

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>23 January 2019</b>
<b>TITLE OF REPORT:</b>	<b>181908 – OUTLINE PLANNING APPLICATION FOR 9 PROPOSED DWELLINGS WITH ALL MATTERS RESERVED EXCEPT ACCESS AND LAYOUT AT LAND AT LOVERS WALK, GORSLEY, ROSS-ON-WYE</b>  <b>For: Mr Hickton per Mr Gareth Sibley, Unit 6 De Sallis Court, Hampton Lovett, Droitwich, WR9 0QE</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181908&amp;search=181908">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181908&amp;search=181908</a>
<b>Reason Application submitted to Committee – Redirection</b>	

**Date Received: 22 May 2018**

**Ward: Penyard**

**Grid Ref: 367875,226026**

**Expiry Date: 31 January 2019**

Local Member: Councillor H Bramer

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

- 1.1 The application site lies on the southern side of the B4221 at Gorsley and is formed of an undeveloped triangular parcel of land located at the eastern extreme of what one could reasonably regard as the village of Gorsley. The site is a “gateway site” with the development effectively representing the entrance to the village when approaching from Newent to the east.
- 1.2 The application site is triangular in shape with the apex of the triangle being at its eastern end. The land slopes markedly but gradually from west to east. In fact the land rises from approximately 68.12 m (AOD) to 82.18 m (AOD) – a difference of 14.06 metres. When approaching the site from the east (Newent) travelling west into the village the site is a materially higher level and any built development upon that land could be very apparent and prominent.
- 1.3 Along the southern boundary of the site is an important row of trees. These appear to be located on the neighbour’s land but evidently their canopy spreads and root systems encroach into the site. There is a public footpath that runs parallel to the southern boundary. There is a hedgerow along the frontage which has some landscape value. To the south of the site are two detached bungalows set in spacious plots. Further west, beyond the brow of the hill, is a detached cottage whilst opposite the site is the now closed Post Office / Shop building.
- 1.4 The B4221 hereabouts is very heavily trafficked (volumes) with considerable speeds. Officers observations having visited the site on numerous occasions have been of excessive speeds and frequent overtaking manoeuvres, especially by motor vehicles traveling east.

- 1.5 The proposal is an outline application for the erection of nine dwellings. Access and layout are under consideration. Appearance, landscaping and scale are reserved matters.

## **2. Policies**

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

The following policies are considered to be relevant to this application:

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
SS7	–	Addressing Climate Change
RA1	–	Rural Housing Distribution
RA2	–	Herefordshire's Villages
H1	–	Affordable Housing – Thresholds and Targets
H3	–	Ensuring an Appropriate Range and Mix of Housing
OS1	–	Requirement for Open Space, Sport and Recreation
OS2	–	Meeting Open Space, Sport and Recreation Needs
MT1	–	Traffic Management, Highway Safety and Promoting Active Travel
LD1	–	Landscape and Townscape
LD2	–	Biodiversity and Geodiversity
LD3	–	Green Infrastructure
LD4	–	Historic Environment and Heritage Assets
SD1	–	Sustainable Design and Energy Efficiency
SD3	–	Sustainable Water Management and Water Resources
SD4	–	Waste Water Treatment and River Water Quality

- 2.2 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/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

- 2.3 The National Planning Policy Framework (NPPF) has been considered in the assessment of this application. The following sections are considered particularly relevant:

- 2. Achieving Sustainable Development
- 5. Delivering a Sufficient Supply of Homes
- 8. Promoting Healthy and Safe Communities
- 9. Promoting Sustainable Transport
- 11. Making Effective Use of Land
- 12. Achieving Well-Designed Places
- 15. Conserving and Enhancing the Natural Environment
- 16. Conserving and Enhancing the Historic Environment

- 2.4 The Neighbourhood Development Plan is at the drafting stage. A Neighbourhood area application was received on 21 November 2017 and was designated on 2 January 2018

## **3. Planning History**

- 3.1 153661/O – Proposed residential development of 26 homes (10 affordable) – Refused, Appeal Dismissed on highway safety grounds and significant harm and impact on the character and appearance of the area.

- 3.2 151589/O – Proposed residential development for up to 36 dwellings, of which 35% will be affordable – Withdrawn

#### 4. Consultation Summary

##### Statutory Consultations

- 4.1 Natural England Based on the plans submitted, considers that the proposed development will not have significant adverse impacts on designated site and has no objection.

Linton Quarry Site of Special Scientific Interest – Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

- 4.2 Severn Trent Water comments I can confirm that we have no objections to the proposals subject to the inclusion of the requested conditions.
- 4.3 Welsh Water comments We have no objection to a connection to the potable water network. Please note that Welsh Water do not provide sewerage services in this area.

##### Internal Consultations

- 4.4 The Transportation Manager states:

After discussion regarding this application the following has been agreed:

1. Pedestrian crossing to be provided across the B4221, including widening footway works and other works required for the crossing provision.
2. Provision of bus stop infrastructure works on both sides of the B4221.
3. Extension of the footway to the existing bus stop near to Quarry Road.
4. Provision of footway on the south side of the B4221 for the length shown in the submitted documents.
5. The site will provide a connection through to the PROW which runs at the back of the site.

The provision of these works will look to remove the previous issues and concerns raised. A number of conditions are requested if permission is granted.

