

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>22 February 2017</b>
<b>TITLE OF REPORT:</b>	<b>163797 - CHANGE OF USE OF PART OF PADDOCK FROM EQUESTRIAN TO RESIDENTIAL. CONSTRUCTION OF NEW 3 BED DWELLING WITH ASSOCIATED GARAGING, ACCESS AND LANDSCAPING AT CAREY BANK, KILFORGE ROAD, CAREY, HEREFORDSHIRE</b>  <b>For: Mr &amp; Mrs Du Cros per Mr Dean Benbow, 21-22 Mill Street, Kington, Herefordshire, HR5 3AL</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=163797&amp;search=163797">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=163797&amp;search=163797</a>
<b>Reason Application submitted to Committee – Redirection</b>	

**Date Received: 28 November 2016    Ward: Dinedor Hill    Grid Ref: 356287,231503**

**Expiry Date: 27 February 2017**

Local Member: Councillor D Summers

**1. Site Description and Proposal**

- 1.1 The 0.54 hectare site lies on the western side of an unclassified road between Carey and Bolstone and to the northwest of Carey Bank and to the west of Carey Court (formerly the vicarage). The site is in the parish of Little Dewchurch, but borders Ballingham Parish to the south and east. It is within the Wye Valley Area of Outstanding Natural Beauty (WVAONB). Presently a public right of way (LD10) crosses the site from the northwestern corner to the southeastern corner, essentially dissecting the site in two. There is an existing access off the unclassified road on the northeastern part of the site. Levels rise within the site from south to north, and levels decline more steeply to the west of the site into the valley.
- 1.2 Currently the site comprises a paddock, which along with the stables to the southeast, tennis courts and workshop building fall within the ownership of Carey Bank, a detached, two storey dwelling to the southeast.
- 1.3 It is proposed to erect a 3 bedroomed, one and half storey dwelling, with an attached double garage with stores and W.C towards the western part of the site. The property would be some 7.9 metres in height, with an eaves height of 2.6 metres. The garage section would have a roof ridge height of 6.4 metres and floor area of some 62.7 metres squared. Lead clad box dormers to both front and rear elevations, and first floor windows in the gables would provide light to the upper floor, where there would be two bedrooms, each with ensuite bathrooms and a laundry/plant room. At ground floor there would be an entrance hall, W.C, bedroom with dressing room and ensuite bathroom, a carer's room/study, sitting room, kitchen, dining room, larder and utility room linking to the double garage, stores and W.C.

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Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

- 1.4 The principal elevation would face approximately north and would have a gabled, modest projection to the left hand side, a flat roofed canopy porch over the solid oak front door, with glazed panels either side set in oak framing, set in a stone elevation under a slate roof with a centralised stone chimney stack. Windows and doors would be aluminium/timber hybrid. The garage element of the building would be clad in grey stained timber boarding. The footprint would be 18.9 metres (principal elevation of dwelling element – excluding the garage section) by 23.1 metres, with two projecting rear gables at either end of the rear (south) elevation.
- 1.5 The site is sloping in nature and as level access is required to create a disabled compliant dwelling it is proposed to cut and fill the levels to provide a levelled footprint and access. This would comprise a cut of approximately 1 metre below existing ground levels to the north and an increase of 1 metre above existing ground levels to the south.
- 1.6 The proposal also includes the modification of the existing field access, with the provision of a 5 metre tarmacked section and removal of an Oak tree. The existing access track to the stables would be retained, with the provision of new gates to each access track and a post and rail fence between them. Further planting is proposed to the southern boundary. A group of trees are proposed to be removed to accommodate the proposed building.
- 1.7 The submitted plans indicate a proposed diversion of the public right of way, so that it would be aligned parallel and adjacent to the northern site boundary. A new post and rail fence and hedgerow is shown to the south of the proposed diverted route of the public right of way, resulting in a 3.9 metre wide revised route.
- 1.8 A Design and Access Statement, Tree Survey and Arboricultural Impact Assessment, preliminary ecology appraisal and Landscape and Visual Impact Assessment were submitted in support of the application. The full content of these reports can be viewed on the website, at <https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=163797&search=163797>
- 1.9 In summary the Design and Access Statement advises that the applicants wish to occupy the proposed dwelling as they have strong ties with the area and it would provide fully disabled compliant accommodation with the capability of housing a live-in carer. Carey Bank, the applicants' current home, would be sold to fund the new build and long term care. The applicants assert that their personal health needs are material considerations that should be taken into account in the planning balance. It is stated that the previous owners of Carey Bank retained a part of the land when they sold it to the applicants and built two bungalows for similar reasons; to downsize and stay in Carey. The submission advises that the layout is designed to maximise passive solar gains and provide full wheelchair access and the scheme would ensure low energy consumption, through the adoption of the 'fabric first' approach. In addition, it is stated that the proposal would include 'green' technologies, such as an air source heat pump, PV panels on the garage roof and a wood burning stove. The applicants state that a new stand of Scots Pines would be strategically planted to the north of the site on land leased by them and trees planted along the southern boundary, to the north of the tennis court. The parking courtyard and driveway would be finished in a resin bound gravel.

