

**Minutes of the meeting of Planning and regulatory committee
held at Council Chamber, The Shire Hall, St Peter's Square,
Hereford, HR1 2HX on Tuesday 18 December 2018 at 2.40 pm**

Present: Councillor PGH Cutter (Chairman)
Councillor J Hardwick (Vice-Chairman)

Councillors: BA Baker, TL Bowes, CR Butler, PE Crockett, PJ Edwards,
DW Greenow, TM James, AW Johnson, FM Norman, J Stone, D Summers and
SD Williams

In attendance: Councillor DG Harlow

87. APOLOGIES FOR ABSENCE

Apologies were received from Councillors KS Guthrie, EL Holton, MD Lloyd-Hayes, AJW Powers, NE Shaw and WC Skelton.

88. NAMED SUBSTITUTES

Councillor TL Bowes substituted for Councillor AJW Powers, Councillor PE Crockett for Councillor EL Holton, Councillor AW Johnson for Councillor NE Shaw, Councillor J Stone for Councillor KS Guthrie and Councillor D Summers for Councillor MD Lloyd-Hayes.

89. DECLARATIONS OF INTEREST

None.

90. CHAIRPERSON'S ANNOUNCEMENTS

None.

91. 181664 - THE TREES, ORCOP, HEREFORD.

(Application for approval of reserved matters following outline permission 161771 (site for proposed replacement of a fire destroyed dwelling plus the erection of 2 dwellings (total 3 dwellings)).

The Senior Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

Outline planning permission had been granted in 2016. A reserved matters application had been refused. Both these decisions had been made under delegated powers. An appeal against refusal of the reserved matters application had been dismissed. A further reserved matters application was now before the Committee.

In accordance with the criteria for public speaking, Mrs M Bowen spoke on behalf of Orcop Parish Council in opposition to the Scheme. Mr M Shaw, a local resident, spoke in objection. Dr C Down, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor DG Harlow, spoke on the application.

He made the following principal comments:

- There were almost 40 local objections.
- The area was known for poor drainage and the issue of smells around the Copy Well was discussed at almost every Parish Council meeting. The Committee had refused a recent application at Newcastle Farm nearby principally because of drainage issues.
- The development would affect the visual amenity of residents of Wilkes Row given the rooflines.
- A development of three houses was too large.
- Several water sources were within 50m of the proposed filtration systems: a well in the garden of Lark House, Copy Well and a spring in the Grounds of Bramble Cottage. This was contrary to the advice of Natural England in its response set out at section 4.1 of the report.
- The size of the development would overload drainage capacity.
- He detailed a number of criticisms that had been made about the drainage engineer's report, as reflected in the schedule of updates, questioning whether the testing that had been conducted complied with standards and Regulations. In conclusion, there were serious concerns in Orcop about pollution, smells and health risks. Further rigorous tests should be undertaken before any approval was considered.

In the Committee's discussion of the application the following principal points were made:

- The principle of the development had been established with outline permission having been granted.
- The drainage issues were a concern. It was important to ensure that the tests had been carried out properly.

The Development Manager confirmed that no condition had been attached to the outline permission requiring a foul and surface water drainage scheme and that it was not a reserved matter. It was not one of the matters the Inspector had considered when determining the earlier application. Having regard to the reasons for the Committee's refusal of the Newcastle Farm application on 15 May 2018, additional information on drainage issues had been sought, in conjunction with the applicant, going beyond the applicant obligations in terms of the type of application submitted and this had been supplemented by advice from the council's drainage consultants.

- It was suggested that the application should be refused on drainage grounds and because of the proposal's contrast with the character and appearance of the area. This reflected the inspector's summary on the appeal against the previous reserved matters application, as set out at paragraph 6.1 of the report that it was contrary to policies LD1 and SD1.
- It was observed that officers had stated in the report at paragraph 6.19 that, noting the Inspector's comments they were content that the scale of the development in

terms of proportions of the dwellings themselves was acceptable in accordance with policies LD1 and SD1 in particular.

The Development Manager commented that whilst it was clear there were still some concerns about the scale and impact of the proposal officers had made clear their perspective in recommending approval. He drew attention to condition 11 relating to drainage and sought clarification as to whether this provided sufficient assurance to address Members' concerns on this aspect.

The local ward member was given the opportunity to close the debate. He reiterated the importance of ensuring that drainage solutions in Orcop and other rural villages were robust. This issue was of great concern to local residents.

In response to Members concerns about the drainage issues the Development Manager suggested that condition 11 could be amended requiring this to be discharged prior to commencement and that there could be consultation with the local ward member on the proposals.

Councillor Baker proposed and Councillor Greenow seconded a motion that the application be approved in accordance with the printed recommendation with an amended condition 10 as set out in the update sheet, subject to the discharge of condition 11 to be prior to commencement subject to consultation with the local ward member. The motion was carried with 11 votes in favour, 3 against and no abstentions.

