

MEETING:	PLANNING COMMITTEE
DATE:	18 JANUARY 2017
TITLE OF REPORT:	162166 - OUTLINE PLANNING APPLICATION FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORKS. AT LAND TO THE SOUTH OF MARTINDALE, KINGSLAND, HEREFORDSHIRE. For: Mr Richards per Mr Barrie Davies, Unit 9, Oak Tree Court, Cardiff Gate Business Park, Ca, CF23 8RS
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162166&search=162166
Reason Application submitted to Committee – Re-direction	

Date Received: 8 July 2016

Ward: Bircher

Grid Ref: 343592,262069

Expiry Date: 12 October 2016

Local Member: Councillor WLS Bowen

1. Site Description and Proposal

- 1.1 The site amounts to approximately 0.5 hectares of land to the north west of Kingsland. It lies on the northern side of the A4110, close to its junction with the B4360 (North Road), is flat and roughly rectangular in shape. It is bounded to the south east by the residential curtilage of Westcroft and partly to the north east by Martindale; the remainder bounding agricultural land. The north western boundary is shared with the drive to two residential properties - Martindale and The Leys, and is also used as an access to a commercial premises: The Horse Boutique, and the south west with the A4110.
- 1.2 The land contains the remnants of a traditional orchard. At the time of the site visit, six trees remained. The orchard is surrounded on three sides by hedgerows; the fourth boundary (north west) is comprised of a post and rail fence.
- 1.3 The site itself has no specific national or local landscape designation, although traditional orchards are Habitats of Principal Importance (HPI). The Kingsland conservation area bounds immediately to the south east and a Grade II listed building; the monument to the battle of Mortimers Cross, is located at the junction of the B4360 / A4110.
- 1.4 The aerial photograph below shows the context of the site. It lies at the edge of the village where development begins to become more sporadic, opposed to the linear and more concentrated form along North Road. Luctonians Rugby Club is directly opposite with its car park and club house clearly visible from the A4110.



Figure 1: Aerial photo of the site and immediate environs

1.5 The application is made in outline with all matters apart from access reserved for future consideration, and is for residential development. The submission is made on the basis that the scheme will provide up to 10 dwellings. Accordingly the application is not required to be supported by a Heads of Terms Agreement. The following documents are included:

- Design & Access Statement
- Planning Statement
- Heritage Impact Assessment
- Transport Assessment & Highway Technical Note
- Extended Phase 1 Habitat Survey
- Drainage Strategy & Soakaway Test Results
- Landscape & Visual Appraisal
- Tree Survey
- Archaeological Desk Based Assessment

2. Policies

2.1 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
SS6	-	Environmental Quality and Local Distinctiveness
RA1	-	Rural Housing Distribution
RA2	-	Herefordshire's Villages
RA3	-	Herefordshire's Countryside
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
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
ID1	-	Infrastructure Delivery

2.2 National Planning Policy Framework

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 4	-	Promoting Sustainable Transport
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
Section 12	-	Conserving and Enhancing the Historic Environment

2.3 Historic England - The Setting of Heritage Assets

2.4 Supplementary Planning Guidance

Supplementary Planning Document: Planning Obligations

2.5 Kingsland Neighbourhood Development Plan is now at Reg16 awaiting the examiners report – There have been objections to the housing policies contained within the plan and, whilst it is a material consideration, it can only be afforded limited weight.

2.6 Kingsland Parish Plan

2.7 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:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/core-strategy/adopted-core-strategy>

3. Planning History

3.1 Applications on site:

77/0924, 78/0232 and 79/0488 - All made in outline for the erection of six dwellings and all refused for reasons relating to matters of highway safety and that the site was in a rural area where there was a presumption against further development at that time.

3.2 Applications on adjoining land:

89/0111 – Site for the erection of a detached 4 bed house – Refused for matters relating to highway safety and that the site was in a rural area where there was a presumption against further development at that time.

143387 – Erection of two bungalows – Refused as the proposal was considered to represent an unsustainable form of development in the open countryside and due to the fact that insufficient information had been provided in respect of highway matters. A second application; 150576 for the erection of a single dwelling on the same site, was refused for the same reasons.

4. Consultation Summary

Statutory Consultations

- 4.1 Historic England - The application site lies adjacent to the Kingsland Conservation Area at the north-western edge of the settlement and within the setting of the Grade II listed monument at the road junction. This location is a key part of the route into and out of the conservation area, greatly characterised by elongated development addressing the roadside. If the principle of development here is accepted by the local authority then careful attention should be given to the density, scale, massing and design of any additions to this important historic setting and its subsequent contribution to the character and appearance of the conservation area.
- 4.2 Severn Trent – No objection subject to the imposition of conditions as follows:
1. The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority.
 2. The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

We advise that there may be a public sewer located within the application site and encourage the applicant to investigate this. Please note that public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. If there are sewers which will come into close proximity of the works, the applicant is advised to contact Severn Trent Water to discuss the proposals and we will seek to assist with obtaining a solution which protects both the public sewer and the building.

