

MEETING:	PLANNING COMMITTEE
DATE:	18 JANUARY 2017
TITLE OF REPORT:	<p>160238 - CHANGE OF USE OF LAND FROM AGRICULTURAL TO A ONE FAMILY TRAVELLER SITE INCLUDING STATIONING OF TWO MOBILE HOMES, 2 TOURING CARAVANS, TREATMENT PLANT, SHEDS AND ASSOCIATED PARKING/TURNING/HARDSTANDING AND NEW ACCESS AT LAND AT OAK TREE VIEW, BEGGARS ASH LANE, WELLINGTON HEATH, HEREFORDSHIRE, HR8 1LN</p> <p>For: Mr Tony Holland, 21 Hardinge Close, Holme Lacy, Hereford, Herefordshire HR2 6JY</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=160238&search=160238
Reason Application submitted to Committee – Redirection	

Date Received: 26 January 2016 Ward: Ledbury North Grid Ref: 370950,239686

Expiry Date: 1 April 2016

Local Member: Councillor EPJ Harvey

1. Site Description and Proposal

- 1.1 The site comprises a small road-side field on lower ground to the adjacent C1172 (Ledbury to Wellington Heath) road (known as Beggars Ash Lane) at its point into the entry of Wellington Heath Parish, on the southern (lower side) of Wellington Heath.
- 1.2 The River Leadon runs along the western side of the site (on lower ground again), and this side of the site is tree lined. There is a hedgerow along the roadside boundary, and it is possible to see into the site and beyond from the C1172 road.
- 1.3 The proposal is for a change of use of the land for use as a traveller site occupied by Mr and Mrs Tony Holland (applicant) and daughter, and Mr and Mrs Holland (senior).
- 1.4 The planning application is accompanied by a supporting statement setting out the applicant's Romany Gypsy status, their local connection to the Ledbury/Wellington Heath area and testimonials of Mr Holland's character from 12 contributors. This includes:-
 - a new roadside access (at a point lower and to the south of an existing field entrance);
 - landscape planting to the southern tip of the site;
 - two static caravans;

Further information on the subject of this report is available from Mr Fernando Barber-Martinez on 01432 383674

- two touring caravans;
- grassed amenity area;
- hard surfaced area;
- two wooden shed at the back of the site (adjacent to stream);
- old gate into site closed (near to the Wellington Heath sign).

The site is identified as potentially contaminated land (this is a grass field).

- 1.5 Malvern Hills Area of Outstanding Natural Beauty western boundary lies to the east on the opposite side of the road. A Special Wildlife site also lies to the east on the opposite side of C1172 road. The landscape characterisation at this location is Timbered Farmland Plateau.
- 1.6 The applicant's personal circumstances are described as such in their supporting statement:
- "The Applicants have roots in the local area and have been tenants of the land for roughly 25 years having used it for grazing horses. They are therefore well known, and well respected in the area, as is indicated by the number of supportive letters accompanying the Application.*
- 1.7 *The family is of Romany Gypsy extraction which originated in the Ledbury area and have lived in Herefordshire all their lives. The Holland family has strong local connections. Mr. Holland's grandfather was well known in the Ledbury, Leddington area, with his horse drawn 'waggins', working on farms in the area, Fair Tree farm outside Ledbury, Hill Farm Putley etc. The prospective residents of the site are Mr and Mrs. Holland and their daughter and Mr. Holland's parents.*
- 1.8 *For many years they had a nomadic habit of life, however in recent years this became more difficult because of the combined effect of a sharp reduction in seasonal work opportunities, pressure on stopping places applied by the Local Authority (without providing transit site alternatives) and the rising expectations for children's education and their own health care needs. So the amount of travelling they were able to do has reduced. About 12 years ago Mr. and Mrs. Holland started to live, (unhappily), in a house at Holme Lacy while Mr. and Mrs. Holland senior have lived for many years on the Local Authority Traveller site in Lower Builingham.*
- 1.9 *Both families have good reasons for wishing to return to their traditional way of living in caravans in close family groups, and travelling at various times of the year. Mr. and Mrs. Holland have had great difficulty settling into the house and they believe their mental health has suffered as a consequence to the extent that they have at times felt suicidal. They have both been on anti-depressants and feel they are just not suited to bricks and mortar living. In addition Mrs. Holland suffers from fibro myalgia which means she cannot manage stairs. Their frustration has been compounded by the restriction on keeping a caravan at their house. imposed by the Housing Association, of just two months in the year. During this time they maintained a caravan but they had to keep it in other people's yards. Letters are supplied in the application to this effect.*
- 1.10 *Mr. and Mrs. Holland (senior) are in their late 70's and are finding it difficult to manage on the Orchard Park site, especially in the winter and at night As they have to get across the yard to use the facilities They have asked for their caravan to be plumbed in to the system but this not possible. As they get older they feel they need additional family support especially Mrs. Holland who does not drive.*
- 1.11 *It has been a long held dream to own a piece of land where they could set up a family site of their own. On 1st April 1978, the family moved their caravan from where it was parked on the Edgar Street car park in Hereford, into the centre of High Town, where it had Local Authority Planning permission for the day. This was to draw attention to the fact that it was 8 years since*

