies in open countryside outside but adjacent the settlement boundary on a site designated in the SHLAA (2009) as having low/minor constraints and being capable of accommodating up to 50 dwellings.
- 6.17 The Conservation Manager (landscape) acknowledges that the site is potentially visible from a variety of locations at varying distances from a number of private and public areas. Appropriate native tree and hedgerow proposals should be clearly indicated on the proposed landscape plan at Reserved Matters Stage (And is shown on the indicative plans at this Outline Stage). Conditions can also be used to secure landscape enhancement. The indicative layout also promotes green infrastructure along the pedestrian routes through the site and biodiversity enhancements in line with the recommendations of the Ecologist. In this respect conditions will be imposed requiring the protection of hedgerows, and in the context of the housing supply situation, the principle of development is considered acceptable in the context of 'saved' UDP policies LA2 and LA3.

Impact on heritage assets

- 6.18 Pyefinch Farmhouse is a grade II listed building that backs on to the northern boundary of the site and fronts the Burghill Village Road. Pyefinch Farmhouse is located within a row of mostly modern housing development just beyond the northern edge of the site. The north side of the lane predominantly consists of modern housing. The rear of the listed farmhouse is therefore seen from the south / south west in the context of modern residential development. A key view of the farmhouse is obtained from the lane that it fronts. From here views beyond Pyefinch Farmhouse to the open countryside are obtained. This view, primarily through the gap to the west of the house contributes to its setting and is a reminder of the buildings former use. This application is in outline form, with layout reserved for future consideration. The Conservation Manager recommends that to ensure a satisfactory form of development that a sufficient area of landscaped open space is retained to the south of the listed building to retain a sense of openness when viewed from the road. It is noted that the indicative site plan shows open space in this area which would be used for attenuation but this matter must be fully considered at a reserved matters stage. In addition to this, the boundary treatments must be carefully considered to ensure that the setting is preserved or enhanced whilst also providing adequate visibility for pedestrians and privacy for the occupiers of the dwelling. It is therefore considered that the residential development of the site would not, with the appropriate layout and landscaping, have an adverse impact on the setting of the Listed Building and as such would comply with the requirements of saved policy HBA4 of the UDP and guidance contained within the NPPF.

- 6.19 The unregistered parkland associated with Burghill Court lies just beyond the south east boundary of the site. The site has a strong tree and hedgerow boundary along south eastern edge that can be retained. Provided this is retained it would effectively screen the development from the unregistered park and garden and preserve its setting. As such the proposed development will comply with saved policy LA4 of the UDP and with the guidance contained within the NPPF.

Impact on ecological interests

- 6.20 Paragraph 109 of the NPPF requires that the planning system should minimise impacts on biodiversity and provide net gains where possible, contributing to the Government's commitment to halt the overall decline in biodiversity. An ecological report has been submitted with the application, that identifies bat activity in trees that bound the site, identifies bird nesting opportunities and also potential for great crested newts and makes further recommendations of how these issues can be addressed as part of a residential development. Following consultation with the Council Ecologist, it is recommended that conditions be imposed to ensure that a biodiversity enhancement plan be submitted in line with the report recommendations and that this inform the design, layout and landscaping of the Reserved Matters submission. On this basis, the development of the site can safely mitigate protected species and provide biodiversity enhancement in accordance with the requirements of saved UDP policies NC1, NC8 and NC9 and with the guidance contained within the NPPF.

Tree Preservation Order

- 6.21 A group Tree Preservation Order has been identified to the east of the site. This TPO (050) dates from 1972 and identifies a number of Groups of trees. The one to which this relates is G6 and relates to 6 Elm trees. These are no longer on site, and from the historic aerial photographs have not been in existence for some time. It is possible that these were lost to Dutch elm disease. Having consulted with the Councils Tree Officer, it is recommended that new mature trees are planted to compensate for the loss. The reserved matters in respect of landscape can ensure compliance with this requirement. As such the proposal complies with the requirements of saved policies LA5 and LA6 of the UDP.