- 4.3 Welsh Water - We have reviewed the information submitted as part of this application with particular focus on the Drainage Strategy Report reference 16181 Rev 1 and the Soakaway Rest Results ref ADB/13754 dated 08/07/2016. Both of which demonstrate that surface water can be disposed via onsite infiltration.

Condition

1. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

Internal Council Consultations

- 4.4 Transportation Manager – Qualified comments recommending conditions

In relation to the original submission, comments as follows:

I visited site and am very much of the same opinion as the two previously rejected planning applications you refer to below.

- The proposed site ingress/egress does not meet the required visibility splays for the proposed visibility splays 2.4 x 120 (referred to in the Design access statement/we would recommend 100m based on DMRB SSD) are not achievable with the layout supplied in this

application. complete removal of the hedge would be need to instigate and this is not shown in the application.

- There is also a verge height difference to road side level of approximately 0.5 m up to 0.9 m in places that isn't referred to in the application, further complicating the visibility.
- Drainage also appears to be a substantial issue.

In summary Highways would not support this application as it stands.

Following a site visit and discussions between the applicant's highway consultant and Council's highway engineer, further information has been submitted. Additional comments from the Transportation Manager are as follows:

A revised visibility splay drawing has been submitted and has allayed Highways concerns in relation to the Required SSD's under Manual for Streets. A footpath to the front of the site is another welcome addition and counteracts connectivity issues.

Highway capacity:- No issues foreseen on the network.

Accessibility by other modes of transport:- Connectivity to the village and public transport has been achieved by including a footpath in the proposal to the front of the proposed site.

Safety:- Available Accident Data indicates 2 serious and 1 slight accident in the vicinity over last 5 years. 1 serious 2015, 1 serious and 1 slight 2016, contradicting the transport statement supplied by the applicant dated July 2016, but not believed to impact on this proposal with the sites proposed visibility splays.

Speed limit:- 40mph

Required visibility splays in both directions 2.4m X120m in both directions

Design:- The resubmitted application with revised visibility splays and the inclusion of a footpath is welcomed by highways addressing our earlier comments

4.5 Conservation Manager (Archaeology) - No objection subject to condition. Comments as follows:

I note the submitted archaeological desk based assessment, provided by Border Archaeology.

As is indicated by this assessment, although there are no recorded heritage assets within the application site specifically, there are a number of assets closely adjacent that may be of relevance. The conservation area of Kingsland borders the south eastern perimeter of the site, and the site is close to or within the broad zone of the recorded medieval battlefield of Mortimer's Cross (1461 AD).

As is also indicated by the assessment, to the east of the site is an area of high potential for [below ground] prehistoric finds. There is no good evidence that this area extends into the application site, and the recent agricultural history of the application site is likely to have compromised any surviving remains of this period. Nevertheless, there is likely still to be some moderate interest here.

As regards the likely implications of the proximity of the recorded battlefield zone, such zones are intrinsically difficult to define, and *in situ* remains of substance from them unlikely. I am not of the view therefore that it represents a particular constraint in this case.

In summary, **I have no objections**, although I do think it appropriate in this case to require some limited archaeological recording under condition as mitigation. This would be in accordance with NPPF Para 141 and Policy LD4 of the Core Strategy.

4.6 Conservation Manager (Ecology) – No objection subject to condition. Comments as follows:

The revised layout R051.1.3.03 Rev F dated 26/10/2016 includes an area of mitigation orchard planting. These trees should be on vigorous rootstocks and of locally traditional heritage fruit varieties (Marcher Apple Network – www.marcherapple.net would be a good source of information on varieties). The ground flora should be seeded as traditional meadow grass wildflower mix and not maintained as ‘lawn’ – this is to provide maximum benefit to pollinating insects and other wildlife. The orchard heritage of the site could further be mitigated and enhanced (and provide an opportunity for healthy eating) by using further fruit trees on vigorous rootstocks as the other proposed “garden” trees. A further opportunity to help restore the orchard character of the site would be by planting some fruit trees within the hedgerow boundaries as they are managed/gapped-up/replanted – varieties of Damson (on vigorous rootstock such as ‘Brompton’) would be typical of fruit trees in hedgerows in the county – again being good for wildlife and an opportunity for healthy eating by local residents.

Subject to the above I believe this site would offer appropriate enhancement and habitat restoration to be shown as true ‘betterment’ and I would have **no objection** to this application.

To support this I would suggest that a detailed planting and management plan with full details of varieties and rootstocks as well as planting and protection specifications and a 5 year failure replacement/establishment and maintenance plan is submitted for final approval.