## 2. Policies

### Herefordshire Local Plan – Core Strategy

- |     |     |   |  |
|-----|-----|---|--|
| 2.1 | 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 Strategy                           |
|     | RA2 | - | Herefordshire's Villages                         |

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Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

RA3	-	Herefordshire's Countryside
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sport and Recreation Facilities
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
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure Delivery

### Neighbourhood Planning

#### 2.2 The site falls within the Parish of Little Dewchurch

The Neighbourhood Plan area for Little Dewchurch was designated on 19 June 2013. The Regulation 16 stage Neighbourhood Development Plan Regulation was submitted to the Council on 22 September 2016. The consultation ran from 5 October 2016 to 16 November 2016. It was sent for examination on 28 November 2016 and the examiner's report is awaited. In line with paragraph 216 of the NPPF significant weight can be attributed to the plan.

The relevant policies are considered to be:

Policy LD SB1: Settlement Boundary

Policy LD ENV 1: A Valued Natural and Built Environment

### National Planning Policy Framework (NPPF)

#### 2.3 The following chapters are of particular relevance to this proposal:

Introduction

Achieving sustainable development

Section 1 – Building a strong, competitive economy

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

Decision-taking

#### 2.4 National Planning Practice Guidance

#### 2.5 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 SH97/1016PF - Proposed alterations and extensions – approved 23.10.1997

CE1999/2259/F - Widening of existing vehicular access to site. Erection of timber framed garage/garden store. Erection of horse shelter and secure shelter for fireworks – approved 04.11.1999

#### 4. Consultation Summary

##### Statutory Consultees

##### 4.1 Welsh Water:

As the applicant intends utilising a private treatment works we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

##### 4.2 Public Rights of Way Manager:

We have received an application to legally divert public footpath LD10. We therefore have no objection to the development, providing work does not commence until after the completion of the diversion process.

##### Internal Council Consultees

##### 4.3 Transportation Manager: Recommends standard conditions

##### 4.4 Conservation Manager (Landscape):

The application is for a change of use from equestrian paddock to residential with the proposed construction of a 3 bed dwelling with associated access and landscaping.

The site lies within the Wye Valley AONB and as such paragraph 115 of the NPPF states that great weight should be given to conserving its landscape and scenic beauty.

The proposal lies in open countryside and as such policy RA3 of the Core Strategy applies. As none of the specified exceptions apply, a new dwelling in this location is unacceptable in principle.

Turning to the specific landscape issues in this case I have visited the site and my assessment is as follows:

Currently the site forms part of a small paddock adjacent to Carey Bank and north of a small cluster of buildings formed either side of the Kilforge Road. The historic maps indicate the presence of a vicarage (now known as Carey Court) at the bend in Kilforge Road around which several other dwellings have formed. To the west of Kilforge Road a number of later 20th century bungalows have provided infill altering the dispersed settlement pattern of Principal Settled Farmlands to a more prominent type. Despite this change in pattern the more recent built form is not unduly prominent within the landscape because the built form is single storey infill set into the contours of the land.

The proposed dwelling which can be described as one and half storey is set back substantially from the roadside in contrast with the existing pattern to the west, visually separate from the existing cluster on land reaching 100m AOD. This represents a substantial change in character within this localised area and will be visually prominent from the PROW LD10 which currently crosses the site diagonally.