RESOLVED: That planning permission be granted subject to the conditions below and any other further conditions considered necessary by officers named in the scheme of delegation to officers, with the discharge of condition 11 to be prior to commencement subject to consultation with the local ward member:

1. C07 Development in accordance with approved plans and materials
- 2 C13 Samples of external materials
- 3 C96 Landscaping scheme (including retaining wall and boundary treatments between plots)
- 4 C97 Landscaping implementation
5. CAB Visibility splays
6. CAE Vehicular access construction
- 7 CAH Driveway gradient
8. CAL Access, turning and parking area
9. CB2 Cycle storage
10. Notwithstanding the additional details required by condition 11 below, the drainage arrangements shall include the use of individual private treatment plants for foul water with drainage fields and surface water using storm water soakaways.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

11. Prior to commencement of development additional details in relation to the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of any of the buildings hereby permitted. The information shall include the following:

- **The sole ownership of the land of the surface water soakaway for plot 1**
- **The ownership and maintenance arrangements of the two ACO drains along the driveway**
- **A topographical drawing to indicate the use of a gravity fed foul water drainage system**

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

(Councillor Hardwick (Vice-Chairperson) in the chair.)

92. 181848 - LAND EAST OF CASTLE POOL COTTAGE, LITTLE BIRCH, HEREFORD

(Proposed development of three dwellings with garages and new access.)

The Senior Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

In accordance with the criteria for public speaking, Mrs S Glover, Clerk to Little Birch Parish Council spoke in opposition to the Scheme, Mrs K Dillon, a local resident, spoke in objection. Mr R Pryce, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor DG Harlow, spoke on the application.

He made the following principal comments:

- There was considerable local opposition to the scheme.
- The proposal was for three large dwellings. The community wanted affordable homes for young local families.
- The proposal was not in keeping with the area. The proposed dwellings would dominate the skyline.
- It was a greenfield site. The Neighbourhood Development Plan was at examination stage. Other areas of the Parish were far more appropriate for development as provided for in the NDP. There was concern that approval of the application would

lead to the village spreading through subsequent infill development and to suburbanisation.

- The local road network was in poor condition. The proposed site was poorly located on a bend opposite a farm and was not in a sensible place to build.
- The roads were used by walkers, cyclists and horse riders and safety had to be considered.
- The application was for the wrong type of homes in the wrong location and should be refused.

In the Committee's discussion of the application the following principal points were made:

- The proposed site was not identified for development within the NDP. It was a greenfield site in the open countryside. There were other preferred sites for development.
- The size and scale of the properties was inappropriate, contrary to policy LD1.
- Both Little Birch Parish Council and Much Birch Parish Councils opposed the proposal. There were also numerous objections from the local community.
- Accessibility was poor. It would be necessary to drive to access services and the proposal was therefore contrary to policy MT1. The site was also not really sustainable, contrary to policy SS1.
- A contrary view was that Little Birch was a settlement identified for development in policy RA2. The application was for outline planning permission. There did not appear to be grounds for refusal.

The Development Manager commented that the weight to be given to relevant policies needed to be carefully considered. The NDP could only be given moderate weight. The application was for outline permission for three dwellings. In relation to the scale of the proposed properties, size in terms of number of bedrooms would be a matter for consideration as part of a reserved matters application. It was however appropriate to consider the visual impact of the scale of the development at this stage.

The local ward member was given the opportunity to close the debate. He reiterated that the proposal was contrary to the draft NDP.

Councillor Greenow proposed and Councillor Norman seconded a motion that the application be refused on the grounds that it was contrary to policies LD1 in terms of its visual impact, MT1 and SS1. The motion was carried with 7 votes in favour, 3 against and 3 abstentions.

RESOLVED: That planning permission be refused on the grounds that the application was contrary to policies LD1 in terms of its visual impact, MT1 and SS1 and officers named in the scheme of delegation to officers be authorised to detail the reasons for refusal.

93. 182893 - SPORTS GROUND AND CLUB ROOM, OLD SCHOOL LANE, HEREFORD, HEREFORDSHIRE, HR1 1EX

(Councillor Norman had left the meeting and was not present during consideration of this application.)

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr S Kerry, of Hereford City Council spoke in opposition to the Scheme. Mr M Williams, the applicant, spoke in support.

It was reported that the local ward member and the adjoining local ward member had indicated that they supported the application.

Several members expressed their support for the scheme and the benefits it would bring for young people.

Having regard to some concerns that had been expressed about the material to be used for the proposed playing surfaces it was requested that clubs should ensure they had policies and guidance in place on their use.

Councillor Greenow proposed and Councillor Williams seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried unanimously with 12 votes in favour, none against and no abstentions.

