

MEETING:	PLANNING COMMITTEE
DATE:	18 MAY 2016
TITLE OF REPORT:	160812 - PROPOSED 23 DWELLINGS WITH GARAGES AND CAR SPACES AT LAND AT WEST WINDS, CHOLSTREY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8RT For: Mr And Mrs Preece per Mr John Needham, 22 Broad Street, Ludlow, Shropshire, SY8 1NG
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160812&search=160812
Reason Application submitted to Committee - Redirection	

Date Received: 16 March 2016

**Ward: Leominster
West**

Grid Ref: 347567,258864

Expiry Date: 16 June 2016

Local Members: Councillor FM Norman,

1. Site Description and Proposal

- 1.1 This application site lies adjacent to a site that has the benefit of planning approval for 12 dwellings, subject to a planning obligation/Section 106 agreement being completed. It comprises of the remainder of the field, not included in the previous application, a smaller field currently used for grazing sheep, with a small barn thereon, together with the garden associated with the existing bungalow, West Winds. The site amounts to approximately 0.73 hectares.
- 1.2 This is an outline application with all matters other than access reserved for subsequent approval. Access to the site is proposed via a new access to be created onto the B4529/ Cholstrey Road. An indicative layout has been submitted showing the existing bungalow demolished and the area redeveloped. The proposal is for 23 dwellings and not 25 dwellings as stated on the original planning application form.
- 1.3 A unilateral undertaking to cover affordable housing and developer contributions has been submitted and is currently under consideration.
- 1.4 An earlier proposal for 23 dwellings was refused planning approval by Committee on 24 February 2016, following a Committee Site inspection (reference 150053/O). Members approved subject to a Section 106 Agreement/Planning Obligation 12 dwellings on an adjoining site (reference 150052/O). The access for this approved site was originally proposed to be taken off Ginhall Lane, it was amended to Cholstrey Road; this access point will also be utilised by this development.

2. Policies

2.1 The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

2.1 Herefordshire Local Plan – Core Strategy

L01	-	Development in Leominster
H1	-	Affordable Housing - Thresholds and Targets
MT1	-	Traffic Management
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SS1		Presumption in favour of sustainable development
SD1		Sustainable Development

2.2 National Planning Policy Framework (NPPF).

The following chapters are of particular relevance to this proposal:
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
Section 11 - Conserving and enhancing the natural environment

2.3 Neighbourhood Planning

The Neighbourhood Plan Area was designated on 27 July 2012. The plan has been through the Regulation 16 stage, however it is not proceeding to examination at this stage given concerns relating to conformity with the Core Strategy. These matters related too:

- Restrictions placed on the strategic site to develop the road in full prior to housing and the road to be built even if strategic site does not go ahead – contrary to policy LO2
- No further allocations to meet the requirements of policy LO1
- Settlement boundary has not been revised since that designated in 2007, therefore difficult to see how only infill growth can occur in line with policy LO1
- Settlement boundary does not acknowledge the urban extension area
- Requirements on energy efficiency on all new development over and above that within national policy – contrary to NPPF, building regulations and viability testing
- No indication for the level of growth within the three rural settlements within the area and no settlement boundaries designated to demonstrate delivery – contrary on RA2
- Open countryside policy does not conform with policy RA3
- Retail policy ignores the sequential approach and the requirements of the Core Strategy – contrary to the NPPF and policy E5
- Onerous requirements on new business to meet renewable energy statement

- Designation of a large area of green space in conflict with the strategic urban expansion area – contrary to policy LO1 LO2 and the NPPF
- Designation of open space on land with existing planning permission

2.4 The Core Strategy 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/core-strategy/adopted-core-strategy>

3. Planning History

- 3.1 150052/O - Proposed 12 dwellings - Approved 24 February 2016 , subject to section 106 Agreement/Planning Obligation – 24/2/16
- 3.2 150053/O – Proposed 23 dwellings – Refused 24/2/ 2016
- 3.3 06/1199/F - Closing off of existing field access and creation of a new one. Approved 6/12/06
- 3.4 98/108/O - Erection of a 40 bed holiday hotel. Refused 17/6/98
- 3.5 96/987/O - Erection of a 40 bed holiday hotel. Withdrawn 14/3/87

4. Consultation Summary

Statutory Consultations

- 4.1. Welsh Water: No objections – subject to condition

Internal Council Consultations

- 4.2 Transportation Manager

No objection subject to a series of conditions as set out in the recommendation.

