

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>22 FEBRUARY 2017</b>
<b>TITLE OF REPORT:</b>	<b>162254 - PROPOSED DWELLING AT LAND ADJACENT TO LITTLE WEIR, MIDDLETON ROAD, KIMBOLTON.</b>  <b>For: Mr &amp; Mrs Patterson per Mr Roger Page, The Cottage, 16a High Street, Bromyard, Herefordshire, HR7 4AA</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162254&amp;search=162254">https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162254&amp;search=162254</a>
<b>Reason Application submitted to Committee - Redirection</b>	

**Date Received: 12 July 2016**

**Ward: Leominster  
North & Rural**

**Grid Ref: 352737,262995**

**Expiry Date: 13 October 2016**

Local Member: Councillor J Stone

## **1. Site Description and Proposal**

- 1.1 The proposal site is to the south side of the C1049 road on a bend. To the opposite side of the road is the red brick faced dwelling known as Little Weir. There is a mature broadleaved tree in the south-western corner of the site adjoining an existing field gate access together with a mature tree just to the north-east and smaller trees on the eastern side of a site that inclines from the class III road. The land rises eastwards to the class III road behind a roadside boundary hedgerow. There is a pre-fabricated garage close to the southern boundary of the site that will be demolished as part of the proposed scheme. The site is 1.93 kilometres (1.2 miles) north of the Stockton Cross Public House and lies in open countryside.
- 1.2 This is an outline application for a new dwelling. It is only the principle of development and means of access to be determined at this stage. The proposed new access would lie to the northwest of the existing access. The plans submitted state that the existing hedgerow will be realigned to suit visibility splays.

## **2. Policies**

### **2.1 Herefordshire Local Plan Core Strategy:**

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for New Development
SS6	-	Environmental Quality and Local Distinctiveness
RA3	-	Herefordshire's Countryside
H2	-	Rural Exception Sites
LD1	-	Landscape and Townscape

---

Further information on the subject of this report is available from Mr Andrew Prior on 01432 261932

- LD2 - Biodiversity and Geodiversity
- MT1 - Traffic Management and Highway Safety
- SD1 - Sustainable Design and Energy Efficiency
- SD4 - Waste Water Treatment and River Water Quality

## 2.2 National Planning Policy Framework

Chapter 6: Delivering a Wide Choice of High Quality Homes  
Chapter 7: Requiring Good Design  
Paragraph 14 (presumption in favour of sustainable development)  
Paragraph 49 (5 Year Housing Land Supply)  
Paragraph 55 (New Housing in the Countryside)

## 2.3 National Planning Practice Guidance

Design (ID26): Form, Scale, Details, Materials

## 2.4 Neighbourhood Plans

The Neighbourhood Plan for Kimbolton is presently being drafted. Whilst it is a material consideration it is not sufficiently advanced to attract weight for the purposes of determining planning applications.

## 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 None

## 4. Consultation Summary

### Statutory Consultations

#### 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.

### Internal Council Consultations

#### 4.2 Transportation Manager: Objection

The application needs to be refused on grounds that the speed data is not available and without the visibility splays cannot be reduced with the proven 85<sup>th</sup> percentile speed.

#### 4.3 Conservation Manager (Ecology)

I am happy that there is likely to be limited direct impact on the ecology of the area from a development as outlined in the application however there do appear to be several significant

---

Further information on the subject of this report is available from Mr Andrew Prior on 01432 261932

trees on the site and existing important hedgerow boundaries that should be assessed in relation to the proposed development and a BS5837:2012 trees and construction survey should be carried out and supplied in support of a full application as a report with an arboricultural risk assessment, tree and hedgerow protection plan and any appropriate arboricultural working method statements.

- 4.4 Full details of the replacement 'mitigation' hedgerow along with any other landscaping and full details and locations of biodiversity enhancements (eg bird nesting and bat roosting opportunities build in to new build) should be supplied with a full application.
- 4.5 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 Lugg/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.
- 4.6 In addition to the advice above on foul water management I would suggest the following conditions are included:

#### Nature Conservation – Enhancement

Prior to commencement of the development, a habitat enhancement scheme integrated with the detailed landscape scheme 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) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and 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 and bird nesting to be incorporated in to the new buildings as well as consideration for amphibian/reptile refugia, hedgehog houses and invertebrate/pollinator homes 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.