I understand that a diversion order for the PROW has been applied for and whilst this in its own right does not pose a problem the newly proposed hedging will represent an adverse impact upon the local character and the visual effects experienced by the user will be adverse as a result of the proposal.

The proposal is therefore considered to conflict with LD1 of the Core Strategy. If the applicant desires to construct an additional dwelling that is acceptable in landscape terms I would suggest the redevelopment of the existing stables. This would reduce the landscape impact in a number of respects: the siting of such a proposal would relate better to the existing built form, the use of the existing access could be retained and the proposal will be less prominent within the local landscape.

If the current proposal is supported the landscape plans should be agreed with the local authority via condition.

#### 4.5 Conservation Manager (Arboriculture):

I have reviewed all arboricultural information relating to the current planning application. The proposals would result in 1 moderate quality tree and 4 low quality trees having to be removed. Although most of these trees have a useful life expectancy of at least 40 years, the impact from their removal will be lessened by the presence of the retained mature trees on the site.

I have no objection to the tree removals, however, there should be additional tree planting on the site to mitigate their loss.

As long as the tree protection measures are implemented as per the Tree Protection Plan (Mackley Davies Associates Limited\_16/528/02\_Oct 2016) I have no objection to the scheme.

Adherence to the submitted documents should be enforced via planning conditions. I also consider we should include the standard condition – C90 (b-e).

#### 4.6 Conservation Manager (Ecology):

I note the responses from colleagues as regards ensuring conditions are included related to tree & hedgerow protection and that no work should commence on site until the PROW Legal Diversion has been completed.

It is noted that the proposed foul water is managed by a package treatment plant but there are no details on capacities or how the final out fall will be managed. The planning authority has a responsibility to assess this with regard to 'The Conservation of Habitats and Species Regulations:2010' as the proposed development lies within the River Wye SAC catchment. Any direct discharge in to a watercourse is likely to impact both the immediate local hydrology and ecology and an impact downstream through the residual phosphate and suspended solids discharges. To mitigate this impact we would request that the outflow from the PTP is managed through a soakaway system hence managing the direct impact of phosphate levels and reducing the impact over time of the suspended solid settlement. Full details of the system and location of the soakaway system should be provided in support of any full application so a final HRA screening can be completed before determination of that full application.

I note that contrary to NPPF guidance and HC Core Strategy there appears to be no biodiversity enhancements included in the plans and there is no detailed Landscaping Plan. I would request that a detailed landscaping and biodiversity enhancement plan is supplied for consideration.

As guidance:

The enhancement plan should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in NPPF and HC Core Strategy. At a minimum we would be looking for proposals to enhance bat roosting, bird nesting and invertebrate/pollinator homes to be incorporated in to the new building as well as consideration for amphibian/reptile refugia and hedgehog houses within the landscaping/boundary features. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative. The detailed landscaping scheme should include full details of planting and protection methods as well as a 5 year establishment & replacement scheme and a subsequent 5 year management plan.

#### 4.7 Conservation Manager (Ecology) – revised comments:

I have now received confirmation and updated plan indicating that the requested final PTP outfall via soakaway/spreader is possible. I am now happy that through a basic Habitat Regulations Assessment screening I can conclude that this proposed development would have no unmitigated 'likely significant effects' on the River Wye SAC & SSSI.

I note that contrary to NPPF guidance and HC Core Strategy there appears to be no biodiversity enhancements included in the plans and that there is no detailed Landscaping Plan. I would request that a detailed landscaping and biodiversity enhancement plan is subject to Condition should planning consent be granted.

##### Nature Conservation – Enhancement

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

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) Herefordshire Council Core Strategy (LD2 & LD3), the National Planning Policy Framework, NERC 2006

##### Informative:

The enhancement plan should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in NPPF and HC Core Strategy. At a minimum we would be looking for proposals to enhance bat roosting, bird nesting and invertebrate/pollinator homes to be incorporated in to the new building as well as consideration for amphibian/reptile refugia and hedgehog houses within the landscaping/boundary features. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative. The detailed landscaping scheme should include full details of planting and protection methods as well as a 5 year establishment & replacement scheme and a subsequent 5 year management plan.

#### 4.8 Neighbourhood Planning Manager:

The Little Dewchurch NDP is currently at examination. In line with para 216 of the NPPF, significant weight can be attributed to the plan given its stage, there were only minor or supportive comments received during the submission consultation and no conformity issues have been raised by the Strategic Planning team.