S106 Highway Contributions based on the following:

Medium Accessibility; 2 bedrooms = £1967; 3 bedrooms = £2592; 4 bedrooms = £3933

- 4.3 Drainage Consultant: Conditional support

Overall Comment

We have no objections in principle to the proposed development on the grounds of flood risk and drainage. However we recommend that the following information is provided as part of any subsequent reserved matters application:

- A detailed surface water drainage strategy that includes drawings and calculations that demonstrate consideration of SUDS techniques, no surface water flooding up to the 1 in 30 year event and no increased risk of flooding as a result of development up to the 1 in 100 year event and allowing for the potential effects of climate change;
- A detailed foul water management strategy;

- Proposals for the adoption and maintenance of the surface and foul water drainage systems.

Prior to construction we would also require the following information to be provided:

- Results of infiltration testing undertaken in accordance with BRE365 and results of recorded groundwater levels, noting that the base of any infiltration structure should be a minimum of 1m above the highest recorded groundwater level.

4.4 Conservation Manager (Ecology): No objection

This application is associated with P/150052/F and relates to the same ecological report. I have read the ecological report submitted which bears the same comments. I have said that it is very brief but, knowing the site and reading the report, I would agree that this development is likely to have a low impact given the biodiversity status of the site. There was no search commissioned from Herefordshire Biological Records Centre. This would have revealed badgers active within the vicinity. Although the report states no evidence of badgers on the site, the potential presence will need accommodating in any plan to develop the site to avoid issues during construction. Any work clearing scrub will need to take place outside the nesting season for birds with inclusion of some enhancements for birds in the development. If this application is to be approved I would therefore advise that the following non-standard condition is attached as follows:

Prior to commencement of the development, a species mitigation and habitat enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

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

Reasons:

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

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

4.6 Housing Officer – No objection

My response is unchanged because it would still be 6 units. 25% of 23 is 5.75 rounded up to 6. 25% of 25 was 6.25 rounded down to 6.

4.7 Parks and Countryside Manager –No objections

My comments remain the same as those for previous application 150053 which was refused as the proposed layout remains the same.

Open Space Provision: In accordance with **Core Strategy OS1 (Requirement for open space, sport and recreation facilities) and OS2 (Meeting open space and recreation needs)** open space provision will be sought from all new residential development and considered on a site by site basis in accordance with all applicable set standards of quantity, quality and accessibility which in this instance are locally the Open Space Study 2006, the Play Facilities Study and Investment Plan 2012 and nationally the Fields In Trust guidance. Where on-site provision is not appropriate off-site contributions may be sought where appropriate on an equally beneficial basis for the local community.

Although developments of 35 houses (this takes account of application 150052 as well which is still valid) could provide a good sized POS and play on site (using recommended standards of provision from both the Play Facilities Study and the Fields in Trust Guidance of 0.8ha of play to include 25ha formal play per 1000 population) given its location near to an existing play area at Ginhall Green, investment to provide additional play equipment here would help to improve this facility and its play value. In accordance with the Play Facilities Study and Investment Plan, the existing provision although in reasonable condition, is only for juniors, is small and offers little in play value. This area could be expanded and developed into a more exciting play area for both existing residents and those from the proposed development. The Leominster Neighbourhood Plan also supports this view and within its green and open space policies acknowledges the need to both protect and enhance this area.

Therefore, in accordance with the SPD on planning Obligations we would ask for this contribution based on market housing only as follows:

2 bed: £965

3 bed: £1,640

4+ bed: £2,219

**Please note this discounts the first bedroom as this is for children.*

(This comment was made on the basis that the two applications i.e. 150052 and this one may have been combined to simplify the s106 procedure, hence reference to 35 houses. Nevertheless the requirements apply equally to both sites)

- 4.8 Education and Commissioning Manager – No response- although previously no objection as there was spare capacity at both Primary and senior schools so no contribution.