#### Nature Conservation Protection

Before any work begins, or equipment or materials moved on to site, a survey of trees and hedgerows on the site to BS5837:2012 must be undertaken and the resulting report with arboricultural risk assessment, arboricultural working methods and recommended tree and hedgerow protection measures shall be supplied to the planning authority for written approval. All approved works and protection measures for trees and hedgerows must remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

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) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

## 5. Representations

- 5.1 Kimbolton Parish Council: No objection but recommends that the exterior is of a traditional style consistent with local vernacular.
- 5.2 Eight letters of support have been received raising the following points:
- Improving the local area
  - Provision of additional housing
  - Indirectly helps to support local services e.g school, shop, pub
  - Suitable plot
  - A local resident
  - Addresses housing need
  - Reduces overdevelopment in Kimbolton itself

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=162254&search=162254>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

## 6. Officer's Appraisal

- 6.1 S38 (6) of the Planning and Compulsory Purchase Act 2004 states:

*"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."* This means that there is a presumption in favour of the development plan unless material considerations can be considered to outweigh it.

- 6.2 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 Paragraph 14 of the NPPF provides a presumption in favour of sustainable development. This is reflected in the strategic Policy SS1 of the CS which sets out a presumption in favour of sustainable development stating: *"Planning applications that accord with the Core Strategy (and where relevant with policies in other development plan documents and Neighbourhood Development Plans) will be approved unless material considerations indicate otherwise"*.
- 6.4 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 will render the housing supply policies of the CS unreliable. At present, the Council cannot demonstrate a 5-year supply of housing land and as such the policies of the CS cannot be inherently relied upon.

- 6.5 The delivery of sustainable housing development to meet objectively assessed needs is a central CS theme, reflecting the objectives of the NPPF. Policy SS2 'Delivering new homes' directs that Hereford and the market towns shall be the main focus for new housing. Housing development is also supported in or adjacent to those settlements identified exhaustively in Figures 4.14 and 4.15. Kimbolton is identified as a settlement of focus for proportionate housing development.
- 6.6 In terms of rural settlements, CS Policy RA2 requires firstly that proposals accord with the relevant Neighbourhood Development Plan ('NDP') or where there is no NDP with the Council prepared Rural Areas Site Allocation Development Plan Document, both of which will prescribe a 'settlement boundary'. The application site is within the Parish of Kimbolton, which at the time of writing, does not have an NDP (The plan is currently at the drafting stage). The location of the proposal site lies 1.2 miles from Stockton Cross Public House and cannot therefore be considered to be within or adjacent to an identified settlement. Consequently, the proposal is fundamentally contrary to Policy RA2.
- 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 and is in open countryside where Policy RA3 is relevant in respect of new housing. The proposal does not meet any of the criteria (1-7) in that Policy that would allow for such development at this rural location namely:
- Meets an agricultural or forestry need or farm diversification enterprise;
  - Is for a rural enterprise;
  - Is a replacement dwelling;
  - Proposes a sustainable reuse of redundant or disused building in association with Policy RA5 [This proposal does not involve the re-use of an existing building];
  - Is rural exception housing (Policy H2);
  - Exceptional or innovative design;
  - Site for Needs of gypsies or travellers.
- 6.8 This proposal does not satisfy any of the criteria set out under RA3 and accordingly does not comply with this planning policy.
- 6.9 In addition, this proposal does not satisfy Policy H2 (rural exception sites) of the CS, which allows for affordable housing schemes where:
- This assists in meeting a proven local need;
  - Affordable housing is made available and retained in perpetuity for local people in need of affordable housing; and
  - The site respects the characteristics of its surroundings, demonstrates good design; and offers reasonable access to a range of services and facilities normally identified in a Policy RA2 settlement.
- 6.10 At the time of writing this report Herefordshire Council does not have a 5 year housing land supply, as per paragraph 49 of the NPPF. Consequently, this affects the weight that can be given to Policies SS2, SS3 and RA3 of the Local Plan in respect of new housing supply.
- 6.11 Appeal decisions at Leintwardine and Ledbury and a recent Court of Appeal judgment concluded that 'out of date' policies remain relevant where demonstrable housing land supply is under 5 years. Policies do not become irrelevant, it is simply that the weight is for the decision maker. The decision overall is one of planning judgment and balance, which includes the weight properly attributable to the NPPF, the housing shortfall and all other relevant policies and facts.