Policy LBSB1 indicates that outside of the settlement boundary only dwellings in line with Core Strategy policy H2, RA3, RA4 and RA5 should be permitted. The application is outside of the settlement boundary of Little Dewchurch, therefore the above policies would apply.

## 5. Representations

### 5.1 Little Dewchurch Parish Council:

The proposed site is just within the Parish of Little Dewchurch and the "hamlet" of Carey. It may be considered to be defined on the North Eastern boundary by the public footpath, ( LD10 ) which crosses the site diagonally. The proposed dwelling is not infill and must therefore must be considered as development into the open countryside, which conflicts with local policy (and the emerging Neighbourhood Plan).

The property is, in the opinion of the Little Dewchurch PC, well designed and, given the planting and siting, does not have a significant impact on the landscape, or indeed have detrimental effect on adjoining properties.

However, the PROW ( LD10 ) would have to be diverted and no real justification has been given for this. The proposal does require the felling of some mature trees and the extension into open countryside is at odds with both national and local policy. If permission was therefore permitted it would set a dangerous precedent on land parcels on the edge of settlements.

For the foregoing reasons the PC do not support the application

### 5.2 Ballingham Parish Council:

Support the application and to make the following comments. The Parish Council acknowledges the community work that the applicants have been involved in over the years. The application meets the criteria set out in the NPPF which promotes sustainable development which is assessed under three areas. Social, economic and environmental roles. It was the PC's view is that the application meets the NPPF criteria.

### 5.3 The Ramblers - object to this planning application on the grounds that the Public Right of Way, Little Dewchurch LD10 will be built upon and obstructed.

Currently there is a request to divert this footpath, the Ramblers have accepted the proposed new route and once full planning permission has been granted would agree to the Diversion and hence remove our objection.

We ask you to ensure that the developer is aware that there is a legal requirement to maintain and keep clear a Public Right of Way at all times

### 5.4 26 letters of support have been received. In summary these comment as follows:

- Appropriate design, sensitive to location and energy efficient
- Well planned landscaping enhances the environment
- Pleasant addition to cluster of houses nearby
- Social and economic benefits
- Strengthen the community - Applicants are active participants
- Dwelling would provide long term resource – fully adapted for those with disabilities
- Releases another dwelling (applicants' current residence) to bring new lifeblood into the village
- Construction would provide jobs for local craftspeople
- Current home does not meet the applicants' needs and they would have to move away
- Conforms with Cs policies SS1, SS2, RA1, RA2, H3 and SD1
- Demand for suitable housing for elderly within the parish
- Council previously approved dwellings for the previous occupants of Carey Bank when they need to downsize in the 1990's.

- Applicants' desire to provide for their own needs should be commended
- National policy is to facilitate people staying in the community they have lived in
- Additional homes are needed in every parish
- The little settlement of 7 properties around Carey Bank has grown steadily and would be enhanced by one more
- Carey Bank could be purchased by a young people who could contribute to the community

5.5 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=163797&search=163797>

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 The legal starting point for the consideration of this application is that set out in section 38 (6) of the Planning and Compulsory Purchase Act 2004. This states that:

*"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 The development plan is, for the purpose of this application for residential development, the Herefordshire Local Plan – Core Strategy 2011-2031 (CS). The Little Dewchurch Neighbourhood Development Plan (LDNDP) is at an advanced stage. As it is not yet a made plan it does not form part of the development plan, but nevertheless the weight to be afforded to it as a material planning consideration is considered later in this appraisal.

6.3 The National Planning Policy Framework (NPPF) is a material planning consideration in decision taking. It promotes sustainable development and recognises that there are three dimensions to this: economic, social and environmental. It states that these three roles are not to be undertaken in isolation, as they are mutually dependent. Similarly to the NPPF, the pursuit of sustainable development is a central principle of the CS. Again, the pursuit of these objectives fall under similarly worded headings of 'social progress', 'economic prosperity' and 'environmental quality'. CS Policy SS1 reflects the positive presumption in favour of sustainable development and the NPPF paragraph 14 decision-making process insofar as development according with the CS should be approved unless material considerations indicate otherwise. Where policies are silent or otherwise out of date, CS policy SS1 follows the same two-limb approach set out in paragraph 14 of the NPPF.