- 4.5 The Conservation Manager – *Ecology* states I note the information supplied and comments from Natural England. I also note the proposal to move/replant the existing roadside hedgerow behind the new lay-by and footway. Full details of this and all proposed tree, shrub and hedgerow planting should be supplied for approval at Reserved Matters – including full specification for plants, planting and protection, 5 year establishment/replacement scheme and a subsequent 5 year maintenance plan. In line with the Council's Highway Design Guide NO thorny or spikey species should be planted within 3m of any highway. Footway, path or cycleway.

I note the low current ecological potential for the site but with hedgerow removal proposed I would request a relevant Ecological Working Method Statement. Inline with NPPF Guidance, NERC Act and Core Strategy policies all developments should show how they are going to enhance the local biodiversity potential and full details, specification and proposed location of Biodiversity enhancements is also requested. Biodiversity enhancements should include bird boxes, bat roosting features (eg Tiles, bricks or boxes), pollinating/solitary insect homes and provision of hedgehog homes and associated gaps in any solid boundary features on the site. I would suggest that the EWMS and Biodiversity Enhancements are all included in one detailed

Ecological Mitigation and Enhancement Strategy that is submitted for approval as a Reserved Matter.

- 4.6 The Drainage Engineer comments this application borders Gloucestershire. The site slopes towards Gloucestershire, so we wanted to ensure that Gloucestershire County Council (GCC) are aware of it and we want to understand their position and stance on this one.

The proposals are currently for a pumped system discharging water uphill to a soakaway. We (Herefordshire Council as LLFA) would not regard this as fully sustainable in the long term, and thus there is a potential liability to GCC (as in the event of a failure, the runoff rate from the site would increase).

Currently, the developer has not presented a solution involving discharge to the highway ditch, however as mentioned above, in the event of a pump failure, the existing ditch appears to discharge into the highway drainage system that is maintained by GCC highways (this is an assumption made by BBLP, the route and outfall of the ditch should be confirmed by the Applicant).

We welcome the use of soakaways (due to the SuDS hierarchy). The west of the site has suitable infiltration rates for the use of infiltration features, thus we hold no reservations to the use of gravity fed soakaways in the west of the site (from plots 7, 8, 9, 1, 6 and 5). The east of the site does not have infiltration capabilities. Thus we request that the Applicant establishes and identifies the existing and proposed runoff rates and then obtains approval from GCC.

The exceedance routes would need to be carefully designed considering the scenario of blocked gullies as there may be additional runoff onto the highway. Approval for the exceedance design must be sought from Gloucestershire County Council highways.

Please review the initial comments from Gloucestershire County Council:

Neil Troughton would need to be consulted on this because we (LLFA) would refer this to him for comment on the proposal to discharge the water to a ditch that outfalls to a highway drain. We would require confirmation that GCC Highways have been consulted on the following issues, please note GCC LLFA likely responses in italics;

1. Is the existing connection/outfall to the highway drainage system consented/legal?  
*If not agreed with GCC Highways we would object.*
2. Is there likely to be an increase in the site discharge to the highway system?  
*If there is we would need it to be agreed with GCC Highways otherwise we would object.*
3. Notwithstanding the legality of the existing connection to the HD system and deployment of a device to control the discharge rate to the existing greenfield rate, would the outfall to the HD system add to any prevailing surface water drainage problem on the highway, i.e. this is an opportunity to object in principle to a third party connection to the HD system and thus mitigate an existing problem (if there is one).  
*If there is an existing issue with highway drainage capacity and there is a risk of increasing flood risk we would object.*

*In the absence of reassurances from GCC Highways/Highways Development Management on the above the LLFA would object in principle.*

In response to a rebuttal by the applicants, the Drainage Engineer further objects stating *We have reviewed this and as a highway authority we would raise a strong objection to the use of any mechanical device that could break down (pump) as there will be a significant risk of increased water on the highway.*

- 4.7 The Public Rights of Way Manager comments Public footpath LTR18 must be given a width of 2m. If hedges are planted alongside the footpath, they must be well maintained to ensure there is no encroachment. Kissing gates are acceptable if they are replacing existing structures. If construction work is likely to endanger path users, a temporary closure must be applied for.
- 4.8 The Environmental Health Manager – Contaminated Land comments, Pre-app advice from ourselves recommended the applicant submit information which considers risk from the nearby landfill. I'd recommend this be provided.
- 4.9 The Waste Manager comments Each property will be provided, as standard, with 1 x 180 litre black general rubbish bin and 1 x 240 litre green recycling bin. The area is accessed currently by an 18 tonne refuse collection vehicle (RCV). Any road the RCV is expected to travel would need to be constructed to adoptable standards. The maximum distance between the collection point of the bins and where the vehicle can safely access is 25metres. Collection points, (an area of hardstanding where bins can be placed on collection day) need to be provided for any properties located over 25metres from where the vehicle can access e.g. plots 2, 3, 7 and 8.

## **5. Representations**

- 5.1 Linton Parish Council objects. There are a number of reasons why the proposed development of the land at Lovers Lane does not sit comfortably:

### *Point 1 – The proportionate housing requirements of the Core Strategy have been met In the parish.*

As at June 9 2018, Total completions and new permissions / commitments for housing for the period 2011 -2031 have reached 78. So from a base of 435 houses in the parish in 2011 this represents an 18% increase. This exceeds our quota for proportionate development, which was set at 14% for the Ross on Wye area over the 20 year period of which we are only 7 years through! Approving the 9 houses at Lovers lane will take the number up to 87 and a total of 20% growth in the parish housing numbers. Whilst the 14% target is a minimum, where do you draw the line when you are considering incremental growth?