4.7 Conservation Manager (Landscape) – No objection subject to condition. Comments as follows:

- Viewed in plan form the site appears a logical extension to the village lying as it does adjacent to the identified settlement boundary, with built form on both sides and continuing the linear pattern of the settlement. However the junction of the A4110 and North Road which runs through the village does mark a distinct change in character and the potential impact of the proposal on its surroundings does necessitate further consideration at this gateway to the village.
- The landscape character type covering the site and its surroundings is Principal Settled Farmlands; defined by hedgerows marking field boundaries, sparse hedgerow tree planting, mixed farming use; pasture land and orchards with a dispersed wayside settlement pattern outside of the villages and hamlets. The site and its locality is representative of many of those features however the tranquillity of the site is eroded by the A4110 road as well as the adjacent land use to the south, the sensitivity of the site in landscape terms is therefore reduced. This in turn does not suggest that the landscape should be subject to further inconsistencies to its character type but it does suggest in my view, that there is potential scope for good quality development upon the site.
- The site is noted as a traditional orchard however on visiting the site it is clear that little in the way of the orchard planting is still in evidence today. Given its condition I would be unlikely to object from a landscape perspective, however I believe there is scope to incorporate some of the remaining fruit trees into an area of public open space which would in turn enhance the setting of the development.
- I also note within the landscape appraisal it states in paragraph 5.5: “The retained hedgerow and additional planting along the south western boundary will result in little of the housing being visible to passing traffic on the A4110.”

- Whilst in paragraph 5.7 it states: “A length of hedgerow – to meet highways visibility splay requirements - and a number of small trees within the site, are to be removed as part of the development.” Clearly having viewed the visibility splay layout within the Transport Statement, along with the Transport Managers comments, there are concerns regarding the extent of hedgerow removal required in order to facilitate the access. I would recommend clarification being sought on this issue before commenting further in respect to landscape.
- A final note in respect to this application is, given that the success of the scheme is reliant upon the detail of the proposed layout of dwellings, open space and access, it may be more appropriate to have this information now rather than at the reserved matters stage.

4.8 Conservation Manager (Historic Buildings) – Objects to the application. Comments as follows:

The application site is located to the north-west of the village of Kingsland. It is proposed to develop the agricultural field for housing, though the application is only for Outline permission with all matters reserved apart from access.

NPPF paragraph 128 requires that the application describe the significance of heritage assets and their settings so that the impact of a proposal can be properly assessed and understood. An archaeological desk-based assessment has been submitted. This report records the heritage assets in the vicinity but only assesses the archaeological potential, not the impact of the proposal on built-heritage and the associated settings. The application should have contained a full assessment of the built heritage in the vicinity, either within the DBA or as a separate Heritage Statement/Assessment.

There are no built heritage assets within the application site, nor would any built heritage assets be directly impacted by the proposal, however the settings of two heritage assets in particular would be affected. These two assets are the Kingsland Conservation Area and the Mortimer’s Cross Monument, which is grade II listed.

The Kingsland Conservation Area borders the application site to the south-east. This boundary is effectively the north-west extent of the village of Kingsland and forms the Settlement Boundary within the Kingsland Neighbourhood Plan. Further to the north-west are a few sporadic dwellings and their associated outbuildings. To the south-west is the Luctonians Sports Club with its sports pitches and to the north-east are agricultural fields. The current extent of the village is visually clear and contained.

Policy LD4 of the Core Strategy, which has not been mentioned within the application documentation, requires that “development proposals affecting heritage assets and the wider historic environment should protect, conserve and, where possible enhance heritage assets and their settings”. The application site forms part of the setting of the conservation area and therefore should be assessed in that context. The linear character of the conservation area is reinforced by the dwellings facing onto the road, or occasionally being side-on to the road.

As the application is in Outline the layout provided is only indicative but it does show that the intention would be to position dwellings with their rear elevations facing the road. This is contrary to the character set up by the conservation area and may have a detrimental impact on views into and out of the conservation area, contrary to Policy LD4.

As this site would be an extension to the village, rather than an infill plot, it is considered that more attention would need to be given to reflecting the existing local character. However this does not overcome the fact that the site is outside the Settlement Boundary as defined in the draft Neighbourhood Plan and is therefore contrary to the policies within that Plan.

The other heritage asset in the immediate vicinity of the site is the Mortimer’s Cross Monument which lies to the south-south-east. This grade II listed building is prominently situated between

the A4110 and the B4360 village road. It acts as a gateway to the village and the conservation area in its positioning, but it reputedly located on the site of the commemorated battle, thus giving its setting more significance. Since development on the application site would effectively extend the village northwards, this would diminish the gateway position of the monument. This would be considered a detrimental impact on the heritage asset and therefore contrary to Core Strategy Policy LD4.

The two identified potential areas of harm would bring into consideration NPPF Paragraph 134 where the level of harm is “less than substantial”. The conservation of the heritage assets must be given considerable weight when assessing a development. It is therefore considered that the proposal cannot be supported in heritage terms.

4.9 Neighbourhood Planning Manager – Comments as follows:

The Kingsland NDP completed its submission publication period on the 22 August. A number of representations were received and a Decision Document has been issued regarding the plans progression to examination.

It has been determined that the Kingsland NDP should progress to examination, however there are still a number of outstanding concerns regarding Policy KNDP14 –KNP16 and their ability to facilitate proportional growth in line within the Core Strategy. It will be an issue explored further at the examination in line within the need for the plan to meet the Basic Conditions.

With this and para 216 of the NPPF in mind, the material weight of the Kingsland NDP will need to be considered accordingly:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given); The plan has reached examination stage therefore weight can be applied
- 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
- There are a number of unresolved objections to Policy KNDP14 to KNP16 with regards to the ability of the policies and the settlement boundary to deliver the growth stated within the NDP.