6.4 In terms of new housing provision across the County CS policy RA1 identifies that Herefordshire's rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. The policy states that the dwellings will be broadly distributed across the identified seven Housing Market Areas (HMA's), with specific indicative housing growth targets set to reflect the different housing needs of these areas. CS policy RA2 - Housing in settlements outside Hereford and the market towns, states that sustainable housing growth will be supported in or adjacent to those settlements identified in Figures 4.14 and 4.15 and this will enable development that has the ability to bolster existing service provision, improve facilities and infrastructure and meet the needs of the communities concerned.

6.5 In terms of its location the site is most closely associated with Carey, a hamlet comprising a public house, with a small cluster of dwellings around the junction of unclassified lanes to the southwest of the public house and loose knit, sporadic development in the wider locality. Although the site is within the Parish of Little Dewchurch, and indeed within the designated



LDNDP area, the site quite clearly is not within the village, which lies some 3 kilometres (1.8 miles) as the crow flies to the west and is accessed via unlit lanes with no footway provision. Figures 4.14 and 4.15 of the CS list the settlements within each of these HMAs, that are to either be the main focus of proportionate growth (figure 4.14) or where proportionate growth is appropriate (figure 4.15). Carey is not included in either list. As a consequence of the site not being within or adjacent to a RA2 village the proposal for residential development would fall to be considered against RA3 – Herefordshire’s countryside.

6.6 The preamble to CS policy RA3 advises that outside of settlements listed in figures 4.14 and 4.15, new housing will be restricted to avoid unsustainable patterns of development. It confirms that residential development outside of these listed settlements will therefore be limited to those proposals which meet the criteria listed in Policy RA3. This policy limits residential development to proposals which satisfy one or more of the following seven specified criteria:

1. Meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or
2. Accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4; or
3. Involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling; or
4. Would result in the sustainable re-use of a redundant or disused building(s) where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or
5. Is rural exception housing in accordance with Policy H2; or
6. Is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction; or
7. Is a site providing for the needs of gypsies or other travellers in accordance with Policy H4.

6.7 The site falls within the Little Dewchurch designated neighbourhood area and the LDNDP is currently at examination stage (post regulation 16). Within the LDNDP the vision for the parish is stated to include a protected AONB and the general environment and new homes that are built in areas agreed by the local people in manageable quantities that respect the character of the area. In terms of the LDNDP the site falls outside of the defined settlement boundary and as a result policy LD SB1 applies. This policy, taking a similar stance to CS policy RA3, indicates that outside of the settlement boundary only dwellings in line with Core Strategy policies H2, RA3, RA4 and RA5 should be permitted. As the application is outside of the settlement boundary of Little Dewchurch, and would not comply with any of the exceptions set out in CS policies H2, RA3, RA4 or RA5, the proposal is not compliant with the LDNDP. In line with paragraph 216 of the NPPF, significant weight can be attributed to the plan given its stage, as there were only minor or supportive comments received during the submission consultation and no conformity issues have been raised by the Strategic Planning team. Whilst at this time the LDNDP is not part of the Development Plan, as it has not been made, given its advanced stage it can be afforded significant weight. The LDNDP sets the local planning context for appraising the proposal in line with the Government’s promotion of localism, and in this case the scheme does not accord with these locally prepared policies. Furthermore, it does not meet the

vision of the plan as the proposed dwelling is not in an area agreed by local people, as promoted through the LDNDP.