The cumulative impact of the growth is now affecting the character of the settlement and with the local school now fully subscribed this means that already some primary school age children have to be driven out of the village to attend school elsewhere, thus impacting on the sustainability of building further housing here.

Whilst there is still a little way to go for Herefordshire to demonstrate a 5 year supply, the delay is mainly due to the major infrastructure project (the new ring road), this project is not in doubt and will be completed in the next 5 years and release substantial housing numbers to meet the targets in the Core Strategy. By permitting further houses here and taking the total to well in excess of the proportional growth identified for the parish, we will have the cumulative effect of permanently changing the distinctive rural character of this parish, just to cover up a timing issue on the major supply of houses into the main county town.

### *Point 2 – This is the wrong type of housing.*

In the Local Housing Market Analysis<sup>^</sup> for the Ross on Wye area it states that of the 1,180 houses required by 2031, 490 (41%) should be affordable and 690 (59%) market houses. Of the 78 houses achieved to date 10 (13%) have been affordable. The Parish Council have been reviewing the mix of housing built and committed to support the council with their monitoring obligation under 5.1.18 of the Core Strategy. This has found that in detail we can see that 64% of all housing (and 74% of market housing) since 2011 has been 4+ bedroomed detached housing.

The Ross on Wye HMA stated that the following splits were required:

1 bed 54.4%  
2 Bed 18.4%  
3 bed 28.2%  
4 bed - 1.1%

On this basis it is clear that the proposed development at Lovers Lane is the wrong type of housing required in the village and does not accord with policy H3 of the Core Strategy that developments should have an appropriate mix and range of housing. Given the developments that have been approved already for Gorsley and the Parish during the plan period, then any further proposed development should be considered in the light of the overall cumulative impact of these developments on the housing mix in the area.

*Point 3 – Impact on the character of the village by building a 9 house estate at this location In the village.*

This plot is on the far eastern edge of the village of Gorsley. The natural grain of development is for decreasing density of development from west (the area near the pub and school) to the east (this is detailed in the officer's report for application number 153661 on the previous application). Whilst the number of houses have been reduced from 26 to 9, the development does still represent an estate development on the farthest eastern edge of the village and with the land sloping down from west to east will make this even more prominent and will adversely impact the current character of the village as viewed from the B4221 which as per the previous inspector's report "plays an important part in defining the character of the village.

*Point 4 – The permission requested Is for outline permission with many of the important aspects reserved.*

The Parish Council objects strongly to an application whereby many factors such as the size, type, design of housing are not sufficiently detailed and which have been requested to be reserved. Without this detail there is a clear risk of significant harm to the character of the area through the proposed development. We request that the principle of development on this site at the eastern entrance of the village should not be granted without firm and detailed plans for the any intended development, which the developer would then be required to adhere to.

*Point 5 – If the site Is considered necessary, then It should be socially sustainable as well as environmentally*

Whilst it is clear that the developer has listened to the points raised by the council and the inspector from the dismissal of the appeal to their previous application in environmental terms, the proposed application is now so diluted that it is in conflict with the policies in the NPFF which promote social sustainability, namely paragraph 57 that "developments optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks"

The 9 houses on the site would be at a density of 5.12 houses per hectare. This is substantially lower than the target levels in the Herefordshire core strategy, policy SS2, and also below the two recent approvals of 7 and 4 houses on 2 adjoining sites off Chapel lane in Gorsley which have been at a density of 12.8 and 12.5 houses per hectare respectively.

So, while the level of harm to character from the earlier application for 26 houses has been reduced, there are absolutely no benefits here for the community, because planning obligations only apply for sites of 10 or more. This proposal is simply not optimising the potential of the site for e.g. by making the houses a little smaller, they would accommodate one or more additional houses, so instigating the requirement for some to be affordable and help our parish achieve its target for this type of housing.

#### Point 6 – Highway concerns

Unless there are significant traffic calming measures put in place then The Parish Council do not consider it safe to put another access point onto the B4221 to serve this level of housing. Traffic speeds are well in excess of the current 40 mph speed limit. The comments from West Midlands police in response to the previous application are unequivocal:

"Speed of the road - The speed surveys commissioned as part of this application recorded 85<sup>th</sup> %tile of 49.5 mph eastbound and 45.9mph westbound. Considering that the signed speed limit for the road is 40 mph, these speeds are on the higher side of what would be classed as appropriate speeds for the speed limit. The road is straight with few full bends to reduce vehicles down therefore without appropriate traffic calming measures, speeds of vehicles would still be a high concern."

In order to help shape future development in the Parish, the Parish Council is currently now undertaking a Neighbourhood Development Plan and it is expected, based on the approved Parish Plan comments, that road speeds on the B4221 will again top the list of parishioner's concerns.

#### Summary and Conclusion

The Parish Council believe this proposal should be refused for a number of reasons, some of which on their own should be strong grounds for refusal, but taken together demonstrate that this is the wrong site in the village for development.

The housing supply situation in the parish has changed since the earlier application some 2-3 years ago. A number of other more suitable sites in Gorsley have been approved for development and so the housing targets (proportionate growth) for the parish have actually been exceeded by some distance and this fact should now weaken the case for the need for the development of this site.

Much detail has already been written in the Officer and Inspector reports about the landscape character in this part of the village and the proposal on this site in this part of the village.