the passing of the Caravan Sites Act requiring Local Authorities to make provision for Travellers and still there had been no indication of when these sites would emerge. (The first one opened more than 10 years later in November 1988). A picture of the family outside their caravan appeared in that week's Hereford Time and is included with this application"

- 1.12 A brief road traffic survey was undertaken by the applicant, and revised drawings were also received on 7 June 2016 in respect of access arrangements (clarification of gradients/ splays/ site layout).
- 1.13 The traffic survey indicates daily traffic towards Ledbury of 427 vehicles, and 441 towards Wellington Heath. Speed at the 85%tile towards Ledbury is indicated at 41.1 mph. Speed at the 85%tile towards Wellington Heath is indicated as 44 mph. Traffic volume is indicated at 60 cars every hour.

2. Policies

- 2.1
- SS1 - Presumption in Favour of Sustainable Development
 - SS2 - Delivering New Homes
 - SS4 - Movement and Transportation
 - SS6 - Environmental Quality and Local Distinctiveness
 - RA3 - Herefordshire's countryside
 - H4 - Travellers Sites
 - MT1 - Traffic Management, Highway Safety and Promoting Active Travel
 - LD1 - Landscape and Townscape
 - LD2 - Biodiversity and Geodiversity
 - SD1 - Sustainable Design and Energy Efficiency)
 - SD4 - Waste Water Treatment and River Water Quality

2.2 Neighbourhood Plan

Ledbury Neighbourhood Plan Area was designated on 12/11/12. Work has commenced on drafting the plan and whilst a material consideration it has not reached a stage where it can be given weight in the decision making process.

2.3 National Planning Policy Framework 2012 (NPPF)

Paragraph 6 and 14 (Presumption in Favour of Sustainable Development);
Section 3: Supporting a prosperous rural economy;
Section 4: Promoting Sustainable Transport;
Section 7: Requiring Good Design;
Section 8: Promoting Healthy Communities;
Section 11: Conserving and Enhancing the Natural Environment.

- 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>

2.5 Other Material Considerations:

Planning Policy for Traveller Sites (PPTS) (August 2015)

Manual for Streets 2.

This Council consulted on the Herefordshire Local Plan Travellers' Site Document: Preferred Options (July 2016) - to which the application site is not specifically allocated. This document identifies the need to provide (at least) 48 residential pitches by 2031.

2.6 Appeal Decision 141687 (APP/W1850/W/15/3007927) in respect of site at Oakley Cottage, Mid Summer Orchard, Ridge Hill, Hereford in respect of a single family traveller site. Appeal dismissed (Decision date 23rd March 2016). The key issues in that case for the Inspector were:

1. Whether the appellant and proposed occupiers of the site fall within the PPTS definition of gypsies and travellers for planning purposes,
2. The effects of the proposed development on the character and appearance of the surrounding area;
3. The implications of the proposal for objectives of sustainable development; and
4. Whether any harm arising from the above issues is outweighed by other considerations, including the need for gypsy and traveller sites, personal circumstances and Human Rights considerations.