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).

Representation has been made by the Strategic Planning team, with regards to the concerns about conformity between Policy RA1 and RA2 of the Core Strategy and policy KNDP14 to 16 of the NDP.

Therefore at this stage the housing policies KNDP14-16 will have limited material weight in relation to para 216 of the NPPF

An examiner has been appointed to the NDP and it is anticipated that an examination will take place in March 2017.

5. Representations

5.1 Kingsland Parish Council - objects to the planning application on the following grounds:

The site lies outside the settlement boundary in the neighbourhood development plan which is at the stage of Regulation 16 consultation and as such now carries weight in planning decisions; highway safety as the proposed access is onto a dangerous stretch of the A4110 with a history of serious collisions; and over-development of the site.

The parish council asks the planning authority to note the serious collision which required emergency services and closure of the A4110 approximately one month ago, which is contrary to the Transport Report submitted (clause 2.4.1), and the history of planning applications to develop the site which have been refused.

In respect of the amended plans and additional information the parish council comments as follows:

The meeting agreed that the comment provided on 29 July 2016 remains the view of the parish council, and respectfully asks that planning services notes the Kingsland neighbourhood development plan is now at the stage of independent examination.

5.2 Twelve letters of objection have been received from local residents. In summary the points raised are as follows:

- Concerns about highway safety, in particular:
 1. Poor visibility at the existing access into the Horse Boutique. The proposed site access will suffer the same poor levels of visibility, especially in a northerly direction.
 2. Heavy traffic along the A4110, much of which travels in excess of the 40mph speed limit.
 3. There have been numerous accidents along this stretch of the A4110, including one recently which caused the road to be closed for over five hours.
 4. The submitted information takes no account of additional traffic associated with match days at Luctonians rugby ground.
 5. No parking provision is made for visitors.
 6. The development is disconnected from the rest of the village. No provision is made for pedestrians or cyclists.
- The proposal would extend ribbon development into the open countryside.
- There is no need for additional development. The current rate of development across the parish will deliver housing well in excess of the 14% increase required up to 2031.
- The proposal represents disproportionate and unsustainable growth.
- Development would destroy the remains of the orchard which is a priority woodland bird species buffer zone on Defra's database. It will therefore have a negative effect on biodiversity.
- Poor design. A cul-de-sac in the open countryside is out of character.
- The design is also unsympathetic to the adjoining conservation area.
- There is limited capacity in the mains sewage network, particularly with regard to phosphate pollution in the River Wye.
- The proposal will be detrimental to the historic value of the site. It may well be part of the site of the battle of Mortimers Cross. Encroachment into it will spoil the enjoyment of such ancient history and its legacy.
- Services such as the doctor's surgery and local primary school are at capacity.

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

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

The Principle of Development

- 6.1 In accordance with the National Planning Policy Framework (the NPPF), the delivery of sustainable housing development to meet objectively assessed need is a central theme of the Core Strategy. Policy SS2 'Delivering new homes' confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable "where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community."
- 6.2 It is also clear that a failure to maintain a supply of housing land will render the housing supply policies of the Core Strategy as being non compliant with the NPPF and therefore out-of-date. Policy SS3 'Ensuring sufficient housing land delivery' thus imposes requirements on the Council in the event that completion rates fall below the trajectory set out in Appendix 4 of the Core Strategy.
- 6.3 Despite the adoption of the Core Strategy, a housing land supply deficit persists. The Examination Inspector concluded that there was a marginal but realistic five-year housing land supply on the basis of the projected delivery of the strategic sites outlined by the Core Strategy. The supply was assessed at 5.24 years.
- 6.4 However, subsequent appeal decisions have shown that delivery targets for the strategic sites were unduly optimistic. In the Council's most recent appeal decision at Clehonger, the Inspector concluded that a 4.38 years supply could be demonstrated.
- 6.5 The Core Strategy sets out a number of policies in chapters 3, 4 and 5 for the supply of housing which are relevant to the present application. As a consequence of the housing land supply position, the policies in the Core Strategy relating to the supply of housing are out of date by reason of paragraph 49 of the NPPF. Although these policies are out of date, the weight that they should receive is a matter of planning judgment for the decision-maker. This is a matter that has been reinforced in recent case law, Suffolk Coast / Hopkins Homes.
- 6.6 Policy SS2 of the Core Strategy makes an overall provision for the delivery of a minimum 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. Of these, just over two thirds are directed to Hereford and the market towns, with a distribution of a minimum 5,300 homes (32%) to rural settlements. Here, new housing development will be acceptable where it helps to meet housing needs and requirements, supports the rural economy, local services and facilities, and is responsive to community needs.
- 6.7 Policy SS3 sets out a range of measures to be undertaken should a material shortfall in the rate of housing delivery be identified through the annual monitoring process. The policy addresses the relationship between the delivery of strategic housing sites and key elements of infrastructure.
- 6.8 Policy RA1 explains that the minimum 5,300 new dwellings will be distributed across seven Housing Market Areas (HMAs). This recognises that different parts of the County have differing housing needs and requirements. Kingsland lies within the rural part of the Leominster HMA,

which is tasked with an indicative housing growth target of 14%. This equates to 65 dwellings for Kingsland.