So, on the one hand it still represents too many houses at the eastern entrance to the village and in a form that will harm the historic settlement pattern and unique character of the village. - Yet on the other hand, given the size of the development site, it will be at odds with the policies of paragraph 57 of the NPFF in terms of optimizing the potential of a development site.

It is simply not the right site in the village for further development. No doubt there will be further housing provision in the next 13 years of the plan period, but having already achieved in excess of proportionate development for the area, it would be much better that further development be from smaller infill sites where there will be less harm to the character of the village and of housing types that better meet the needs of the parish in terms of housing mix and tenure.

5.2 Gorsley and Kilcot Parish Council, in summary, allied to the valid points made by Linton Parish Council in their response, is of the strong opinion that this application should be rejected:

1. It is not needed - In the first 7 years of the plan period, Gorsley has more than achieved its target growth in a controlled and appropriate manner within its settlement boundary, and will continue to do so.
2. It is in the wrong place - The site is on the extreme eastern fringe of Gorsley away from the main settlement and if approved will set a precedent for further sporadic development along the B4221 with an adverse impact on the rural character of the area.
3. It creates risk to highway safety and potential flooding of existing properties.

The Parish Council's full objection states:

The Parish of Gorsley & Kilcot lies within the Forest of Dean District and is the neighbouring Parish to Linton Parish. The two Parishes are on the County boundary and residences within the village of Gorsley fall within one or other of the two parishes. As such our parishioners who live in Gorsley, and indeed those who live within the neighbouring village of Kilcot, share the same facilities as the parishioners of Linton and we are in effect one community. The proposed development on land situated between the B4221 and Lovers Walk, Gorsley will therefore affect our parishioners to the same degree as the parishioners of Linton.

The village of Gorsley is entirely rural in nature. Dwellings in the village are widely dispersed, surrounded by agricultural land and services are limited. This development will have a detrimental impact upon the rural character and appearance of the area.

In the Herefordshire Local Plan, the 2013 paper on Rural Housing Background states that growth throughout the County should be proportional to its towns, villages and settlements. Furthermore any such development should be sited within or adjacent to the main settlement area (RAI in this case). In the Ross Housing Market Assessment the proportional growth for the period 2011 to 2031 is set at 14%.

Gorsley's requirement to meet the minimum target growth of 14% has already been achieved with 13 years of the plan period still to go. The village is growing steadily with small developments of 1 or 2 houses.

This site adjacent to the County Boundary adjoins Gorsley; it is not within or closely adjacent to the existing settlement as indicated by the settlement boundary plan.

Whereas the Council may have issues generally with demonstrating a 5 year supply of housing land, this is not the case in Gorsley.

The Herefordshire Strategic Housing Assessment in 2015 identified various sites within the settlement boundary with potential for development during the plan period. Gorsley has a number of sites that offer "medium suitability" for development, but this particular site is identified as having "no suitability during the Plan period."

It has been previously recognised the Gorsley is a settlement that is predominantly to the South of the B4221 and is an irregular mixture of scattered dwellings with some small clusters along a network of country lanes.

Development along the B4221 is sparse in nature and as such this proposal would create a long frontage which would entirely change the character of the area. No doubt should this proposal



be approved it will lead to many more along the B4221 which will create a straggly ribbon development that will stretch from the County Boundary to the M50 Motorway.

We note that the Land to the east of The Old Post Office, Gorsley Road, which is opposite the site, has just had its application for erection of two dwellings rejected for two reasons that are relevant to this application. Firstly, "The proposal by reason of its density, layout, design and landscaping, is not considered to represent an appropriate informed response to its landscape setting and context and as such does not represent a positive contribution to the surrounding environment and its landscape setting resulting in an adverse impact on the character and setting of Gorsley and the countryside" and secondly "The proposal does not respond to local housing need or provide a suitable mix of housing".

The necessary removal of the roadside hedge and many of its trees to provide the access vision splays, will again have a serious impact on the visual amenity and will destroy the rural feel to the approach to the village. Although proposals to replace the hedge further back from the carriageway, this will take many years to mature, by this time the harm has been done.

We believe that the creation of any further access points on to the B4221 as it passes through the villages of Gorsley and Kilcot is irresponsible bearing in mind the road safety issues arising from the speed of traffic and volume of HGV's. Any development which would result in an increase in the number of cars using the B4221 as an entrance and exit to and from a site is wholly inappropriate in the circumstances.

The 2014 traffic data whilst providing useful information to a degree, its results are somewhat distorted by the disruption to through traffic by vehicles parking at the village shop and post office which were open at the time of the survey. The data was recorded at a point some 85 metres from the shop and post office.

A speed survey undertaken by Gloucestershire Constabulary in February 2014, over an 11 day period, on a similar open stretch of the B4221, approximately 1.5 miles from the proposed site established an 85% percentile speed of 60mph (173 vehicles in excess of 90mph, 24 of which were recorded at over 100 mph).

Whereas the site entrance may be designed for the 85% percentile speeds it cannot mitigate the risk posed by those who continue to drive at reckless speed along the B4221. In June 2014, The Planning Inspectorate upheld a refusal by Forest of Dean District Council to allow a development adjacent to the B4221, some mile from the proposed site, because the proposed access would pose "a significant danger for road users on the B4221 as well as those entering and leaving the site."

Furthermore Forest of Dean District Council when consulted on application 153661/O objected and held the view that development of this site would *"create a long frontage altering the character of the area"*.