3. Planning History

3.1 None to site.

4. Consultation Summary

Statutory Consultations

4.1 Hereford Nature Trust: No response.

Internal Council Consultations

4.2 Transportation Manager: No objection to point of access following receipt of traffic survey information.

4.3 EHO: No adverse comments.

4.4 Waste Officer: No response.

4.5 Licensing and Gypsy Traveller Team: No objections. For your information, I can confirm that Mr John Holland and his wife Kathleen Holland have been residents of the council owned traveller site known as Orchard Park, Watery Lane, Lower Bullingham, Hereford since the site opened in around 1992. It should be noted that eligibility to apply for a Pitch on a council-owned Traveller site is restricted to gypsy travellers.

Local Plan Team: The Council is preparing a Travellers' Sites Development Plan Document (DPD) which will address the accommodation requirements of Gypsies and Travellers in the County up to 2031. As part of this process a Gypsy and Traveller Accommodation Needs Assessment has been prepared to form part of the evidence base for the emerging DPD. The final version of the assessment was published in November 2015 and will be subject of examination when the DPD reaches that stage. The assessment evidences an overall requirement for the period 2014/15 to 2030/31 for:

- 48 Gypsy and Traveller pitches (with 19 of these being required in the period between 2014/15 to 2018/19).
- 9 Travelling Show person plots; and
- 3 transit pitches over the period 2014/15 to 2018/19.

In addition to these requirements the study suggests an additional 18 pitches may be required for those households currently in bricks and mortar over the five years 2014/15 to 2018/19.

A copy of the assessment can be found at: <https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/travellers-sites-document>

Records indicate that one pitch has received planning permission to date in 2014/2015 and two pitches in March 2016. therefore there is not a five year supply of deliverable sites available. Should this application be granted planning permission it will contribute to the need identified in the assessment.”

5. Representations

5.1 Ledbury Town Council: Objection because of the following concerns:

- access and egress,
- risk of pollution;
- adequacy of water treatment plant;
- not in SHLAA;
- in open countryside;
- change of use; sight line.

5.2 Wellington Heath Parish Council (immediate adjacent parish):

Objection (summarised) on the following points:

- Contrary to policies SS6, LD1 and SD1;
- Not in SHLAA;
- Main gateway into village;
- Application silent on AONB;
- Wrong landscape description in application;
- Smoke and bonfires;
- Stream rises in heavy rain;
- The need for a site in Wellington Heath is questionable;
- The applicant and family are not homeless having lived in Holme Lacy for 12 years;

If permission is granted we would wish to see:

- Improved tree screening;
- Strict controls on use and pollution;
- No kerbs;
- Design of caravans to be agreed;
- Development not permanent and limited to the applicant and father.

5.3 To date 36 letters of representation have been received of which 32 object, 2 indicate general support and 4 with mixed comments. These raise the following points (summarised):

- Applicant is no longer a Traveller;
- Contrary to Policy SS6 (environmental quality and local distinctiveness);
- Flooding potential on site from stream;
- Not in Keeping;
- Access is Dangerous;
- Overcrowded site;
- Accuracy of Drawings Questioned;

- Impact on Area of Outstanding Natural Beauty;
- Lighting in Countryside at Night;
- Site short on daylight and boggy;
- Loss of greenspace;
- Loss of hedgerow/ habitats;
- Static caravans are out of character;
- Time extension should be given to carefully consider proposal;
- Concern that stream will be polluted by the on site sewage treatment unit and other activities.

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=160238&search=160238>

5.5 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

General Principles

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."

6.2 Here, the Herefordshire Local Plan ('HLP') is the development plan. The Core Strategy (CS) is a fundamental part of the HLP and sets the overall strategic planning framework for the county, shaping future development.

6.3 The strategic Policy SS1 sets out a presumption in favour of sustainable development as required by the NPPF and directs that proposals which accord with the policies of the CS shall be approved, unless material considerations indicate otherwise. One such consideration is the NPPF which advises at paragraph 47 that Local Authorities maintain a robust five year supply of housing land. Failure to demonstrate an NPPF compliant housing land supply engages Paragraphs 47, 49 and 14 of the NPPF . At present, the Council cannot demonstrate a 5-year supply of housing land. This is presently 4.38 years of housing land supply.