- 6.8 The applicants are not contending that any of the criteria set out in CS policy RA3 apply to their proposal, but rather seek to rely on their personal circumstances to justify an exception being made to the adopted planning policy. On the basis of the principle of residential development, in this location, the CS and NDP policies are quite clear that it should be prevented, as it would not be a sustainable form of development.
- 6.9 Whilst the applicants' personal circumstances are appreciated, they are not unique nor so compelling such that they would outweigh the well established policy position to protect the countryside from unjustified residential development. No weight should be given to these circumstances as there is no legal mechanism to ensure that the dwelling proposed would ever be occupied by the applicants, even in the very short term, despite their intentions, if permission is granted. This is because a condition attempting to restrict occupation in such a manner would fail to meet the tests for the use of planning conditions set out in the NPPG. This states that *'A condition used to grant planning permission solely on grounds of an individual's personal circumstances will scarcely ever be justified in the case of permission for the erection of a permanent building.'* It is understood that the applicants clear intention is to construct and live in the dwelling proposed, but circumstances could change such that this is not ever realised, or only in the short term.
- 6.10 The Council currently cannot demonstrate that it has a 5 year housing land supply. Although at the time of the CS's adoption in October 2015 a five year housing land supply was confirmed, recent appeal decisions have now determined that this is no longer the case. That said the supply figure has increased from the first appeal that established a shortfall, with the current supply standing at about 4.39 years. As a consequence of this current shortfall, the NPPF (paragraph 49) states that the CS policies relevant to the supply of housing must be considered as not being up to date. Whilst not being up to date, it does not automatically follow that the policies are redundant. The weight that can be afforded to the housing policies for the decision maker to determine and as set out in paragraph 215 of the NPPF the closer they are to the NPPF the greater the weight that can be afforded to them.
- 6.11 The NPPF promotes sustainable development and this is assessed under the three dimensions namely the social, economic and environmental roles. To assess this reference should be paid to the NPPF as a whole. In locational terms this seeks to restrict development in isolated locations (Paragraph 55) but acknowledges that in rural locations it may be the case that development in one village supports the services in another nearby. Carey was not identified as such a village in the CS. Whilst near to a modest number of other dwellings, the site is isolated from services and facilities needed for every day life. There are no services nearby other than a pub, which is some 750m by road or nearer via public rights of way, across agricultural land. Locationally the site is considered to be unsustainable, with occupiers heavily dependent upon the private car to access services. This is the same stance that was taken recently at appeal for the retention of log cabin to provide residential accommodation for a temporary period at Whitethorn Farm, Carey (Reference 143843/F), when the Inspector concluded that the site was unsustainably located. The applicants' connection with the local community is appreciated, but in terms of access to day to day living requirements and activities these would have to be facilitated by motorised travel, contrary to the thrust of sustainable transport which seeks to give people a real choice on how they travel. Furthermore, the provision of a new dwelling would not support the transition to a low carbon future, contrary to a core planning principle, as set out in the NPPF (paragraph 17). It is accepted that this is currently the situation for the applicants and indeed others living in such locations, however this is not a good reason to add to this reliance upon the private car. Again, it is vital to bear in mind that it would not be lawful to limit occupation of the permanent dwelling proposed to the applicants, and as such even their advocated social benefits cannot be secured. In economic terms the proposal would have a modest benefit during construction through the supply of goods and labour and the New Homes

Bonus. However, this would be limited for one dwelling and could just as easily be achieved in the case of a dwelling built in a sustainable location, in accordance with adopted policies. The applicants have stated that the proposal would allow them to fund their own independent care. Although this objective is clearly to be commended, again there is no mechanism to ensure that the grant of permission for a dwelling on the site would achieve this. Consequently, and without belittling these aims, they cannot be afforded weight in the planning balance when determining this application. Given the degree of consistency of CS policy RA3 with the NPPF, in terms of its avoidance of new isolated homes in the countryside unless it complies with certain circumstances, it is considered that moderate weight can be afforded to the CS policy.

- 6.12 In assessing the environmental role of sustainable development it should be noted that the site falls within the WVAONB. The conservation of AONBs should be afforded great weight as they have the highest status of protection, along with the Broads and National Parks, in relation to landscape and scenic beauty (NPPF paragraph 115). CS policy LD1 requires developments to conserve and enhance the natural, historic and scenic beauty of important landscapes. Firstly, it is considered that the provision of an unjustified dwelling, as per the principle objection in locational terms, would result in harm to the landscape by itself as a corollary. Another dwelling, along with its associated groundworks to provide levelled access, parking area and inevitable domestic paraphernalia would result in a further domestic incursion into the landscape, increasing the built form and obviously decreasing areas of open land. The proposed siting of the dwelling would be a significant incursion of development to the north of the existing development on both sides of the lane. In addition, as noted by the Landscape Officer the set back siting proposed would be in contrast with the existing pattern of the limited development in the locality and would be visually separate from the existing cluster on land. This is considered to represent a substantial change in character within this localised area. This would be visually prominent from the PROW, both from its current lawful and the proposed diverted route. Furthermore, the Landscape Officer raises objection to the proposed hedgerow to demark the northern boundary of the garden to serve the dwelling and provide a 'corridor' for the proposed diversion route. It is accepted that there would be some filtering of views from the east provided by the roadside hedgerow. However, there would be a variation of the degree of screening from the lane, due to the deciduous nature of the planting and in any event this is not the only vantage point of the site. The requested redirection of the PROW would pass along the northern boundary affording views of the dwelling, in close proximity. The presence of an unjustified dwelling, in a position that conflicts with the existing pattern of the limited local development, would significantly diminish the rural characteristics of the site, imposing a substantial dwelling, albeit of good design and quality materials, and this would unacceptably and unjustifiably undermine the scenic qualities of the area.