5. Representations

5.1 Leominster Town Council Recommend REFUSAL for the following reasons:

- The application contains incorrect information regarding the number of dwellings proposed;
- The development of this site, which is not within the built up area of Leominster, has not been identified in the Neighbourhood Development Plan and will exacerbate air pollution levels at Bargates. Accordingly the proposal is contrary to the provisions of Policy L01 of Herefordshire Local Plan – Core Strategy
- The proposed access onto Cholstrey Road is considered dangerous and would create a significant traffic hazard;
- The proposal goes against Policy LD3 of the adopted Herefordshire Core Strategy which requires the retention of existing Green Infrastructure corridors and linkages;
- The proposal is sited directly in the Green Corridor as designated by both the Adopted Core Strategy and the emerging Leominster Area Neighbourhood Plan;
- The proposal goes against Policy LANP 10 of the emerging Leominster Area Neighbourhood Plan, currently at Regulation 16 Stage;
- The proposal goes against Policy LANP 11 of the emerging Leominster Area Neighbourhood Plan, currently at Regulation 16 Stage;
- The Leominster Area Neighbourhood Plan supports the adopted Herefordshire Core Strategy especially with regard to the protection of the Green Infrastructure Corridor.

Leominster Town Council also wishes to support the decision of the Herefordshire Planning Committee which refused planning application P150053 on this site.

5.2 Leominster Civic Society objects: rightly refused previously, not identified in NDP, also contrary to LO1 (viz air pollution at Bargates). Arguments relating to 5 year land supply spurious as piecemeal development on a green field site, not planned or acceptable

5.3 Nine letters of objection have been received making the following points

- Outside of the UDP boundary
- Loss of green corridor in LANP
- Greenfield site, brownfield land available will be sold soon -425 dwellings site
- NDP identifies this land as integral part of the green corridor
- Highway safety, poor junction –site of many accidents.
- Ginhall Lane is used as a rat run and by pedestrians, increased use by new residents
- The road floods near the junction.
- Increased pollution at Bargates, contrary to Policy LO1
- Pollution above government levels and EU laws
- Application states 25 dwellings, however 23 dwellings detailed

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

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160812&search=160812>

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 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."

6.3 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 Herefordshire Local Plan - Core Strategy UDP policies with the NPPF where there is inconsistency in approach and objectives.

6.4 The NPPF requires at paragraph 47 that Councils maintain a 5 year supply of housing land, which in Herefordshire Council's case must be supplemented by a 20% buffer for under supply. Recent appeal decisions at Leintwardine and Ledbury have confirmed that the Council does not benefit from an NPPF compliant supply of housing and as such Core Strategy policies relevant to the supply of housing should not be considered up to date as prescribed by paragraph 49 of the NPPF.

6.5 As such, and in the light of the housing land supply deficit, the housing policies of the NPPF must take precedence over the Core Strategy 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*. This requirement is mirrored in policy SS1 of the Core Strategy.

- 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 Policy LO1 of the Core Strategy states that Leominster will accommodate a minimum of 2,300 new homes within the plan period. This proposed development would contribute to this required growth and as such, the proposal would comply with the aims of this housing supply policy and weight can continue to be attributed to this.
- 6.8 Although not expressly defined, the NPPF refers to the three dimensions of sustainable development as being the economic, environmental and social dimensions. 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.”*
- 6.9 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. The relevant environmental policies of the Core Strategy that support this role are SS6, LD1, LD2 and LD3 a of the Herefordshire Local Plan – Core Strategy. All of these policies are compliant with the NPPF and can continue to be given weight in the decision making process.
- 6.10 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 and significant weight must be attributed to this. Likewise S106 contributions and the new homes bonus should also be regarded as material considerations.
- 6.11 The social role is reflected in the provision of a greater supply of housing and breadth of choice, including affordable housing. In this instance, enhancements to footway and pedestrian facilities locally, and increase in population locally that would support local facilities and services can also be considered as support to social role of sustainable development and can be afforded significant weight in the decision making process.
- 6.12 The principle of providing a single access point onto Cholstrey Road to serve the two adjoining sites i.e the one previously refused and the site approved for 12 dwellings has already been determined positively and therefore issues relating to the new access point are not considered to provide sustainable grounds for resisting residential development
- 6.13 The five year land supply issue is a new issue that has come to the fore, following the earlier refusal and appeal decisions set out above. It has substantive weight particularly given that the

Neighbourhood Development Plan does not conform with the Core Strategy in relation to the identification of sites for residential development besides those already cited to the south of Leominster and at Barons Cross and therefore the provisions of the National Planning Policy Framework requiring that sustainable development be approved, without delay, in accordance with Paragraph 14 of the NPPF is a substantive ground in support of this proposal.