6.4 Wellington Heath is the closest CS identified settlement to the site, this being found immediately to the north (where the edge of that parish boundary is found), with the dispersed south-western edge of Wellington Heath at that point

6.5 The site therefore is in proximity to a sustainable settlement identified for proportionate growth which has some community facilities such as a village hall, public house and bus service to Ledbury.

6.6 In addition a recent Court of Appeal judgment amongst other points came to the view that 'out of date' policies (because of the housing land supply being under 5 years) do not become irrelevant, it is simply that the weight to be given to them is for the decision maker to decide. The decision overall is one of planning judgment and balance, which includes the weight properly attributable to the NPPF and the shortfall and all other relevant policies and facts.

- 6.7 New housing development is directed to Hereford City, Market Towns and settlements identified for proportionate growth. The proposal is located outside of such areas in Herefordshire's countryside, where Policy RA3 is relevant in respect of new housing.
- 6.8 This proposal accords with Policy RA3 of the CS (in that it is a site for the needs of gypsies or travellers). Policy H4 (traveller sites) of the CS also has the following criteria which need to be met for such a proposal namely:
1. Sites afford reasonable access to services and facilities, including health and schools;
 2. Appropriate screening and landscaping is included within the proposal to protect local amenity and the environment;
 3. They promote peaceful and integrated co-existence between the site and the local community;
 4. They enable mixed business and residential accommodation (providing for the live-work lifestyle of travellers);
 5. They avoid undue pressure on local infrastructure and services;
 6. In rural areas, the size of the site does not dominate nearby settled communities and they are capable of accommodating on-site facilities that meet best practice for modern traveller site requirements, including play areas, storage, and provision for recycling and waste management.
- 6.9 The proposal is small scale near to Wellington Heath with Ledbury the nearest town. Additional natural screening is being proposed, and no business activity is indicated on the site. Local infrastructure will not be adversely impacted upon. The size of the site will not dominate nearby settled communities.

Need for Sites

- 6.10 A material consideration within the DCLG Planning Policy for Travellers Sites (August 2015) is Paragraph 24 regarding Decision Taking namely:
- Local Planning Authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
- (a) the existing level of local provision and need for sites;
 - (b) the availability (or lack of) alternative accommodation for the applicants;
 - (c) other personal circumstances of the applicant;
 - (d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitched/ plots should be used to assess applications that may come forward on unallocated sites;
 - (e) that they should determine applications for sites from any travellers and not just those with local connections.
- 6.11 It has been confirmed independently and by the Licensing and Gypsy Traveller Team that Mr and Mrs Holland (senior) have lived on the Council's Traveller site at Lower Bullingham since it

opened in 1992. Health implications have been mentioned in the applicants' supporting statement. This proposal is being considered against the general need for such sites, with personal consideration being taken into account. There is an evidenced need from the Local Plan Team in that there is not a 5 year supply of sites at present.

6.12 Annex One: Glossary PPTS Paragraph 1 and 2 states:

“For the purposes of this planning policy “gypsies and travellers” means:

Persons of a nomadic habit of life whatever their race or religion, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

In determining whether persons are 'gypsies and travellers' for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- (a) whether they have led a nomadic habit of life;
- (b) the reasons for ceasing their nomadic habit of life;
- (c) whether there is an intention of living a nomadic habit of life in the future, and if so how soon and in what circumstance.

The applicant's supporting statement in principle addresses the above matters (a-c).

Landscape

- 6.13 Some screening is proposed on the southern tip of the site, although the centre of the site (and the roofs of the static and touring caravans) would be visible from the roadside when travelling in and out of Wellington Heath. The site lies just outside of the AONB boundary (to the east) and is a visually partly screened site enclosed due to boundary roadside hedge planting, and being on lower ground than the adjoining road. This will have no adverse visual impact on the adjacent AONB at this location, although will be a noticeable visual element along Beggars Ash Lane (when travelling between Wellington Heath and Ledbury) due to the incongruous appearance of the static and touring caravans.