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

1. **A01 Time limit for commencement (full permission)**
2. **B02 Development in accordance with approved plans and materials**
3. **Use of the development shall not commence until:**
 - a) **Certification that the Artificial Grass Pitch hereby permitted has met FIFA Quality Concept for Football Turf – FIFA Quality or equivalent International Artificial Turf Standard (IMS) and,**
 - b) **Confirmation that the facility has been registered on the Football Association's register of Football Pitches**

Such details to have been submitted and approved in writing by the Local Planning Authority in consultation with Sport England.

Reason: To ensure that the development is fit for purpose and sustainable, provides sporting benefits and to accord with policy OS3 of the Herefordshire Local Plan – Core Strategy.

4. **Use of the development shall not commence until a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to the proposed Artificial Grass Pitch and associated ancillary facilities and include details of pricing policy, hours of use, access by priority groups/community users other than the host club, management responsibilities and a mechanism for review). The development shall not be used otherwise than in strict accordance with the approved agreement.**

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport and to accord with policy OS3 of the Herefordshire Local Plan – Core Strategy.

5. **Prior to the commencement of any construction work details of the type of infill materials to be installed into the 3G artificial grass pitch surface which may comprise of recycled SBR with adequate chemical testing evidence in compliance with REACH findings, or EPDM, or TPE, or Encapsulated SBR**

or natural materials (such as cork / vegetable) shall be submitted to and approved in writing by the local planning authority. The approved surface shall be implemented prior to first use of the pitch and no other alternative surface shall be used without prior written consent of the local planning authority.

Reason: To ensure that the surfacing of the pitch would comply with industry guidance that her considered the findings of Registration, Evaluation, Authorisation and Restriction of Chemicals and so as to ensure a safe environment for users of the facility in accordance with Herefordshire Local Plan – Core Strategy policy SD1 and there requirements of the National Planning Policy Framework.

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

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents, ensure no pollution of or detriment to the environment and so as to comply with policies SD3 of the Herefordshire Local Plan – Core Strategy and the requirements of the National Planning Policy Framework.

7. The use of the 3G pitch and associated floodlighting hereby approved shall be restricted to between the hours of 9.00am and 10.00pm.

Reason: To minimise the impact of the floodlights and protect the residential amenities of nearby dwellings in accordance with policies SS6 and SD1 of the Herefordshire Local Plan – Core Strategy and requirements of the National Planning Policy Framework.

8. All fencing and enclosures included on the approved drawings shall be erected prior to the first use of the 3G pitch and shall thereafter be retained or replaced with fencing/enclosures of the same height, unless alternative details have first been submitted to and approved in writing by the local planning authority.

Reason: In the interests of public safety and residential amenity and so as to accord with policy SD1 of the Herefordshire Local Plan – Core Strategy and requirements of the National Planning Policy Framework.

9. Prior to the first use of the development hereby approved a Travel Plan which contains measures to promote alternative sustainable means of transport for staff and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policy MT1 and SS4 of Herefordshire Core Strategy

10. Prior to the first use of the 3G pitch hereby permitted a Community Use Management Plan and a Noise Management Plan shall be submitted and approved in writing by the local authority. This will incorporate issues set out in para 4.8.2 of the applicant's Design and Access statement and shall include a prohibition of the use of amplified music at the site. The use of the 3G pitch shall operate in accordance with the approved Plans.

Reason: To ensure that residential amenity is safeguarded and so as to accord with policies SS6 and SD1 of the Herefordshire Local Plan – Core Strategy and requirements of the National Planning Policy Framework.

11. No development shall take place until details of the proposed surface water drainage arrangements have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first use of the 3G pitch hereby permitted.

Reason: In order to ensure that satisfactory drainage arrangements are provided and enable the local planning authority to carry out a Habitat Regulations Assessment – Appropriate Assessment and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

1. IP1 - Application Approved Without Amendment
2. I05 - No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

3. I11 - Mud on highway

It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

4. I35 - Highways Design Guide and Specification

The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.

5. I45 - Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)

6. This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant

can be provided with an approved specification, and supervision arranged for the works.

7. Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel. 01432 845900

8. Notes re: conditions 3 and 4

The applicant is advised that pitches to be used for Step 1 and Step 2 level football matches should be built in accordance with FIFA Quality Concept for Football Turf – FIFA Quality Pro and steps 3-6 should be built to FIFA Quality as a minimum and tested annually as per league rules.

Guidance on preparing Community Use Agreements is available from Sport England at:

<https://www.sportengland.org/facilities-planning/planning-for-sport/planning-tools-and-guidance/community-use-agreements/>

For artificial grass pitches it is recommended that you seek guidance from the Football Association on pitch construction when determining the community use hours the artificial pitch can accommodate.

9. Welsh Water Advisory Notes:

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

94. 182950 - TED POWELL BUILDING, THE COUNTY GROUND, HEREFORD, HEREFORDSHIRE, HR4 9NA

(182950 - Construction of an external 3g artificial turf pitch (atp) with fencing and a storage container at Ted Powell building.)