- 6.9 The policy explains that the indicative target is to be used as a basis for the production of Neighbourhood Development Plans (NDPs). The growth target figure is set for the HMA as a whole, rather than for constituent Neighbourhood Areas, where local evidence and environmental factors will determine the appropriate scale of development. The Inspector's Report on the Core Strategy Examination makes clear that a flexible and responsive approach is necessary to deliver the level of development sought, whilst recognising and respecting the rural landscape. The Modification proposed, and now incorporated within the adopted Core Strategy, leaves flexibility for NDPs to identify the most suitable housing sites.
- 6.10 Policy RA2 identifies the rural settlements which are to be the main focus of proportionate housing development in the rural areas (fig. 4.14) and other settlements where proportionate housing is considered appropriate (Fig. 4.15). In these locations, housing growth will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned. Policy RA2 seeks to support housing growth in or adjacent to these settlements and confirms that the indicative targets established in policy RA1 will be used to inform the level of development in the identified settlements. The expectation of this policy is that NDPs will define appropriate settlement boundaries or reasonable alternatives or will allocate land for new housing or otherwise demonstrate delivery by indicating levels of suitable and available capacity.

Kingsland Neighbourhood Plan

- 6.11 The site lies within the Parish of Kingsland, and within its designated Neighbourhood Area, but outside of the settlement boundary as proposed by the emerging Neighbourhood Plan.
- 6.12 Kingsland NDP acknowledges in its objectives, the need to promote a level of housing growth to meet the indicative housing target for Herefordshire that is proportionate to the size of Kingsland Parish and its settlements so that the parish retains its essentially rural character. The Kingsland NDP is to progress to examination, but the outcome of this is unlikely to be known until early Spring 2017. The plan does identify a settlement boundary for the village and it is clear that the application site falls outside of this. However, comments from the Neighbourhood Planning Manager confirm that there are still a number of outstanding concerns regarding Policy KNDP14 – KNP16 and their ability to facilitate proportionate growth in line within the Core Strategy.
- 6.13 The Neighbourhood Plan does not allocate specific housing sites, rather it relies on meeting its minimum proportionate growth targets through windfalls within its settlement boundaries and criteria based policies. There is a current shortfall of 25 dwellings from the minimum proportionate growth requirement.
- 6.14 Paragraph 216 of the NPPF highlights that the extent to which there are unresolved objections to relevant policies should also be taken into account when determining the weight to be attributed emerging plans. It specifically says:

From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- *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*

- 6.15 The issue of housing delivery is, in the view of the case officer, a significant matter. This is clear from the NPPF which places sustainable development at the forefront of its stated objectives. As the unresolved objections relate specifically to housing delivery, it is officer's

opinion that only limited weight can be attributed to the Kingsland NDP in the decision making process at this stage.

Impact on Heritage Assets

- 6.16 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting:
- “to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
- 6.17 With particular regard to Conservation Areas, Section 72 of the Act goes on to say:
- “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*
- 6.18 Appeal decisions have subsequently informed the precise meaning of “preserving” in that it means doing no harm.
- 6.19 It follows that the duties in section 66 do not allow a local planning authority to treat the desirability of preserving the setting of listed buildings merely as material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm “considerable importance and weight”.
- 6.20 Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.
- 6.21 Other appeal decisions (particularly the Barnwell Manor Court of Appeal decision) confirm that a finding of harm to the setting of a listed building or a conservation area give rise to a strong presumption against planning permission being granted. On the basis of S66, the presumption is a statutory one, even if the harm caused is deemed to be ‘less than substantial’.
- 6.22 The NPPF offers further guidance about heritage assets, recognising that they are irreplaceable resources that should be conserved; ‘...in a manner appropriate to their significance.’ Paragraphs 129 to 134 offer particular clarity about the assessment to be made of the significance of heritage assets. Paragraph 131 outlines three criteria to be taken account of in the determination of planning applications. These are as follows:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.23 Paragraph 132 reiterates the presumption of great weight being afforded to the preservation of heritage assets and is clear that: ‘The more important the asset, the greater the weight should be.’

6.24 It is also clear that significance can be harmed or lost through alteration or destruction of a heritage asset, and that proposals that require this should be fully justified and wholly exceptional.

6.25 Paragraph 133 is clear that;

‘Where a proposed development will lead to substantial harm to or loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss...’

6.26 Paragraph 134 has been confirmed through case law to be a restrictive policy and deals with development that would lead to less than substantial harm. It has two limbs, stating that harm should be weighed against the public benefits of the proposal. The same case law confirms that the second limb; the public benefits, should go first, and that the test is effectively different to paragraph 133 – the identification of harm does not immediately direct one to refuse planning permission.

6.27 In this case the recognised heritage assets that are potentially affected by the proposal are the Grade II listed monument which is located approximately 35 metres to the south east of the application site, the conservation area which extends along North Road and whose boundary abuts the application site and potential archaeological interest relating to the site of the Battle of Mortimers Cross.