Such a development would be almost entirely car-dependent, with the situation having been made worse in recent years due to significant reductions in the frequency of the bus service. There is no provision for cyclists and the footway on the north side of the B 4221 is narrow, (as little as 0.5 of a metre in places) overgrown and extremely dangerous for pedestrians, given the sheer size and speed of passing vehicles.

In addition we have grave concerns regarding drainage systems on this site. Properties to the East of the site at present have issues with a degree of flooding in their gardens. We believe the creation of a SuDS with a pond at the eastern corner of the site will pose a severe risk to these properties and any SuDs would require a long-term maintenance agreement.

5.4 Eight objections have been received from local residents, comments are summarised as:

- Impact on amenity and setting of existing dwellings
- Noise
- Impact on adjoining property value
- Impact on character of the area
- Concern regarding drainage
- The Parish has more than met and is delivering its housing quota
- Impact on infrastructure and capacity of local facilities
- No need for further houses at Gorsley
- Concern approval will lead to a further and higher density development
- Outside Gorsley's built form
- Pedestrian safety
- Loss of hedgerow and impact on trees
- Previous application was refused at Appeal
- Support of Parish Council's objection and position
- No community benefits
- Over development
- Impact on the PROW

5.5 The Ramblers' Association objects, commenting *The proposed development will adversely affect the public's use and enjoyment of public footpath Linton 18 (LTR18) which runs along the inside southern boundary of the site. The proposed 2 metre wide permeable surface for the length of footpath LTR18 passing through the site is noted.*

The adjacent new hedge is a matter of some concern to users of the footpath. Whilst the assurance of the applicant's agent that, '...a management company will maintain up to the halfway point of the hedge between the PROW and the dwellings.', is welcome, it does nothing to assure users of the public footpath that the height of the hedge will not exceed 3 metres or more, creating an very unwelcome 'tunnel' effect. This would completely remove the current open aspect available to the north by people walking along the footpath. The proposed dwellings themselves will have an adverse effect on the visual amenity of walking along the footpath, but a hedge will provide a green wall.

In view of the desire to plant vegetation adjacent to the footpath where none currently exists, it is reasonable that to avoid the ultimate creation of a 'tunnel' effect, a minimum width for the public footpath should be at least 3 metres.

The Ramblers Association therefore objects to this application because the proposed 2 metre footpath and proposed adjacent hedge will adversely affect the public's use and enjoyment of the public right of way by creating a 'tunnel' effect where none exists presently.

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=181908&search=181908](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181908&search=181908)

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

### *Policy context and Principle of Development*

#### Legislation

- 6.1 Section 38 (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." The development plan is the Herefordshire Core Strategy.
- 6.2 With regards to heritage, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

#### Herefordshire Core Strategy

- 6.3 Core Strategy Policy SS1 – *Presumption in favour of sustainable development*, in line with the NPPF, has a positive approach to such development. Furthermore, planning permission will be granted unless the adverse impact of the permission would significantly and demonstrably outweigh the benefits of the proposal.
- 6.4 Core Strategy Policy SS2 – *Delivering new homes* sets out Herefordshire is to deliver a minimum 16,500 dwellings during the plan period and that designated rural settlements play a key role in that delivery and support the rural economy, local services and facilities. Such settlements will deliver a minimum 5,600 dwellings.
- 6.5 Core Strategy policy SS6 describes proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations. Policy SS6 then states in its list of criteria that development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.
- 6.6 Core Strategy policy SS7 – Addressing climate change describes how developments will be required to mitigate their impact on climate change, and strategically, this includes:
- Focussing development to the most sustainable locations
  - Delivering development that reduces the need to travel by private car and encourages sustainable travel options including walking, cycling and public transport
- 6.7 Core Strategy policy RA1 – Rural housing distribution sets out the strategic way housing is to be provided within rural Herefordshire and to deliver a minimum 5,600 dwellings. Herefordshire is divided into seven Housing Market Areas (HMAs) in order to respond to the differing housing needs, requirements and spatial matters across the county.

- 6.8 Core Strategy policy RA2 – Housing outside Hereford and the market towns identifies the settlements in each HMA area where both the main focus of proportionate housing development will be directed, along with other settlements where proportionate housing growth is appropriate. Gorsley is one of these settlements and is within the Ross on Wye HMA. Policy RA2 sets Housing proposals will be permitted in the identified settlements where the following criteria are met:
1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area;
  2. Their locations make best and full use of suitable brownfield sites wherever possible;
  3. They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and
  4. They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.
- 6.9 Core Strategy Policy MT1 – Traffic management, highway safety and promoting active travel states Development proposals should incorporate the following principle requirements covering movement and transportation:
1. Demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development;
  2. Promote and, where possible, incorporate integrated transport connections and supporting infrastructure (depending on the nature and location of the site), including access to services by means other than private motorised transport;
  3. Encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities;
  4. Ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services;
  5. Protect existing local and long distance footways, cycleways and bridleways unless an alternative route of at least equal utility value can be used, and facilitate improvements to existing or provide new connections to these routes, especially where such schemes have been identified in the Local Transport Plan and/or Infrastructure Delivery Plan; and
  6. Have regard to with both the council's Highways Development Design Guide and cycle and vehicle parking standards as prescribed in the Local Transport Plan - having regard to the location of the site and need to promote sustainable travel choices.
- 6.10 Core Strategy policy LD1 criteria requires new development must achieve the following:
- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;

- Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management

#### National Planning Policy Framework

- 6.11 The NPPF has 'sustainable development' central to planning's remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life.
- 6.12 Paragraphs 7 and 8 set out and define sustainable development and of the three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, the social objective requires planning to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.
- 6.13 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.14 Footnote 7 to Paragraph 11 states this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73). The local authority is currently failing to provide a 5 year Housing Land Supply, plus a buffer and as such Paragraph 11 is triggered due to conflict with the relevant requirements of NPPF chapter 5 *Delivering a sufficient supply of homes*.
- 6.15 Where the existence of a five year land supply cannot be demonstrated, there is presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing. In reaching a decision upon new housing the housing land supply position will need to be balanced against other factors in the development plan and/or NPPF which could result in the refusal of planning permission. This site is therefore assessed and considered on its suitability as being sustainable in regards its location and material constraints and considerations.
- 6.16 This position was crystalised at the Appeal Court prior to the NPPF 2018 coming into effect and the implications of this position following the *Suffolk Coastal DC v Hopkins Homes & SSCLG* and *Richborough Estates v Cheshire East BC & SSCLG* [2016] EWCA Civ 168 were described by the Court thus *We must emphasize here that the policies of the NPPF do not make "out-of-date" policies for the supply of housing irrelevant in the determination of a planning application or appeal. Weight is, as ever, a matter for the decision-maker (as described the speech of Lord Hoffmann in Tesco Stores Ltd. v Secretary of State for the Environment [1995] 1 W.L.R. 759, at p.780F-H).*
- 6.17 Accordingly, the Council's housing land supply position vis-à-vis the NPPF does not result in the proposal being acceptable when there are both material considerations demonstrating the development should be refused or where, locally, housing supply targets can be demonstrated.

- 6.18 Paragraph 103 states The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 6.19 Paragraph 109 states Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.20 NPPF Paragraph 124 states The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 outlines that planning decisions should ensure that developments:
- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.21 NPPF section 16 sets out the position regarding conserving and enhancing the historic environment. Specific principles and policies relating to the historic environment and heritage assets and development are found in paragraphs 184 – 202.
- 6.22 Paragraph 193 advises that: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.23 Paragraph 197 states: The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

## Assessment

- 6.24 The site is considered to be located as part of Gorsley as defined by policy RA2. This position was not found to be inaccurate by the Appeal Inspector who considered his assessment with regards to that policy. In the absence of any NDP with weight and no emerging settlement boundary defining Gorsley, it is considered reasonable to continue on the same basis.
- 6.25 The proposed layout is formed with six dwellings providing a frontage development to the B4221 divided in half by the singular access point. The three dwellings set to the rear, south of the site, replicate the layout pattern of the dwellings accessed from Lovers Walk. A SuDs feature is located within a green landscape wedge on the west part of the site.
- 6.26 It is considered the proposal represents an appropriate response to context and builds upon existing development pattern principles. The retention of green assets and looseness of the layout aligns with the important characteristics of Gorsley, which the Landscape Character Assessment, identifies is that of *“forest smallholdings and dwellings”*. This landscape type is described as intimate, densely settled landscape characterised by strings of wayside cottages and associated smallholdings which nestle within a complex matrix of pastoral fields and narrow lanes.
- 6.27 As such the relevant criteria of CS policies SS6, RA2 and LD1 and aims and objectives are satisfied.

## Highways

- 6.28 The site accesses onto a very fast stretch of the B4221 and will increase movements, vehicular and pedestrian. Officers have had significant safety concerns on the matter and have visited the site on numerous occasions and at numerous times of the day. The following observations have been made:
- High traffic speeds in excess of 40 mph speed limit by significant number of users
  - Number of HGVs including articulated lorries
  - When walking along the footpath, where possible HGVs would move to middle of road. It is considered this is because of:
    - Perception of vulnerability of pedestrians
    - Tunnel effect of road and narrow footpath
  - Cars parked in lay-by opposite old shop caused all non two wheel vehicles to cross central reservation to pass
  - Witnessed a van clip footpath kerb at speed Gloucester side of old shop
  - Near miss between motorbike and vehicle
  - Overtaking
  - Impact on visibility from junction onto main road from pedestrians at bus stop towards Gorsley
- 6.29 The highway mitigation proposed and delivery of three significant improvements delivered by the development, namely a controlled pedestrian crossing, closure of the ‘parking bay’ opposite the now closed shop, and new and improved works relating to bus stops are fundamental to Officers recommendation and conclusion.
- 6.30 The controlled crossing, as originally proposed with the 26 unit scheme and found by the Appeal Inspector to be a good thing, absolutely and fundamentally must be provided to ensure pedestrian safety and meet the requirements of criteria 2, 3, and 4 of Core Strategy policy MT1 which along with ensuring safety, promotes active travel, reduction in vehicular based short journeys and improvement and integration of development of transport infrastructure.

- 6.31 Further to the above, and pursuant to ensuring the applicant is aware of their responsibilities, the delivery of these improvements and mitigation prior to the occupation of the dwellings and at the same time ensuring an appropriate mix of housing sizes is delivered in line with policies RA2 and H3, is secured through conditions and a S278 agreement.
- 6.32 Officers are concerned, in the absence of the applicants not committing to confirming the proposed housing mix, despite being requested, and potential future claims of the unviability of the development on the grounds of meeting the housing mix and or providing the package of highway safety measures agreed, that it should be understood the recommendation of approval is completely dependent on the suggested conditions and S278 legal agreement therein set out below. On this strict basis policy MT1 is satisfied.