(Councillor Norman had left the meeting and was not present during consideration of this application.)

The Principal Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

In accordance with the criteria for public speaking, Mr S Kerry, of Hereford City Council spoke in opposition to the Scheme. Mr S Willmot, Chairman – Herefordshire Football Association, spoke in support.

It was reported that the local ward member supported the application.

Members indicated their support for the scheme.

Having regard to some concerns that had been expressed about the material to be used for the proposed playing surfaces it was requested that clubs should ensure they had policies and guidance in place on their use.

Councillor Greenow proposed and Councillor James seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried unanimously with 12 votes in favour, none against and no abstentions.

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

1. **A01 Time limit for commencement (full permission)**
2. **B02 Development in accordance with approved plans and materials**
3. **Use of the development shall not commence until:**
 - a) **Certification that the Artificial Grass Pitch hereby permitted has met FIFA Quality Concept for Football Turf – FIFA Quality or equivalent International Artificial Turf Standard (IMS) and,**
 - b) **Confirmation that the facility has been registered on the Football Association's register of Football Pitches**

Such details to have been submitted and approved in writing by the Local Planning Authority in consultation with Sport England.

Reason: To ensure that the development is fit for purpose and sustainable, provides sporting benefits and to accord with policy OS3 of the Development Plan.

4. **Use of the development shall not commence until a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to the proposed Artificial Grass Pitch and associated ancillary facilities and include details of pricing policy, hours of use, access by priority groups/community users other than the host club, management responsibilities and a mechanism for review). The development shall not be used otherwise than in strict accordance with the approved agreement.**

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport and to accord with policy OS3 of the Development Plan.

5. **Prior to commencement of any works approved under this decision notice a fully detailed surface water management and Sustainable Drainage Scheme (SuDS) shall be supplied and agreed in writing by the Local Planning Authority. The scheme shall be implemented in full as approved and prior to first use of the 3G pitch hereby approved.**

Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2 and SD3.

6. **Prior to the commencement of any construction work details of the type of infill materials to be installed into the 3G artificial grass pitch surface which may comprise of recycled SBR with adequate chemical testing evidence in compliance with REACH findings, or EPDM, or TPE, or Encapsulated SBR or natural materials (such as cork / vegetable) shall be submitted to and approved in writing by the local planning authority. The approved surface shall be implemented prior to first use of the pitch and no other alternative surface shall be used without prior written consent of the local planning authority.**

Reason: To ensure that the surfacing of the pitch would comply with industry guidance that has considered the findings of Registration, Evaluation, Authorisation and Restriction of Chemicals and so as to ensure a safe environment for users of the facility in accordance with Herefordshire Local Plan – Core Strategy policy SD1 and the requirements of the National Planning Policy Framework

7. **Prior to the first use of the 3G pitch hereby approved a Travel Plan which contains measures to promote alternative sustainable means of transport for staff and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first use of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.**

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policy MT1 and SS4 of Herefordshire local Plan - Core Strategy and the requirements of the National Planning Policy Framework.

8. **The means of vehicular access to the development hereby permitted shall only be as defined within “Hereford FA Artificial Turf Pitch Highways” (Drawing No. 07) for the full period of construction and when completed/operational.**

Reason: In order to ensure the safety of users on the A49 and enable it to continue to be an effective part of the Strategic Road Network in accordance with Section 10 (2) of Highways Act 1980 and policies SS4 and MT1 of the Herefordshire local Plan - Core Strategy and the requirements of the National Planning Policy Framework.

9. Prior to the first use of the 3G pitch hereby approved a 3 metre high acoustic fence of solid rigid material with a minimum density of 10 kg per m² shall be erected along the north eastern boundary of the pitch, as shown in Figure 6 of the noise report. The specification and appearance of the fence shall have first been submitted to and approved in writing by the Local Planning Authority and development shall be carried out in accordance with the approved details. The fence shall be retained thereafter whilst the 3G pitch is in use.

Reason: : In order to protect the residential amenity of adjacent properties and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

10. Prior to the commencement of the development a tree protection plan in accordance with BS5837:2012 shall be submitted and approved in writing by the local planning authority and thereafter implemented in accordance with the approved details for the duration of the construction phase.

Reason - To safeguard all retained trees during development works and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

11. Prior to the commencement of any works a method statement for trees in the north western corner of the proposed pitch or where no dig has been specified, must be submitted and approved by the local planning authority and the development shall be carried out in accordance with the approved method statement.

Reason - To safeguard the character and amenity of the area and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

1. IP1

2. I05 – No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

3. I11 – Mud on highway

It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

4. I35 – Highways Design Guide and Specification

The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.

5. I45 – Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)

This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel. 01432 845900.

6. Sport England INFORMATIVES : The applicant is advised that pitches to be used for Step 1 and Step 2 level football matches should be built in accordance with FIFA Quality Concept for Football Turf – FIFA Quality Pro and steps 3-6 should be built to FIFA Quality as a minimum and tested annually as per league rules.