- 6.12 The NPPF at paragraph 6 states that the purpose of the planning system is to contribute to the achievement of sustainable development (with its three dimensions to sustainable development - economic, social and environmental aspects), as defined in paragraphs 18 to 219 of the NPPF.
- 6.13 This development is in a countryside location some 1.93 kilometres by road from Kimbolton centre with its services. On balance, the proposal cannot be considered to be in a sustainable location for a new private market house, irrespective of scale, height, design and material finish. It does not satisfy any exception in Policy RA3, as discussed above, which would allow for such development.
- 6.14 The supporting information provided by the agent refers to the current housing land supply shortfall in Herefordshire and argues that the location of the site, whilst not adjacent to the settlement of Kimbolton, is sustainable. The fact that the site lies in open countryside some 1.2 miles (1.93km) from the centre of Kimbolton means it fails to comply with Policy SS1 and the principles of sustainable development.

### **Bio-diversity**

- 6.15 The advice received from the Conservation Manager (Ecology) requires that further survey work be carried out on site as regards the impact on existing trees and vegetation and that details for any foul drainage works be provided and that details for soakaways be provided given that the site lies within the River Lugg/River Wye SAC catchment area and finally that details for habitat enhancement be provided which shall include control of any external lighting.

### **Accessibility/Highway Safety**

- 6.16 The proposed access does not comply with Policy MT1 of the Core Strategy by virtue of both the sustainability aspects as a consequence of the proposed location of the new dwelling and highway safety. The siting of the proposed new access is on a bend with limited visibility to both the northeast and southwest and even with the removal of a roadside tree the requisite visibility splays cannot be achieved given the configuration of the class III road.

### **Conclusion**

- 6.17 As the Council has been found unable to demonstrate an NPPF compliant housing land supply at appeal, paragraph 49 of the NPPF requires that applications are considered for their ability to represent sustainable development rather than for their inherent conformity with the Local Plan. However, and for the reasons explained above, the Core Strategy is considered to accord with the aims and objectives of the NPPF in this instance. Therefore, Policies in the Core Strategy, particularly SS1, SS4, RA3 and MT1 are considered to retain significant weight.
- 6.18 The site is located in open countryside some distance from a sustainable settlement as identified in the Core Strategy. This will mean that occupancy of the dwelling will give rise to significant journeys to Kimbolton and more likely to Leominster, 4.1 miles (6.6km) away, for basic day to day shopping, other services and recreation which has overriding economic and environmental implications due to car use reliance. There is not a choice of modes of transport. As such, the location of the proposal is not considered to be sustainable and does not comply with either the NPPF or relevant policies contained in the Core Strategy.

## **RECOMMENDATION**

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

- 1. The proposal is contrary to Policies SS1, SS4, RA3 and MT1 of the Herefordshire Local Plan: Core Strategy given the proposal site is outside the reasonable limits of Kimbolton in open countryside such that a choice of modes of transport and the requirement to**

achieve sustainable development in the National Planning Policy Framework (2012) cannot be achieved.

2. The proposed means of access does not have sufficient visibility splays, and accordingly the proposal would have an adverse impact on highway safety contrary to the provisions of Policy MT1 of the Herefordshire Local Plan-Core Strategy.