Transport and Highway Safety

- 6.22 The site's location offers the opportunity to access some local goods and services on foot. The site is close to or adjoining the village playing field and near to the primary school and village Hall (Simpson Hall). Bus stops are accessible and with the shop and public house a short distance away.
- 6.23 One of the key elements of this application relates to the ability to make provision for pedestrian connectivity through the site. Following a query by the Transportation Manager confirmation was sought in respect of the achievable visibility to the pedestrian accesses. An updated plan was received that identifies current visibility at 60m from a position 2.4m back, As this is a pedestrian / cycle access only and will be constructed in accordance with the Herefordshire Council Guidelines with tactile paving to both sides of the carriageway and to adoptable standards with the relevant highways agreements. The second pedestrian access also provides good visibility, albeit this will involve the loss and replanting of some hedgerow trees, and a crossing to a proposed new footway into the sports ground. Providing this connectivity across the site to this facility is seen as a benefit to the wider community. Pedestrian access will also be provided through the site to the Tillington Road and a proposed crossing point to the existing footway that runs along the western side of the carriageway and onward to the school.
- 6.24 Turning to the vehicular access, the concerns of the local residents about traffic speed and movements are noted, with particular reference to the crossroads. The Traffic Manager

confirms that the proposed visibility splays of 2.4m x 120m to the north and 4.5m x 120m are acceptable. The splay is achievable primarily behind the existing hedgerow but will require some hedge and fence removal to the south of the site adjacent to the crossroads. This should also improve visibility at the crossroads which is currently impeded by the fence / hedgeline. The position of the access has purposefully been staggered from that Golf Club access, with good inter-visibility, to address highway safety concerns raised at a pre-application stage. This arrangement is now considered to be acceptable and no objection is raised.

- 6.25 It is also recommended that Section 106 contributions be secured for via the S106 agreement for Improvements to pedestrian / cycle facilities; Improvements to sustainable and public transport facilities; Community transport and safer routes to school. Otherwise improvements to include the new footways and crossing points will be secured through s38 and s278 agreements and required via planning conditions as suggested below.
- 6.26 Having regard to the above, the proposed development is considered to provide safe and adequate vehicular and pedestrian access to the site, without detriment to highways safety and is in conformity with the requirements of saved UDP policy DR3. It is also concluded that subject to these measures the scheme is acceptable relative to the requirements of paragraph 32 of the NPPF and would not result in residual cumulative impacts that are severe.

Land Drainage/Drainage

- 6.27 The Councils Land Drainage engineer has provided detailed comments on the proposed scheme, raising no objection in principle but requiring further exploration and details to be submitted. It is clear that this site and its eventual layout will need to carefully consider the drainage requirements as they will inform design and layout. These technical details will also need to form part of the Reserved Matters application, at which stage a re-consultation with the Land Drainage Engineer will take place (pre-application discussions will be encouraged). On this basis, the proposal is considered to be acceptable, in principle and whilst concerns are noted, these can be addressed fully in a detailed scheme submission. As such, the proposal is considered to be acceptable and compliant with the requirements of policy DR4 of the UDP.
- 6.28 Welsh Water do not object to the proposal, but note the presence of the mains sewer through the site. Their requirements will also impact upon the detailed layout and design of the site and will be considered again at Reserved Matters stage to ensure compliance.

S106 contributions

- 6.29 The S106 draft Heads of Terms are appended to the report. CIL regulation compliant contributions have been identified to the applicant at the pre-application stage and will secure contributions towards education (Whitecross High School and Burghill Primary School), Sustainable Transport, Play facilities and Waste Management. In addition, the S106 will secure 35% affordable housing being a mix of both Social rent and Intermediate Tenure (Shared Ownership / Low Cost Open Market). Subject to signing the Section 106 agreement, the proposal will comply with the requirements of the SPD Planning Obligations, UDP policy DR5 and CIL regulations.

Impact on adjoining residential amenity

- 6.30 The application is made in outline with all matters bar access reserved. The site layout plan does indicate a proposed layout, but does not definitively define the position of dwellings within the site. Officers are aware that the survey work discussed above will need to further inform design and layout. Nonetheless, officers are content that a layout could be devised that would respect the privacy of adjoining dwellings. Any reserved matters application will need to carefully consider these relationship and any technical requirements to ensure that privacy

amenity are acceptable having regard to the requirements of the Local Plan and NPPF guidance.

The Neighbourhood Plan

- 6.31 Paragraph 17 of the NPPF, 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*'. Burghill Parish Council has only comparatively recently applied to designate a neighbourhood plan area. Accordingly, the Neighbourhood Plan is not presently sufficiently far advanced to be attributed weight for the purposes of decision-taking and planning applications cannot, in these circumstances, be refused because they are potentially prejudicial to the neighbourhood plan.