7. Guidance on preparing Community Use Agreements is available from Sport England at: <https://www.sportengland.org/facilities-planning/planning-for-sport/planning-tools-and-guidance/community-use-agreements/>

For artificial grass pitches it is recommended that you seek guidance from the Football Association on pitch construction when determining the community use hours the artificial pitch can accommodate.

8. No trees have been identified for removal in the plans submitted to date. The site is within the Widemarsh Common Conservation Area, therefore any tree works or felling will require a separate notification submitted to the Local Planning Authority prior to commencement.

95. DATE OF NEXT MEETING

The Committee noted the date of the next meeting.

Appendix - Schedule of Updates

The meeting ended at 4.57 pm

Chairman

PLANNING COMMITTEE

Date: 18 December 2018

Schedule of Committee Updates/Additional Representations

Afternoon

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

SCHEDULE OF COMMITTEE UPDATES

181664 - APPLICATION FOR APPROVAL OF RESERVED MATTERS FOLLOWING OUTLINE PERMISSION 161771 (SITE FOR PROPOSED REPLACEMENT OF A FIRE DESTROYED DWELLING PLUS THE ERECTION OF 2 DWELLINGS (TOTAL 3 DWELLINGS)). AT THE TREES, ORCOP, HEREFORD,

For: Mr Williams per Mr Rodney Purse, 142 Tuffley Avenue, Gloucester, GL1 5NS

ADDITIONAL REPRESENTATIONS

Additional representations have been received from four neighbouring properties:

Mr Garratt:

Further to my objection of 12 September 2018, It is pleasing to note that the developer wishes to “bottom out the issue of drainage” and that further percolation tests have been undertaken. However, I cannot agree with his claim that these were carried out “after a period of heavy rain to give a realistic worst case scenario for infiltration” (email from Rodney Purse, 14 November 2018).

For the past 10 years I have maintained daily rainfall records for Whitehouse Farm, which lies within the Orcop Basin at a similar elevation to Orcop Hill. The spreadsheet showing daily rainfall for the year to date is submitted herewith.

I understand that the further tests under reference were carried out on 24th and 25th October. You will note that my records show there was no rain on any of the 8 days preceding the tests. In the month of September rainfall totalled 43mm and in October 59mm. Note that in November the total was 113mm, more than twice that in October. Furthermore, these autumn months followed an exceptionally hot and dry summer. Hence, the latest tests cannot be seen as a “worst case scenario”. Far from it, they were carried out, as were the earlier tests, under exceptionally dry conditions.

Turning now to the results of the October tests, these led to a 20% increase in the area of the proposed soakaways and a 44% increase in the area of the proposed drainage fields. Had further tests been conducted at the end of November, they would have indicated still lower infiltration rates and further substantial increases in soakaway and drainage field areas. This calls into question whether this site can really accommodate three dwellings of the kind proposed.

The developer claims to have undertaken the tests in accordance with BRE 365. The final paragraph of this guidance note reads as follows: “ Site investigations must be undertaken thoroughly and competently so that all aspects of soil properties, geotechnology and hydrogeology are adequately reviewed alongside the hydraulic design of the soakaways”. This has not happened in the case of “The Trees” and the latest percolation tests do not represent a valid basis for design. Until the well documented concerns about drainage under exceptionally wet conditions are properly addressed I respectfully submit that the development as currently proposed should not be allowed to proceed.

Ms Murphy:

We wish to draw your attention to residents' concerns and to advise that we have received guidance in respect of the Case Officer's report to the Committee, in particular Conditions 10 and 11.

- Condition 10 includes the phrase "unless otherwise approved in writing by the local planning authority". We have been advised that this phrase may be unlawful since it would amend a planning permission without going through the proper process, including consultation. There are statutory procedures for amending conditions which should be used (Section 73a of the Town and Country Planning Act 1990 to amend conditions and Section 96a for non-material amendments. The phrase either seeks to circumvent the statutory process or introduces ambiguity as to whether this refers to or is in addition to the statutory procedures. It is therefore both unnecessary and imprecise. We are advised that there is extensive case law on the subject.
- Condition 11 is fundamental to the proposal and it is not clear that the requirements can be met within the layout that is to be permitted – particularly the third item*. It appears that the sensible approach is to delay the decision on the application until the matters are resolved and there can be no real objection to doing so since development cannot start until the condition is complied with (other than the ground works). The risk is that if a condition cannot be complied with, it is unenforceable but the permission remains valid. In this case the applicant has had ample opportunity to submit the additional information and any delay is down to the applicant.

* 'A topographical drawing to indicate the use of a gravity fed foul water drainage system.'