Amenity

- 6.14 The proposed low impact use of the site is unlikely to give rise to any appreciable immediate neighbouring amenity concerns at this location given the absence of near neighbours.

Highways

- 6.15 The Highway Engineer raises no objection to the proposed access point. The new access into the site (set back from the roadside verge) is safe and subject to a planning condition requiring visibility splays to be provided this accords with the aims of Policy MT1 of the Local Plan.

Waste Water

- 6.16 Waste water arising from the use of the caravans can be dealt with by way of a package sewage treatment unit. This accords with Policy SD4 of the Local Plan. Its proximity to a watercourse is not problematic as treated water from the sewage treatment unit then discharges into underground soakaway pipes. There is a sewage pumping station on the opposite side of the road to the application site.

Ecology

- 6.17 A landscaping condition requiring supplemental tree and hedge planting can be agreed by way of a planning condition in order to enhance biodiversity on the site.

Conclusion

- 6.18 On balance the proposal accords with with planning policy within the Core Strategy, and there is an evidenced need to provide for new gypsy and traveller sites within Herefordshire.
- 6.19 While it is acknowledged that Mr and Mrs Holland are not without permanent accommodation at the moment, and that Mr and Mrs Holland (senior) are on an established site at Lower Bullingham, there is an overriding need to provide for such sites at policy compliant locations within the County. While a separate recent appeal decision queried the gypsy/ traveller status of the applicant in that case in respect of recent planning policy guidance (PPTS), it is considered that the applicant and proposed occupants of the site are of gypsy/ traveller heritage, this being confirmed for Mr Holland (senior) by this Council's Licensing and Gypsy Traveller Team.
- 6.20 In determining whether persons are 'gypsies and travellers' for the purposes of the PPTS , consideration should be given to the following issues amongst other relevant matters:
- (a) a whether they have led a nomadic habit of life;
 - (b) the reasons for ceasing their nomadic habit of life;
 - (c) whether there is an intention of living a nodic habit of life in the future, and if so how soon and in what circumstance.
- 6.21 It is considered that points (a) (b) and (c) are satisfied in the applicants supporting statement.
- 6.22 The imposition of planning conditions will ensure the effective long term control over the use of the site in accordance with the above identified interests.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. **C01 (Three Year Implementation Date).**
2. **C06 Drawings Received 28 January namely :“Proposed Sheds”, Location Plan, Block Plan, New Access Cross-Section as amended by Drawings Received 7th June 2016.**
3. **The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1 of Planning Policy for Traveller Sites (August 2015).**

Reason: To accord with the requirements of Policies RA3 and H4 of the Herefordshire Local Plan – Core Strategy and the Planning Policy for Traveller Sites (DCLG – August 2015).
4. **CA09 Single Access/ No Footway “Set Back 2.4 Metres”.**
5. **CBM (Foul Drainage).**
6. **C96 (landscaping condition).**
7. **C97 (landscaping implementation).**

8. **No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 2 shall be a static caravan) shall be stationed on the site at any time.**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 9 **Any material change to the position of the static caravan, or its replacement by another caravan in a different location, shall only take place in accordance with details submitted to and approved in writing by the local planning authority.**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 10 **No commercial activities shall take place on the land, including the storage of materials.**

Reason: In order to safeguard the character and amenity of the area, and the living conditions of neighbouring properties, in accordance with policy SD1 of the Herefordshire Local Plan – Core Strategy and the requirements of the National Planning Policy Framework.

- 11 **Details of any external lighting proposed shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.**

Reason: To safeguard local amenities and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **The development may mean that non mains drinking water is necessary for the scheme. All new non-mains water supplies must be wholesome and comply with the standards set out in the Private Water Supplies Regulations 2009. Shared and commercial private water supplies must be risk assessed and sampled by the Environmental Health and Trading Standards Division in accordance with the Regulations.**
3. **The proposed caravan site may require a site licence issued by the Licensing section of the Council’s Environmental Health and Trading Standards Division.**