**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 and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.

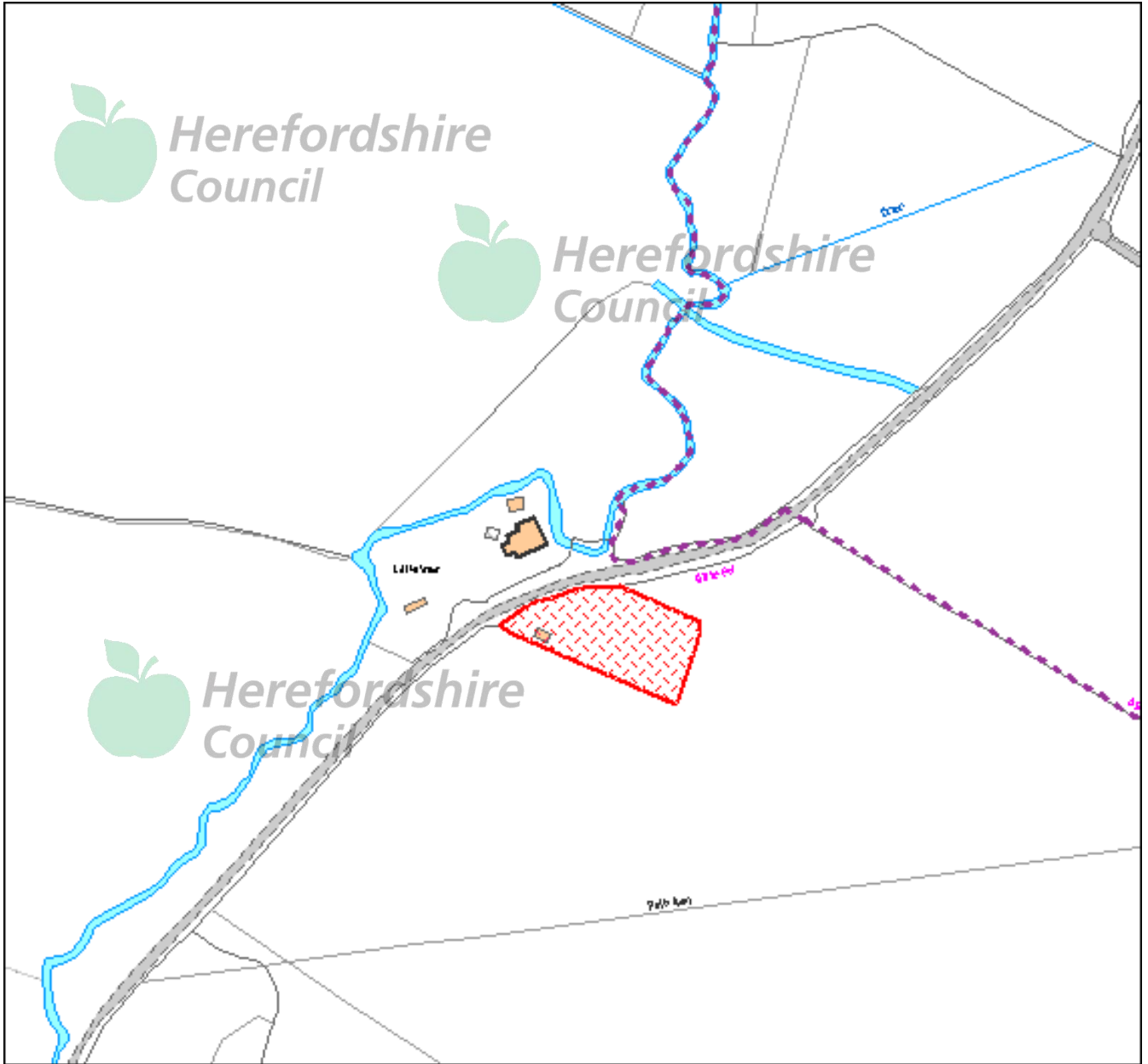
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 162254

**SITE ADDRESS :** LAND ADJACENT TO LITTLE WEIR, MIDDLETON ROAD, KIMBOLTON, HEREFORDSHIRE

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

Further information on the subject of this report is available from Mr Andrew Prior on 01432 261932