Mr Murphy

Further to my objection of 28 August 2018 and the publication of the Case Officer's report to Committee, I have the following additional comments;

1. Phil Warren Report (undated)

The original percolation tests were carried out around about mid-August during a period of long dry weather. The Phil Warren percolation report states that 'three holes were excavated across the site to determine if there are any changes in the site conditions. All three had similar characteristics.

Comment:

- There is no indication where the three holes are located.
- There is no record of soil composition

The report goes on to state that 'one test was undertaken. The test hole was filled and emptied on three occasions, on the same day'.

Comment:

- The test accords to a lesser extent to the requirement of BS6297 for foul water drainage field. According to BS6297 at least 2 tests should be carried out on each proposed drainage field. Each test should involve four soakings with calculations extrapolated from just three soakings.
- The total number of tests for the three proposed foul water drainage fields should have been (2x3=6).

Surface Water {SuDS}

The report goes on to show calculations for crate sizes for the 5 proposed water soakaways, using the filtration rate obtained from the single test aforementioned.

Comment:

- Filtration rates for surface water soakaways should be obtained by using BRE (digest 365) method of percolation testing. Percolation tests for surface water drainage are far more labour intensive. Overall depth of excavation is typically 1.5m to 2.5m. Considerable volumes of water are required to carry out the tests (BRE365 advises the use of a water bowser) with between 300ltr and 1000ltr required for each soaking. There are 3 soakings required to ensure a viable test. The fillings (soakings) should be on the same or consecutive days. The tests should be undertaken where the drain will discharge to the soakaway. The number of tests required for this site would be five. The total number of soakings would be (5x3=15).
- Taking into consideration the foregoing the percolation tests carried out by the applicant's drainage consultant was wholly inadequate. Considering also the fact that the tests were carried out during a prolonged drought confirms that the Phil Warren report falls far short of the requirements of BS6297 and BRE (digest 365).

2. Ruth Blair (Balfour Beatty) report dated 05/09/18 @ 11.30 a.m.

RB states (inter alia) under the sub-heading 'Surface Water' that percolation testing has been undertaken in accordance with BS 6297.

Under the sub-heading 'Foul Water' RB makes no mention of percolation tests results

Comment:

- This statement is in error. As previously stated, there was only one test carried out which accorded to a lesser extent to the requirements of BS6297 for foul water soakaways. There were no percolation tests carried out for the sizing of geocellular crates. Such tests would have had to conform to BRE365 methodology for filtration value.
- It clearly states in the Phil Warrant report that one test was carried out. There is no indication that the test was carried out in the locality of any of the proposed foul water drainage fields. This is one of the basic requirements of BS6297.

In an email from RB to Emily Reed (ER) dated 05/09/18 @ 11.56 RB states 'I have been to site and spoken with the landowner and drainage engineer. I saw evidence of the tests being undertaken and am confident that the relevant guidance has been fulfilled.'

Comment

- The fact that RB admits to being on site (at some time) whilst percolation testing was on-going, makes her assertions that BS6297 was complied with rather concerning. She was, at that time, in a responsible position as a professional to give advice and guidance directly to the applicant to carry out the tests in accordance with the requirements of BS6297 and BRE (digest 365).

3. Further testing on site undertaken by Phil Warren (drainage consultant) at the request of the applicant

Phil Warren percolation test report (undated)

The only reference of a date is indicated in email to ER dated 14/11/18 advising that re-testing had taken place. No information as to when further testing was undertaken. Only indication '...after a period of heavy rain'.

Comment:

- There is no way of verifying such tests were carried out after a period of heavy rain as the applicant's agent attests. The report is undated (as was the first report) and there is no allusion to the date of tests in the email mentioned above.

- 5 trial pits were excavated with percolation tests carried out on 3 of them (refer DRG.No. 17.800.104 revision B – with pencilled in sketch of trial holes).
- The trial pit drawing clearly shows that only 2 of the trial pits are in or near the location of the proposed surface water soakaways. 2 other trial pits are located in the vicinity of the proposed foul water soakaways for plots 1 and 2, whilst the remaining trial pit is located in the s/w sector of the site where there is no proposed soakaway.
- The test holes seem to be of a capacity suitable for testing to BS6297 (foul water). The size of the test holes for all 3 tests were 0.3x0.3x0.5). BRE365 recommends the test hole should be 0.3 to 1m wide and 1m to 3m long with a depth of 1m to 1.5m (see under sub-heading: Soil Infiltration Rate).

4. Email from Agent to ER dated 14/11/18

The Applicant's agent stated that the developer wished to carry out further testing and 'after a period of heavy rain in order to achieve a realistic worst-case scenario for infiltration'.

Comment:

- The fact that the applicant felt it necessary to carry out further tests albeit after a purported period of prolonged wet weather and without a further instruction to do so by the Case Officer, would be an admission by the applicant that the original tests were not tenable. This would be a repudiation of Ruth Blair's report dated 05/09/18.