- 6.14 Policy LD3 of Core Strategy does not provide an embargo on all development in green corridors, each application needs to be determined on its merits given that some green corridors provide wildlife corridors, others flood plains and in others such as in this instance there are opportunities for providing linkages to existing open spaces and recreation areas. There is no in principle objection to residential development in green corridors. There will be no removal of trees and the only hedgerow will be that required to provide the visibility splays for the new access. The key issue will be the integration and connection to the existing green infrastructure along Ginhall Lane.
- 6.15 Policy LO1 of Core Strategy states that residential development will be encouraged on the basis that it does not exacerbate air pollution levels at Bargates. The key word is exacerbate this is in the context of the large number of existing dwellings on the western side of Leominster. Whilst it will be the case that traffic movements will marginally increase within the designated area at Bargates, the major constituent to pollution levels is commercial traffic which can only readily be addressed with the provision of the southern relief road. This factor is not sufficient in the context of existing development to outweigh the benefits of provided much needed residential development in a sustainable location.

Summary and Conclusions

- 6.16 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. This is carried on in the provisions of the Core Strategy objectives which translate into policies encouraging social progress, economic prosperity and controlling environmental quality.
- 6.17 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 is one that constitutes a smaller scale non-strategic site as defined in Policy L01 in the Core Strategy. Therefore, given the context of the site and relationship to existing residential areas it is concluded that the proposal accords with this policy requirement. This is a sustainable location with good access to a wide variety of services and facilities. In this respect the proposal is in broad accordance with the requirements of chapter 4 of the NPPF (Promoting sustainable transport).
- 6.18 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 Section 106 contributions should also be regarded as material considerations. In providing a greater supply of housing and breadth of choice, including 25% affordable, officers consider that the scheme also responds positively to the requirement to demonstrate fulfilment of the social dimension of sustainable development. Beyond this, the application also makes provision for contributions to improved recreation, which will be dedicated to the Parish Council. Monies will also secure improvements for cycle way provision. In broader terms it is considered that this is an appropriate site that can provide the scale of housing proposed and associated community benefits.
- 6.19 This site will have a landscape impact, this though is ameliorated by the back drop trees to the north-east and south-east. Indeed this impact will be less than for the adjoining site approved for 12 dwellings.

- 6.20 Additional traffic will join the B4529 Road, however this road is capable of taking the increased traffic volumes without having an adverse impact on highway safety
- 6.21 The proposal will result in an increase in traffic movements at Bargates and whilst this will not be a neutral impact, the major constituent of adverse pollution levels is produced by larger predominantly HGV vehicles which can only be addressed by the provision of the southern relief road.
- 6.21 Foul and surface water drainage can be provided, as confirmed by Welsh Water and the Land Drainage Consultant
- 6.22 Ecological issues can be addressed by submission of a habitat enhancement scheme that will provide measures for improving biodiversity in and around the development site.
- 6.23 Officers conclude that there are no overriding landscape, highways and associated pollution, drainage and 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 particularly given the lack of a 5 year land supply and buffer. It is therefore recommended that planning permission be granted subject to the completion of a legal undertaking and appropriate conditions.

RECOMMENDATION

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

- 1 A02 - Time limit for submission of reserved matters (outline permission)**
- 2 A03 - Time limit for commencement (outline permission)**
- 3 A04 - Approval of reserved matters**
- 4 Prior to commencement of the development, a species mitigation and habitat Enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved**

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

Reason : To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policy LD2 of Herefordshire Local Plan-Core Strategy

- 5 L01 - Foul/surface water drainage**
- 6 L02 - No surface water to connect to public system**
- 7 L03 - No drainage run-off to public system**

8 No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and local drainage will be dealt with and this has been approved by the Local Planning Authority

Reason : To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system

9 I20 - Scheme of surface water drainage

10 H03 - Visibility splays

11 H06 - Vehicular access construction

12 H13 - Access, turning area and parking

13 H27 - Parking for site operatives

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. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework**
- 2. HN10 - No drainage to discharge to highway**
- 3. HN08 - Section 38 Agreement & Drainage details**
- 4. HN04 - Private apparatus within highway**
- 5. HN01 - Mud on highway**
- 6. HN28 - Highways Design Guide and Specification**
- 7. HN05 - Works within the highway**