7. Summary and Conclusions

- 7.1 The Council cannot demonstrate a five-year supply of housing land with requisite buffer. The housing policies of the UDP are thus out-of-date and the full weight of the NPPF is applicable. UDP policies may be attributed weight according to their consistency with the NPPF; the greater the consistency, the greater the weight that may be accorded. The pursuit of sustainable development is a golden thread running through both plan-making and decision-taking and identifies three dimensions to sustainable development; the economic, social and environmental roles.
- 7.2 When considering the three indivisible dimensions of sustainable development as set out in the NPPF, officers consider that the scheme when considered as a whole is representative of sustainable development and that the presumption in favour of approval is engaged. The site lies outside but directly adjacent the settlement boundary on a SHLAA site that was designated as having low/minor constraints. Burghill is, having regard to the NPPF, a sustainable location and this site is well placed to benefit from good pedestrian connectivity to village facilities. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable travel).
- 7.3 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 and in offering enhancements to footway and pedestrian crossing facilities locally, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development.
- 7.4 The Conservation Manager confirms the application site has the ability to accommodate residential development subject to the retention of landscape features and providing a well thought out landscape scheme that will also enhance biodiversity interests of the site. The sites location adjacent to the Grade II listed building has also been considered, and subject to landscaping and layout being sensitively addressed at the reserved matters stage, officers are content that a scheme can be provided that would not cause harm to the setting or significance of any designated or non-designated heritage assets.
- 7.5 Officers conclude that subject to the completion of a S106 agreement, there are no highways, drainage or ecological issues that should lead towards refusal of the application and that any adverse impacts associated with granting planning permission are not considered to significantly and demonstrably outweigh the benefits. It is therefore concluded that the presumption in favour of sustainable development should be engaged and that planning permission should be granted subject to the completion of a legal undertaking and planning conditions.

RECOMMENDATION

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

That planning permission be granted subject to the following conditions:

1. A02 Time limit for submission of reserved matters (outline permission)
2. A03 Time limit for commencement (outline permission)
3. A04 Approval of reserved matters
4. A05 Plans and particulars of reserved matters
5. B01 Development in accordance with the approved plans
6. C01 Samples of external materials
7. H06 Vehicular access construction
8. H09 Driveway gradient
9. H13 Access, turning area and parking
10. H27 Parking for site operatives
11. H29 Secure covered cycle parking provision
12. G03 Retention of existing trees/hedgerows
13. G04 Protection of trees/hedgerows that are to be retained
14. G11 Landscaping scheme - implementation
15. I16 Restriction of hours during construction
16. I51 Details of slab levels
17. K4 Nature Conservation - Implementation
18. L01 Foul/surface water drainage
19. L02 No surface water to connect to public system
20. L04 Comprehensive & Integrated draining of site
21. H17 Junction improvement / off site works

INFORMATIVES:

1. HN10 No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

- 2. HN08 Section 38 Agreement & Drainage details**
- 3. HN28 Highways Design Guide and Specification**
- 4. HN13 Protection of visibility splays on private land**
- 5. HN05 Works within the highway**
- 6. The developer is advised that the proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 3 metres either side of the centreline of the public sewer.**
- 7. 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.**

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Notes:
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Background Papers

Internal departmental consultation replies.

Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990

Application 151316 – Proposed residential development for 24 dwellings.

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.

Site for residential development on Land opposite the playing fields, Pyefinch, Burghill, Hereford.

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

| | |
|--------|---|
| £2,120 | (index linked) for a 2 bedroom apartment open market unit |
| £3,848 | (index linked) for a 2/3 bedroom open market unit |
| £7,113 | (index linked) for a 4+ bedroom open market unit |

to provide enhanced educational infrastructure at Burghill Primary School and Whitecross High School, The sum shall be paid on or before the commencement of the development (or in accordance with a phased timetable to be agreed) , 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, (or in accordance with a phased timetable to be agreed) 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 (or in accordance with a timetable of phased payments to be agreed) , and may be pooled with other contributions if appropriate.

5. The developer covenants with Herefordshire Council that 35% (10 units – on basis of development of 28) of the residential units shall be “Affordable Housing” (Social rent / Intermediate tenure) 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.
6. All the affordable housing units shall be completed and made available for occupation prior to the occupation of no more than 80% 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 (Social rent or Shared Ownership) 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 Burghill
 - 8.2. in the event of there being no person with a local connection to Burghill (cascaded parishes)
 - 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

Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

- 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. The developer covenants with Herefordshire Council to construct the Affordable Housing Units to Code Level 4 of the 'Code for Sustainable Homes – Setting the Standard in Sustainability for New Homes' or equivalent standard of carbon emission reduction, energy and water efficiency as may be agreed in writing with the local planning authority. 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.
 12. 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.
 13. 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.
 14. The developer covenants with Herefordshire Council to pay a surcharge of 2% 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.
 15. 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.

Kelly Gibbons
Principal Planning Officer