5. Ruth Blair (Balfour Beatty) report dated 30/11/18

Comment:

- RB makes no comment on the fact that this report builds on the previous report dated 05/09/18.
- There is no comment on the validity of the percolation tests even though it is self-evident that the tests do not accord with the requirements of BRE365 or BS6297.
- RB has totally ignored the requirements of Natural England's Consultee report dated 31/05/18 with regard to the proximity of foul water drainage fields to a hydrological source (ref. email to ER dated 05/09/18 @ 11.56).
- All of the proposed foul water drainage fields are within 50m of the active spring located in the grounds of Bramble Cottage, adjacent to the eastern boundary of the site. The proposed foul drainage field to Plot 2 is within 50m of a well and spring located in the Copywell.
- Natural England state in their re-consultation report dated 28/08/18 'the advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal'. Clearly RB has not taken into account the requirements laid out by Natural England on proximity of foul water soakaway fields to hydrological sources.

Conclusion

It is self-evident on reading both of the Phil Warren reports that the full requirements of percolation testing, as prescribed by both BS6297 (foul water) and BRE (digest) 365 (surface water), have not been fully adhered to.

The proposed development will be very close to two hydrological sources when completed. On Drawing No. 17/800.100 (revised site layout) the ground level data shows the development site sloping east towards Bramble Cottage and south towards the Wilkes Row cottages and the Copywell. In the grounds of Bramble Cottage there is an active spring. This spring becomes a temporary water course during prolonged wet weather and floods out from the grounds of Bramble Cottage and onto the public footpath (OC18). This flow of excess spring water spills into the Copywell from a culvert that runs under Copywell Cottage and adjacent road.

The Copywell, to the south of the proposed site, is a deep gulley that acts as a natural catchment for excess groundwater flowing off Orcop Hill. There is a well situated in the bottom of the gulley that is still available for public use.

Because of the proximity of the proposed development to both of these hydrological sources and, given that all the drainage fields are upslope of both, it is imperative that the testing for adequate filtration, especially for foul water drainage fields, is rigorous and strictly in accordance with BS6297 and BRE (digest) 365.

The Copywell also takes treated effluent from a shared PTP from four semi-detached cottages that were built in the early 90s. There have been problems of sewage smells in the area of the Copywell for some years and there has been on-going investigations by the Environment Agency as to the cause. At the moment of writing there has been no resolution of this problem. The residents of Wilkes Row and the proprietors of the Fountain Inn have had their amenity adversely affected by the continuing problem of sewage smells in the Copywell. It goes without saying this problem must not be made worse by effluent run-off mixing with the spring exceedance flows from Bramble Cottage and the inevitable contamination of the water catchment in the Copywell.

The Local Authority through their Planning Department have a civic duty to ensure that filtration testing is carried out in strict accordance with all the requirements of the accepted methodologies. I have already commented on the failure of Planning's drainage engineer to properly monitor the percolations tests. That the same drainage engineer can ignore the fact that these tests were carried out during a period of one of the worst droughts in 40 years shows a lack of professional rigour. I would also add that Ruth Blair, the drainage engineer, made a reference to hydrological sources in her email to the Case Officer, dated 5/9/18 @ 11.56 where she stated that Natural England may need to be consulted if there are known hydrological sources within 50m of the foul water drainage fields. All proposed foul water drainage fields are within 50m of the spring in Bramble Cottage. The foul water drainage field for Plot 2 is within 50m of the Copywell.

There will be development on this site. However, the development must have a minimal impact on the water environment of Orcop Hill. The best way to achieve this is to allow a development of low occupancy dwellings, preferably two bungalows after carrying out the prescribed percolation tests. This would have an additional advantage of complying with the built form especially when considering the nearby bungalows of Homelands and Orchard Lea.

Mr Holdsworth:

This applicant has shown a total and recurring disregard for the requirements of any and all regulations relating to drainage matters in this application as follows:

There has been no Site Test Assessment Hole, we therefore do not know where the groundwater level lies in a worst case scenario, thus we do not have confirmation that the foul water 'drainage fields' are possible. It may be the case that 'drainage mounds' are required or even that no form of infiltration for foul drainage is possible.

1. Percolation tests have not been done strictly in accordance with the requirements (Building Regulations/ BRE Digest 365/ BS6297) therefore any resultant calculations are, at best, fiction.
2. As we do not have robust results from the percolation tests any claims as to the sizing of soakaways and drainage fields is open to question.
3. The layout of drainage, both foul and surface, as shown in the application continues to flout all requirements as regards separation distances from other elements on site.

4. The latest iteration of the proposal shows soakaways partly or entirely beneath roadways – this is specifically banned in the regulations yet has been accepted by Balfour Beatty with only the requirement that ownership be established – how is a 26 ton RCV to approach the Bin Collection point if the adjacent soakway is on private land?.
5. Given the above points it is entirely possible that a maximum of 2 properties can be accommodated on this site. Should this be the case then it is possible that bungalows (as desired by local residents and the Parish Council) would be entirely appropriate for this site.