6.28 With regard to the Grade II listed monument, the following photographs show the context in which it is located. Figure 2 shows the monument in the foreground of what was a public house but is now a private dwelling.



Figure 2: Grade II listed monument looking up North Road, towards conservation area



Figure 3: South eastern approach to the site. Luctonians RFC car park (left) and monument in foreground

- 6.29 The Council's Historic Buildings Officer has objected to the application and considers that the introduction of further development on the application site would diminish the prominence of the monument and its significance as a gateway to the main village. A similar contention is made about the development's impact upon the setting of Kingsland Conservation Area. The comments conclude that the levels of harm would be 'less than substantial' and that the application should not be supported. No assessment is made of the harm within this 'less than substantial' range.
- 6.30 The Heritage Impact Assessment that supports the application provides a more detailed critique of the impacts of the development on the setting of the listed monument and conservation area. It acknowledges that the significance of both heritage assets is high and concurs with the view of the Council's Historic Buildings Officer that both form a gateway to the village. The report also considers the impact of development in terms of archaeology, given that the area is the likely location of the Battle of Mortimers Cross. It concludes that the land has been disturbed by agriculture over many years and therefore the probability of finds is low. The Council's Conservation Manager (Archaeology) concurs with this and raises no objection to the proposal.
- 6.31 In terms of the overall impact on the conservation area, the assessment concludes that it will be in the low to moderate range. In reaching this conclusion the assessment notes that; whilst the site does abut the conservation area boundary, it is situated a considerable distance from the historic core of the settlement. This is correct. The historic core is located approximately 1km south east. The conservation area incorporates a wide area which includes the linear C20th development along North Road, all the way to the junction of the A4110. In my view this does not form an obvious gateway to the conservation area. It does not provide the transition to a more historic part of the village, but does reinforce the linear character. Although the application is only made in outline, the dimensions of the site are such that it will provide a continuation of this linear form, rather than a development in depth. Whilst there is inevitably an impact, I would concur with the conclusion that this will be low to moderate.
- 6.32 With regard to the Grade II listed monument, the assessment concludes that the magnitude of impact of the proposed development on the setting of the monument is low to moderate. It takes account of the proximity of the heritage asset to the site while acknowledging that the proposed design will not directly obscure established views of the monument. The removal of the site's roadside hedgerow may have some impact on the setting of the monument, particularly its part in forming the gateway to the village, but this can be mitigated through new

planting and/or translocation. Like the setting of the conservation area, there will be an impact on the Grade II monument, but this is low to moderate.

- 6.33 The Mortimers Cross Monument will be partially inter-visible with the proposed development. The applicants Heritage Assessment considers that this impact can be significantly reduced by appropriate enhancement of the hedge boundary defining the south east boundary of the development. The photographs above show the monument in context. It sits in the foreground of an unlisted and architecturally unremarkable building, on an A class road and opposite a large tarmacked car park. Road users may see the monument in the context of the proposed development as they travel in a northerly direction along the A4110, but this will be the briefest glimpse. Any further impacts on its setting are, in the view of the case officer, likely to be low.
- 6.34 It is concluded that any impacts on heritage assets will be less than substantial and towards the low/low to moderate range. In accordance with paragraph 134 of the NPPF, this harm should be weighed against the public benefits of the proposal.

Highway Safety

- 6.35 Policy MT1 of the Core Strategy and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 30 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 32 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.'(NPPF para. 32).
- 6.36 The application originally contained insufficient information in respect of highway matters and accordingly the Transportation Manager was not supportive of the scheme. This was entirely consistent with the position taken with two other applications on an adjacent parcel of land which were refused for, amongst other reasons, the lack of sufficient information to determine whether an adequate means of access could be provided. It should not be taken to mean that there is a fundamental concern with the provision of a suitable means of access to the site.
- 6.37 Following a meeting between the Council's highway engineer and the applicant's highway consultant, additional information has been submitted which includes the completion of a seven day speed survey on the A4110 within the vicinity of the proposed site access junction. In turn, the results have been used to inform the requisite visibility splays in accordance with Manual for Streets 2 (MfS2). The results of the surveys are summarised in the table below:

	Average Speed	85 th Percentile
Northbound	36.4 mph	42.5 mph
Southbound	38.5 mph	45.4 mph

- 6.38 On the basis of these findings, and in accordance with MfS2, the requirement is to provide 120 metre visibility splays in either direction. These can be achieved, albeit that it will require the removal and re-planting of the roadside hedge.
- 6.39 The updated transport work also takes account of a recent road traffic accident not originally referred to in the first Transport Statement, something which a number of objectors have highlighted. The accident data provided reveals that the collision occurred as a consequence of driver error rather than as a result of an inherent problem with the road itself. The interrogation of the details of the accident records within the locality does not lead officers to conclude that the road conditions or traffic speeds are a contributory factor to the accidents that have

occurred and they do not give rise to concerns that the proposal is unacceptable on highway safety grounds.