#### Drainage

- 6.33 At this outline planning stage, the proposal demonstrates that the development can be suitably drained in principle ensuring the protection of adjoining land from flooding by surface water. It is noted the Drainage Engineer, despite further communication with the applicant, maintains an objection on a technical ground, stating *We have reviewed this and as a highway authority we would raise a strong objection to the use of any mechanical device that could break down (pump) as there will be a significant risk of increased water on the highway.*
- 6.34 It is proposed that the pump would be provided in accordance with the requirements of Building Regulations and/or Sewers for Adoption (should the developer wish to have the network adopted). In the unlikely event of failure, the surface water from the pump shall be stored within the pump chamber and adjacent attenuation pond prior to discharge overland onto the adjacent highway network via the existing overland flood route. It should be noted that the frequency, flow and volume of water flowing overland post development would be significantly less compared to the existing greenfield situation as a result of the proposed drainage network. These details could be provided at the detailed design stage covered by planning condition.
- 6.35 The Inspector, in considering the refused 26 unit scheme stated that the proposed drainage strategy was sufficient for the purposes of an outline planning application and that the detailed design and subsequent maintenance of the SuDs could be agreed as part of a discharge of condition application.
- 6.36 At the informal hearing, it was agreed between all parties that a technical solution to both foul and surface water drainage could be achieved in accordance with the proposed drainage strategy. The Inspector did discuss the issue of an increased risk of flooding of nearby land but stated that *in the light of the evidence I am satisfied that there is adequate potential within the site to ensure that both surface and foul drainage can be adequately addressed ... and thus the failure to provide a fully-worked up scheme is not a sufficient justification to withhold permission.*
- 6.37 On this basis and noting the sole point of objection from the Drainage Engineer, it is considered based on all of the above, the situation can be mitigated and controlled by condition and CS policies SD3 and SD4 are satisfied in principle.

#### Summary

- 6.38 The proposal delivers nine dwellings in a location identified as suitable for new residential development within a layout that respects and enhances the landscape character type. Technical matters relating to highways, drainage and ecology have been assessed as being addressed and where necessary, mitigated with conditions. The delivery of a number of highway improvements are considered necessary and required to ensure highway and pedestrian safety and meet local and national planning policy aims and objectives.



- 6.39 The Parish Councils' concerns are noted however given the location of the site and the previous appeal inspector's comments a modest development of this nature with associated highway improvements is considered to be compliant with policies RA2 and MT1.
- 6.40 In the absence of an NDP with significant weight, the Council's housing land supply position, and ability to ensure an appropriate mix of dwellings by condition, there is no basis to resist the development on the basis of over supply.
- 6.41 Having regard to all of the above and with the conditions set out below approval is recommended.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions and any further conditions considered necessary by officer named in the scheme of delegation to officers:**

- 1. A02 - Time limit for submission of reserved matters (outline permission)**
- 2. A03 - Time limit for commencement (outline permission)**
- 3. A04 - Approval of reserved matters**
- 4. A05 - Plans and particulars of reserved matters**
- 5. B01 - Development in accordance with the approved plans**
- 6. H03 - Visibility splays, 2.4 M X 143 m west, 126 m east**
- 7. H06 - Vehicular access construction**
- 8. H09 - Driveway gradient**
- 9. H11 - Parking - estate development**
- 10. H13 - Access, turning area and parking**
- 11. H17 - Junction improvement/off site works. Section 278 Agreement**
- 12. H20 - Road completion in 2 years**
- 13. H21 - Wheel washing**
- 14. H27 - Parking for site operatives**
- 15. H29 - Secure covered cycle parking provision**
- 16. The reserved matters application submitted pursuant to Condition 1 shall be accompanied by details of a scheme for the delivery of the open market housing. This scheme shall comprise a schedule outlining the number of 2, 3 and 4 (+) bed dwellings; the overall mix being in general accord with the Council's Local Housing Market Assessment (or any successor document, adopted for these purposes by the local planning authority).**

**Reason: To define the terms of the permission and to comply with Policies SS2, RA2 and H3 of the Herefordshire Local Plan – Core Strategy and the housing and social aims and objectives National Planning Policy Framework.**

17. Prior to commencement of the development, a detailed Green Infrastructure scheme with full details of all proposed tree, shrub and hedgerow planting and subsequent 10 years establishment and management should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved and hereafter maintained unless otherwise agreed in writing by the Local Planning Authority.

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.

18. Prior to commencement of the development, a Ecological Mitigation and Enhancement Strategy including ecological working methods in particular in relation to any hedgerow removal; and detailed biodiversity enhancements for bats, birds, invertebrates and hedgehogs should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved. The scheme shall be maintained hereafter as approved unless otherwise agreed in writing by the Local Planning Authority

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.

19. Prior to the first occupation of the dwellings hereby permitted, full written details and plans for refuse and waste Collection points for all plots located over a 25metre distance from where the RCV can safely access shall be submitted to the Local Planning Authority for written approval and thereafter provided and maintained as approved.

All refuse and waste collection points must be within 25metres of where the RCV can access, in accordance with '*Guidance Notes for storage and collection of domestic refuse and recycling*'.

Reason: In the interests of highway safety and promoting sustainable development and land use and to comply with Herefordshire Core Strategy policies SS1, MT1, LD1, RA2 and SD1 and the relevant aims and objectives of the National Planning Policy Framework.