Other Matters:

- 6.13 CS policy MT1 states that proposals should incorporate certain, specified principles, including the protection of existing local and long distance footways, cycleways and bridleways unless an alternative route of at least equal utility value can be used. It is an essential part of the scheme that the existing public right of way is diverted, as the proposed siting is located directly on part of it, as it crosses the site. The scheme proposes its diversion along the northern site boundary, with a post and rail fence and hedgerow providing a boundary with it and the curtilage of the proposed dwelling. The Public Rights of Way Manager has confirmed receipt of an application to divert and in principle there is no objection to this. The Ramblers, although lodging an objection to the proposal, confirm they have no objection to the suggested diversion route. It is considered that the proposed route would provide an equal utility value, and would still link up with the Public Right of Way (BH8) on the opposite side of the lane.
- 6.14 The Ecologist originally noted that insufficient information had been provided with regards foul drainage to facilitate a screening under the Habitat Regulations, as the site is within catchment of the River Wye and non-mains drainage is proposed. Additional drainage information was subsequently submitted and the ecologist has confirmed that the proposed foul drainage is

acceptable. With regards biodiversity, other than hedgerow planting the scheme does not include any other provision for enhancement. Indeed the scheme includes some tree removal, which whilst not been objected to by the Tree Officer, does reduce habitat provision on site and no details of replacement tree planting have been provided. It is considered that this issue could be addressed through an appropriately worded condition in line with the Ecologist's and Tree Officer's suggestions, if the application were acceptable in all other respects.

### Conclusion

6.15 The proposed development would be contrary to the relevant housing CS policies, being an unjustified dwelling in the countryside. Given that these policies must be considered to be not up to date, in the current housing land supply shortfall position, the proposal must be appraised under paragraph 14 of the NPPF, which CS policy SS1 re-enforces. These require that permission be granted for sustainable development unless material considerations indicate otherwise - taking into account whether:

a) any adverse impacts doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies taken as a whole; or

b) specific elements of national policy indicate that development should be restricted.

6.16 Taking all of the above into account, it is considered that the proposal would not constitute sustainable development and as such the presumption to approve is not engaged. The development would be contrary to the key objectives and requirements of the NPPF in terms of sustainable development and protecting the landscape, along with the CS policies which seek to provide sustainable growth. The applicants' desire to remain in Carey is respected, however, this is not a material planning consideration, and no weight can be afforded to this wish because there is no essential need to do so and in any event occupation of the permanent dwelling proposed could not lawfully be limited to them.

## **RECOMMENDATION**

**That planning permission be refused for the following reasons:**

- 1. The proposal represents unjustified and unsustainable new residential development in an open countryside location contrary to Herefordshire Local Plan Core Strategy Policies SSI, SS7, SD1, RA2 and RA3, Little Dewchurch Neighbourhood Development Plan policy LD SB1 and the relevant aims and objectives of the National Planning Policy Framework.**
- 2. The proposal by its very nature and siting, scale and design would result in material harm to the character and appearance of the protected landscape, designated as an Area of Outstanding Natural Beauty, as it represents an unacceptable encroachment into the open countryside, contrary to Herefordshire Local Plan Core Strategy Policies SS6 and LD1, Little Dewchurch Neighbourhood Development Plan policy LD ENV1 and the relevant aims and objectives of the National Planning Policy Framework.**

### **Informative:**

- 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. The applicants were advised of these key policy issues during the pre-application advice stage. The issues are so fundamental to the proposal that it is not possible to negotiate a satisfactory way forward and due to**