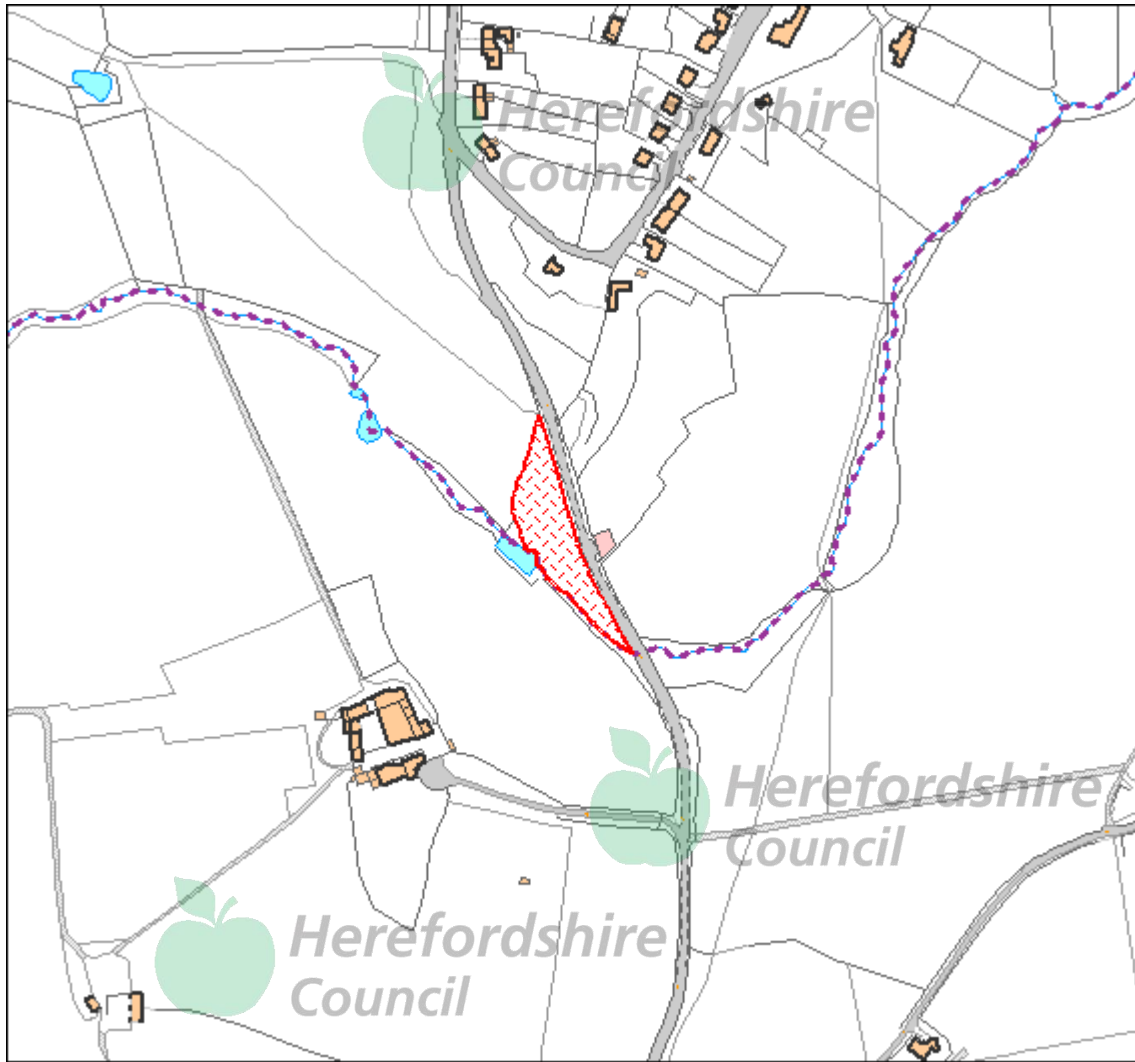
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



© Crown copyright and database right 2017 (100024168)

This copy has been produced specifically for Planning purposes. No further copies may be made.

APPLICATION NO: 160238

SITE ADDRESS : LAND AT OAK TREE VIEW, BEGGARS ASH LANE, WELLINGTON HEATH,
HEREFORDSHIRE, HR8 1LN

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005