20. 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. The scheme shall be implemented in accordance with the approved details before the development is first brought into use and thereafter be maintained as such.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution and to comply with Herefordshire Core Strategy policies SS1, SD1, SD3 and SD4.

## INFORMATIVES:

1. IP1 - Application Approved Without Amendment
2. The landscaping plan, as required by Condition 17, should include full details of all proposed tree, shrub and hedge planting plus any new or reseeded grass areas. Locally typical, native species with stock of local provenance should be used where practicable.

Details supplied should include details of native species mix, stock specification, planting and protection methodology and a 5 year establishment and subsequent 5 year maintenance plan. Elder, Ivy and Dog Rose are not considered as appropriate 'woody' species to be included in the hedge. Hornbeam should normally be used instead of Beech. 'Exotic' species will only be considered where they are appropriate to existing established planting and landscape character (eg historic parkland or in an 'urban' environment).

As detailed in the Council's *Highway Design Guide for New Developments* no thorny species should be planted immediately adjacent to a footway/public footpath/pavement or within 3m of a cycleway.

3. HN01 - Mud on highway
4. HN04 - Private apparatus within highway
5. HN05 - Works within the highway
6. HN10 - No drainage to discharge to highway
7. HN24 - Drainage other than via highway system
8. HN28 - Highways design guide and specification

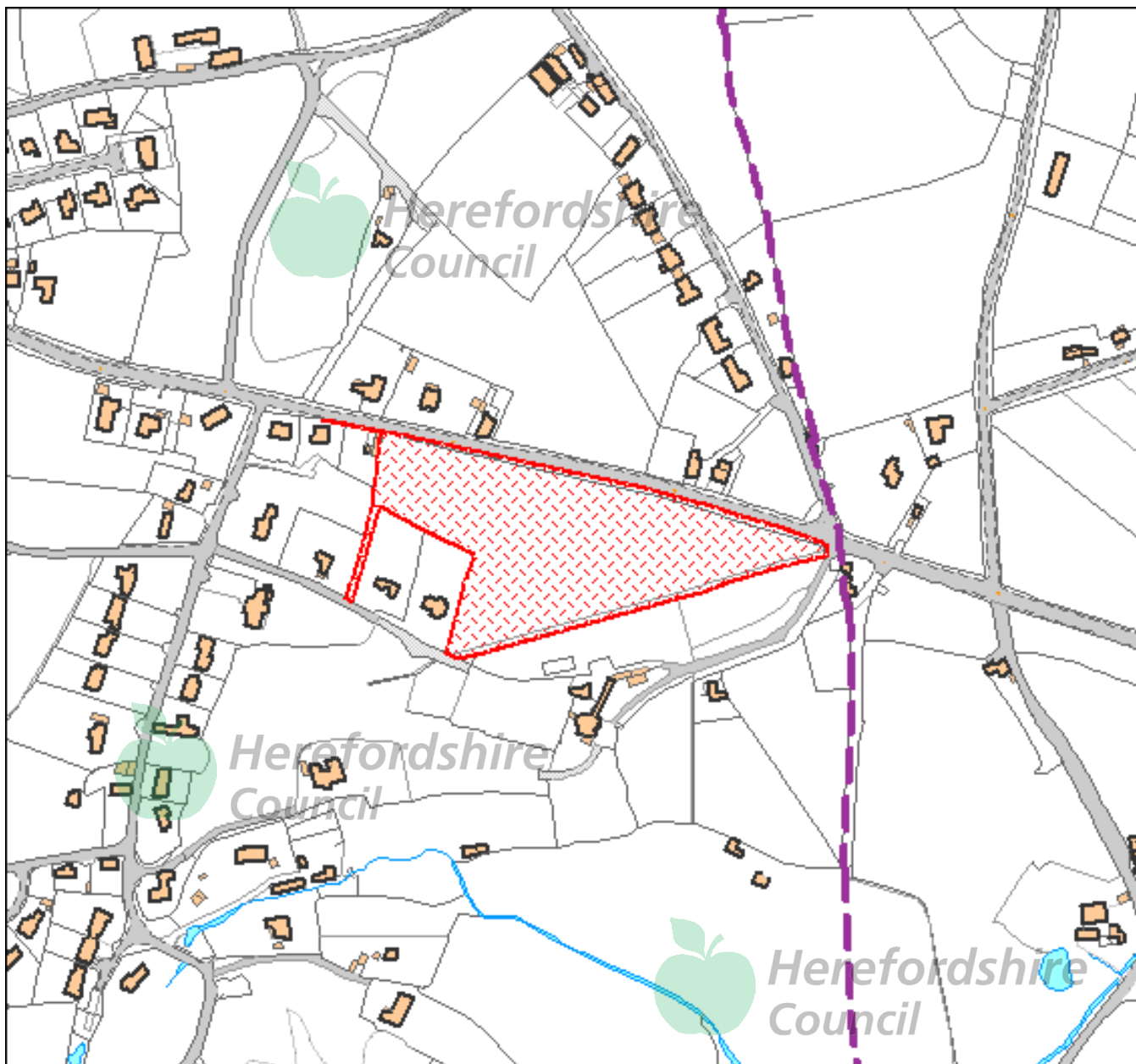
Decision: .....

Notes: .....

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## Background Papers

Internal departmental consultation replies.



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**APPLICATION NO:** 181908

**SITE ADDRESS :** LAND AT LOVERS WALK, GORSLEY, ROSS-ON-WYE, HEREFORSHIRE

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