- 6.40 The revised access arrangements also include the provision of a footpath along the site frontage from the vehicular access back towards Kingsland. The intention is to provide a safe refuge for pedestrians along the A4110 so that they can then walk along North Road to the village centre. The plans also indicate a textured pedestrian crossing point over the A4110.
- 6.41 In conclusion, officers are satisfied that the proposed development can be accommodated by the existing road network. The additional work completed by the applicant's agent following the concerns originally raised by the Council's Transportation Manager have demonstrated that an access that complies with MfS2 can be provided. The inclusion of a footpath will provide a safe link for pedestrians and it is considered that, in its amended form, the proposal is compliant with Policy MT1 of the Core Strategy and the NPPF.

Drainage Matters

- 6.42 Technical matters in respect of drainage have been considered. Neither Welsh Water nor Severn Trent have objected to the application in terms of water supply or the capacity of the sewerage network. Subject to the imposition of conditions the proposal is considered to accord with Policies SD3 and SD4 of the Core Strategy.

Ecology

- 6.43 It is acknowledged that the site is a former orchard and as such is part of the Biodiversity Action Plan (BAP), where there is a presumption that priority areas will be protected. However, it is evident from the photograph below that only a small number of orchard trees remain and that none of them are in good condition. As such it is not considered that the orchard offers a significant benefit in its current condition in terms of biodiversity value.
- 6.44 The amended indicative layout includes an area to be planted with orchard trees. The Council's Ecologist acknowledges that this offers appropriate enhancement and habitat restoration and, subject to the imposition of an appropriately worded condition to reflect this does not object to the application. On this basis the proposal is considered to be compliant with Policy LD2 of the Core Strategy.



Figure 4: View of remaining orchard trees on the site

Summary and Conclusions

- 6.45 Kingsland is acknowledged as a sustainable settlement where there is a presumption in favour of proportionate growth. Whilst some permissions have been achieved recently, the village has not reached its minimum growth target. The site is outside of the settlement boundary as defined by the Kingsland Neighbourhood Development Plan but, in light of the objections raised to its settlement policies relating to concerns over the ability of the plan to deliver the requisite housing growth, the Plan can only be afforded limited weight. Although the site lies outside of the NDP settlement boundary, officers consider the site to be sustainable in locational terms. Moreover, as the NDP does not allocate sites for housing, once made it would not benefit from the 'protection' offered by the recent ministerial letter that serves to clarify the weight to go to made NDP's in the context of a housing land supply deficit.
- 6.46 Although an objection has been raised by the Council's Conservation Officer in terms of the impact of the development on the setting of heritage assets, the case officer is, in this instance, inclined towards the conclusions of the applicants heritage consultant. The proposal will have a less than substantial impact on the setting of the Grade II listed monument and a similar impact on the setting of the conservation area. Even within the less than substantial spectrum the impacts are considered to be low to moderate. The proposal continues the linear form of the village and it is not considered that a reason for refusal. In accordance with paragraph 134 of the NPPF, this harm should be weighed against the public benefits of the proposal.
- 6.47 The acknowledged shortfall in deliverable housing sites represents a material consideration of significant weight in favour of the scheme. The scheme would boost the supply of housing within the parish. This is acknowledged as a social benefit to the public. In terms of the economic dimension of sustainable development, the scheme would introduce investment in jobs and construction in the area. The scheme also offers environmental benefits in terms of the biodiversity enhancement through the re-planting of orchard trees as part of a landscaping scheme for the site.
- 6.48 Initial concerns about highway safety have been addressed through the completion of additional survey work and the provision of amended plans to demonstrate that an access can be provided in accordance with MfS2 and the Council's Highway Design Guide. The Council's Transportation Manager has confirmed that the scheme is acceptable subject to the imposition of conditions.
- 6.49 All other matters have been considered and there is nothing of such material weight to presume against a development that is deemed to be sustainable in all other respects. The proposal accords with the Core Strategy and the National Planning Policy Framework and therefore the application is recommended for approval.

RECOMMENDATION

That planning permission be granted subject to the following conditions and any other conditions considered necessary by officers in accordance with the scheme of delegation:

- 1. C02 - A02 Time limit for submission of reserved matters (outline permission)**
- 2. C03 - A03 Time limit for commencement (outline permission)**
- 3. C04 - A04 Approval of reserved matters**
- 4. C49 - Site observation – archaeology**
- 5. CD3 - Foul/surface water drainage**

6. CAB – Visibility splays
7. CAC – Visibility over frontage
8. CAE – Vehicular access construction
9. CAJ – Parking (estate development)
10. CAL – Access, turning area and parking
11. CAP – Junction improvements / off site works
12. CAQ – On site roads – submission of details
13. CAS – Road completion in 2 years
14. Prior to the first occupation of any of the dwellings hereby approved a scheme for the provision of covered and secure cycle parking within the curtilage of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. The cycle parking shall be installed and made available for use prior to occupation of the dwelling to which it relates and shall be retained for the purpose of cycle parking in perpetuity.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

15. No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:
 - a. Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.
 - b. Parking for site operatives and visitors which shall be retained and kept available during construction of the development.
 - c. A noise management plan including a scheme for the monitoring of construction noise.
 - d. Details of working hours and hours for deliveries
 - e. A scheme for the control of dust arising from building and site works
 - f. A scheme for the management of all waste arising from the site
 - g. A travel plan for employees.