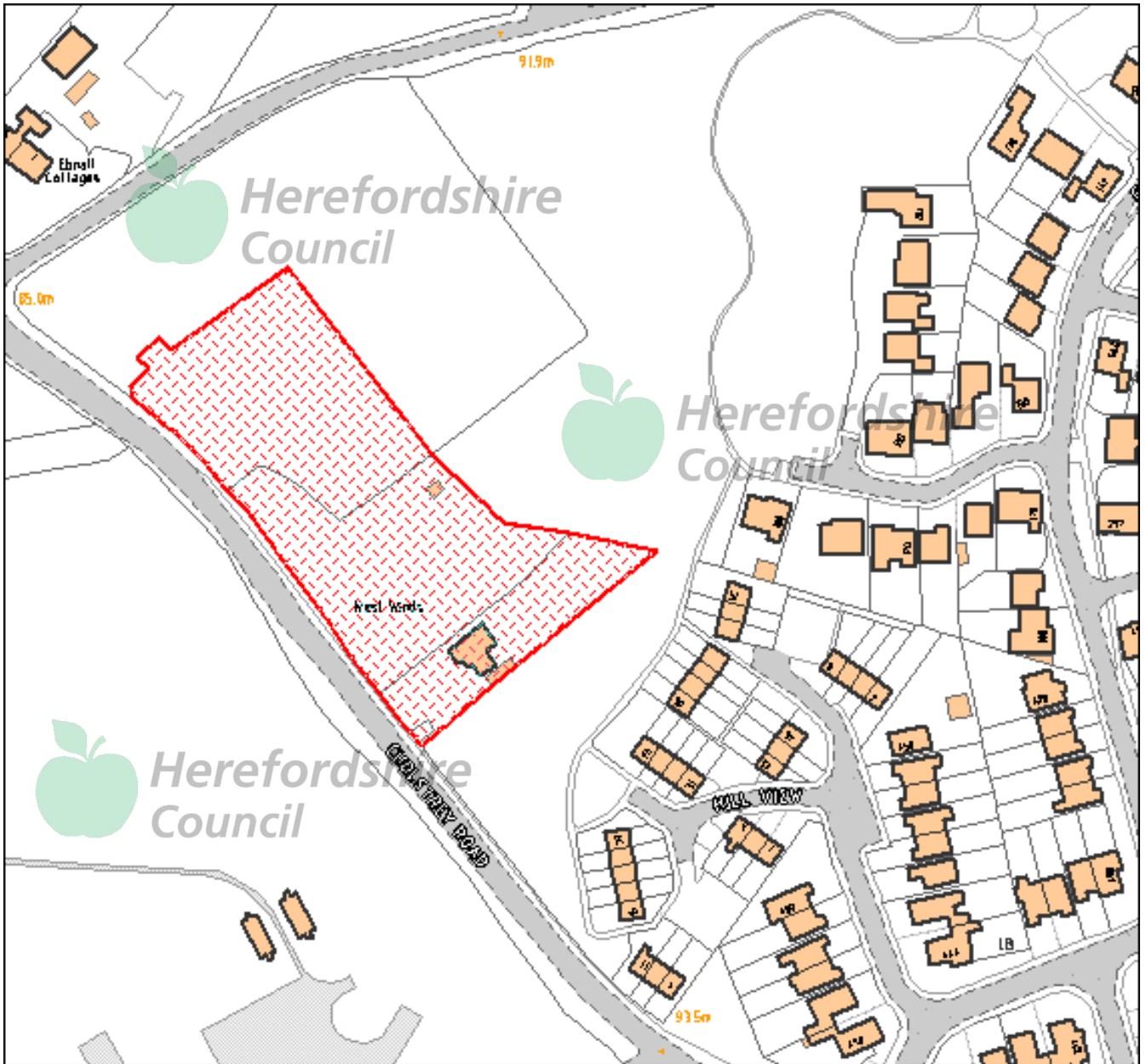
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 160812

SITE ADDRESS : LAND AT WEST WINDS, CHOLSTREY ROAD, LEOMINSTER, HEREFORDSHIRE, HR6 8RT

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