To resolve these points we need (and by 'we' I mean both the Local Residents and the Council) all of the above to be resolved before any consent to proceed is granted. Please note that if Planning approve something that goes against Building Regulations then Building Control cannot seek to rectify it with a Section 36 prosecution, ie they are presented with a 'fait accompli'.

As things stand you appear to be prepared to give approval with relatively minor conditions for something that could be considered unlawful (in that it does not demonstrate conformance with requirements).

In addition, Natural England in their comments of 31/5/18, stated "Package Treatment Plants and Septic Tanks will discharge phosphate and we are therefore concerned about the risk to the protected site in receiving this. We therefore propose that the package treatment plant /septic tank sand soakaway should be sited 50m or more from any hydrological source". It is my understanding that there is a well in the garden of Lark House (shown as The Russets in the drawing in your report), there is also the 'Copywell' itself, and there is a spring in the grounds of Bramble Cottage. All three of these are within 50m of some part of the proposed infiltration systems.

To repeat the gist of some of my earlier comments on amenity, as seen from Ivy Cottage, I will still have a solid wall of brickwork and roof tiles some 11m from my boundary which will totally destroy any perception of being in a rural environment as perceived from the major recreational space (the patio) in my garden and my lounge and kitchen windows.

I trust you will give my comments full and proper consideration before any final decision is made to allow this application to proceed further.

Natural England:

Following consultation on the Council's Habitat Regulations Assessment, Natural England have confirmed NO OBJECTION.

OFFICER COMMENTS

Corrections to report:

Paragraph 4.6 should read that the latest comments from the Council's Land Drainage Consultant were received 30 November, not 3 December.

Condition 10 – the words 'unless otherwise agreed in writing with the local planning authority' should be removed.

Further comments have been provided by the Council's Land Drainage Consultant in light of the additional representations received.

In summary, she has confirmed that the trial pit was viewed on site, once the tests had been undertaken but not as they were carried out. In her view it has been proven that the soils

have sufficient infiltration capabilities for the features proposed and a soil composition is not required. The level of detail is appropriate for this size of site and it is appropriate to use the equation in Part H of the Building Regulations to convert the Vp value to an infiltration rate.

There is also sufficient space between drainage fields.

There are no concerns in relation to a lack of information and a viable drainage strategy is possible here.

Re-testing was not requested by the Consultant as this was not necessary as it had already been established that this site has sufficient infiltration. As such, the recommendation in this regard is not amended.

It needs to be reiterated that since the approval of drainage details is not a condition of the outline permission or a reserved matter in this instance, officers have sought to address local concerns in a collaborative way through engagement with the applicant. The level of information provided has satisfied the council's Land Drainage Consultant and a condition controlling compliance with the submitted details represents the full extent of reasonable planning control in this case.

CHANGE TO RECOMMENDATION

The recommendation should be amended as follows:

That planning permission be granted subject to the recommended conditions set out in the officer's report and condition 10 amended to read as follows:

Notwithstanding the additional details required by condition 11 below, the drainage arrangements shall include the use of individual private treatment plants for foul water with drainage fields and surface water using storm water soakaways.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**181848 - PROPOSED DEVELOPMENT OF THREE DWELLINGS
WITH GARAGES AND NEW ACCESS AT LAND EAST OF
CASTLE POOL COTTAGE, LITTLE BIRCH, HEREFORD,**

**For: Mr Hull per Mr Russell Pryce, Unit 5, Westwood Industrial
Estate, Ewyas Harold, Hereford, Herefordshire HR2 0EL**

ADDITIONAL REPRESENTATIONS

Following consultation on the Council's Habitat Regulations Assessment, Natural England have confirmed NO OBJECTION.

CHANGE TO RECOMMENDATION

The recommendation can now be amended as follows:

That planning permission be granted subject to the recommended conditions set out in the officer's report.

182950 - CONSTRUCTION OF AN EXTERNAL 3G ARTIFICIAL TURF PITCH (ATP) WITH FENCING AND A STORAGE CONTAINER AT TED POWELL BUILDING, THE COUNTY GROUND, HEREFORD, HEREFORDSHIRE, HR4 9NA

For: Mr Chance per Mr Nick McLaren, 1a Perth House, Corbygate Business Park, Corby, NN17 5JG

OFFICER COMMENTS

Corrections to report:

Site Description and Proposal – Para 1.2.

Reference is made to the existing floodlighting being both replaced (3rd sentence) and also retained (5th sentence). To confirm the existing floodlighting is to be retained.

Appraisal - Paragraph 6.8

Reference to Westfields FC, should be replaced with Hereford Lads Club. Note: Sport England and the Open Space Planning Officer also incorrectly refer to Westfields FC operating from the site, instead of Hereford Lads Club.

NO CHANGE TO RECOMMENDATION