The agreed details of the CMP shall be implemented throughout the construction period.

Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 16. **No new development shall commence on site until a detailed habitat & biodiversity enhancement scheme, including type and location of bat roosting and bird nesting mitigation/enhancements, a lighting plan, landscape & planting proposal and an associated 5 year maintenance and replacement plan has been submitted to, and approved in writing by, the local planning authority. The scheme shall have particular regard to the sites former use as an orchard and the planting scheme should include the use of traditional heritage fruit varieties The scheme shall be implemented as approved.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 17. **CA1 – Landscape management plan**
- 18. **CBK – Restriction of hours during construction**
- 19. **CCD - No burning of materials/substances during construction phase**
- 20. **CE6 - Efficient use of water**

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. **I11 – Mud on the highway**
- 3. **I09 – Private apparatus within the highway**
- 4. **I45 – Works within the highway**
- 5. **I05 – No drainage to discharge to highway**

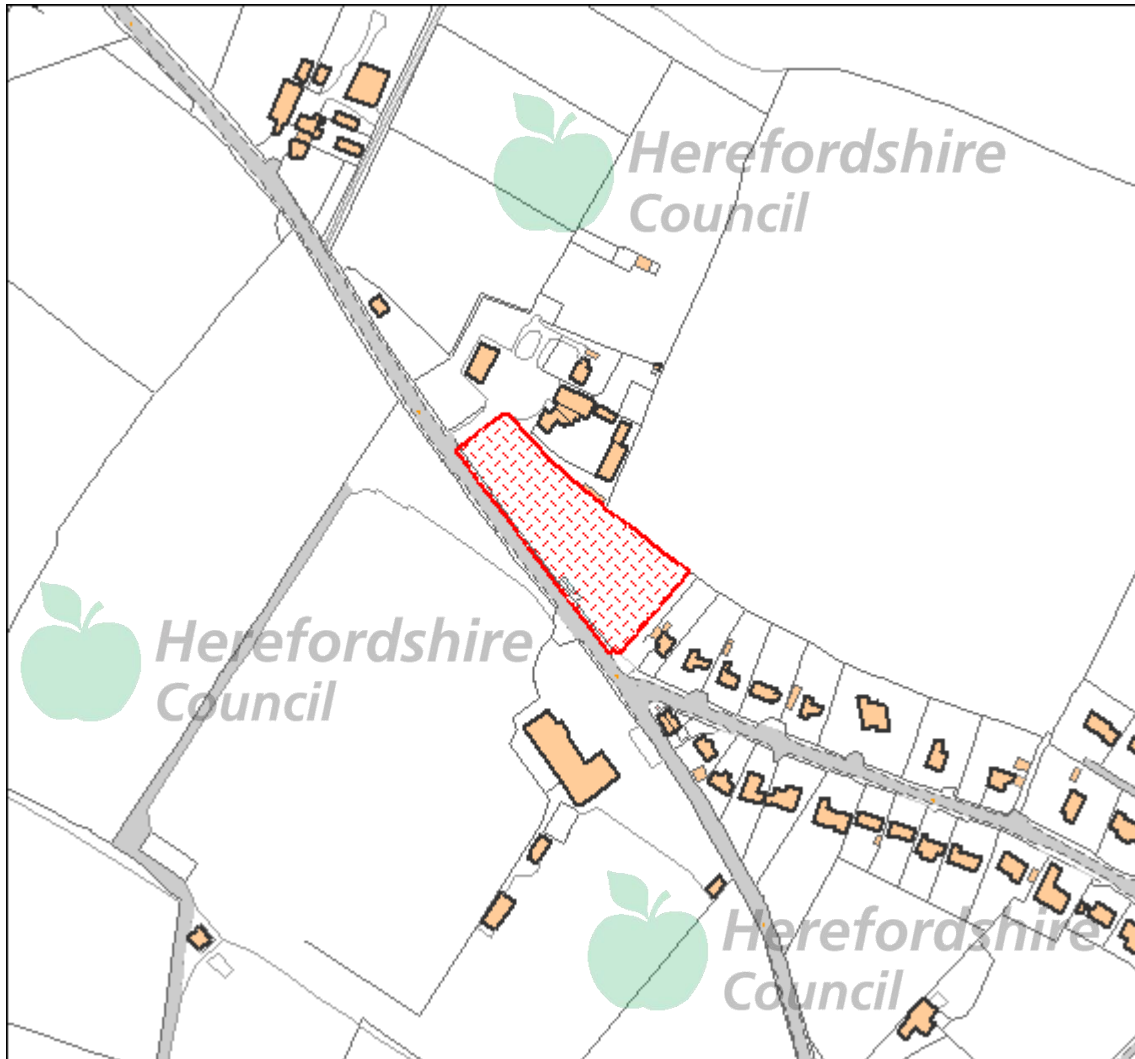
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 162166

SITE ADDRESS : LAND TO THE SOUTH OF MARTINDALE, KINGSLAND, HEREFORDSHIRE

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