**the harms which have been clearly identified within the reasons for the refusal and the Officer's Report, approval is possible.**

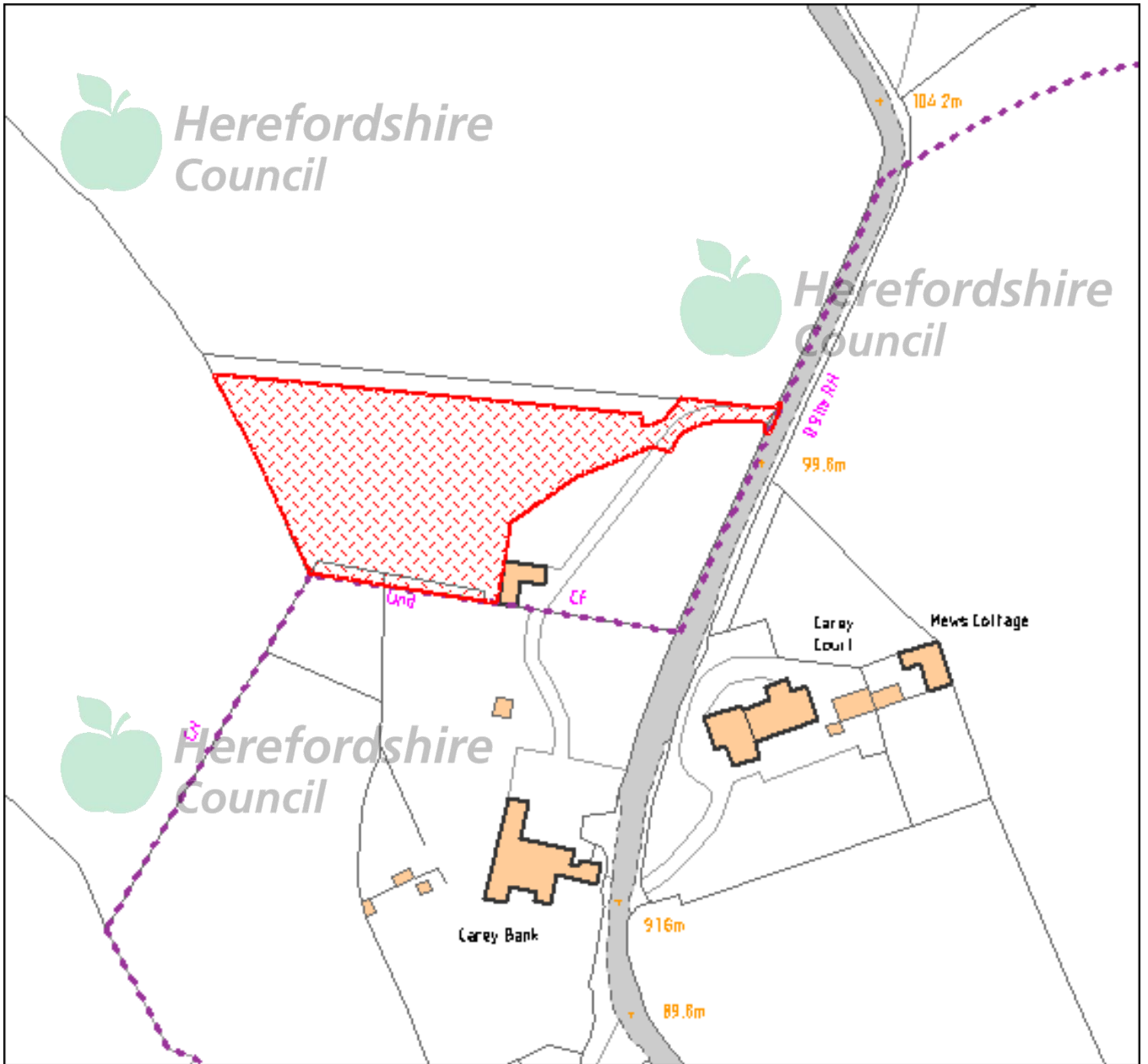
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 163797

**SITE ADDRESS :** CAREY BANK, KILFORGE ROAD, CAREY, HEREFORDSHIRE

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Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536