

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	19 JUNE 2019
TITLE OF REPORT:	182628 – APPLICATION FOR APPROVAL OF 1ST PHASE RESERVED MATTERS FOR THE ERECTION OF 275 DWELLINGS WITH APPEARANCE, LANDSCAPING, LAYOUT AND SCALE TO BE CONSIDERED ONLY AT LAND TO THE SOUTH OF LEADON WAY, LEDBURY, HEREFORDSHIRE For: Mr Elliot per Mr Mark Elliot, 60 Whitehall Road, Halesowen, B63 3JS
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182628&search=182628
Reason Application submitted to Committee – Strategic application	

Date Received: 16 July 2018

Ward: Ledbury South

Grid Ref: 370734,236527

Expiry Date: 16 June 2019

Local Member: Councillor H l'Anson

1. Site Description and Proposal

- 1.1 The site to which this application relates occupies an area of 13.33 hectares and is located to the south of Ledbury and to the immediate south of the A417 (Leadon Way). The road acts as a bypass for the town and confines residential development to the north. The site is therefore at the urban fringe of Ledbury and currently represents its transition from the built up area of the town to countryside. However, this is tempered to some degree by the presence of development further to the west where it is bounded by the B4216, along which are located a number of buildings including Hazel Farm; a Grade II listed property whose associated buildings have been converted from their former agricultural use to residential, and an area of commercial development which includes the premises of Ornua (cheese factory). The character of the land further to the south and east is very much agricultural with irregularly shaped fields generally defined by hedgerows and small areas of woodland.
- 1.2 The land was originally agricultural/pastoral use and is divided into two fields with an established hedgerow defining the two areas. Hedgerows also define the roadside boundaries to the north and west, and the eastern boundary with an adjoining field, whilst the southern boundary is open and defined by a post and wire fence. Currently, the site is partially developed with road and drainage infrastructure partially built and completed including main access road and attenuation ponds. Three dwellings are in a state of partial completion, however works have ceased on site following the High Court decision and are on hold pending determination of this application.

- 1.3 The site is located within an undulating landscape. Within the western field levels rise across it from west to east and south to north to a high point at its centre, with levels continuing to rise across the eastern field steadily to a high point at its south eastern corner.
- 1.4 Outline planning permission was granted on appeal on 4 April 2016 following a Public Inquiry, for the erection of up to 321 no. residential dwellings. The details of access to the site were agreed as part of the outline proposal with all other matters reserved for future consideration. Accordingly the appeal decision includes a suite of conditions which relate to matters including the provision of 40% affordable housing, habitat enhancement, landscaping, construction management, phasing of development, noise mitigation and the provision of sustainable drainage.
- 1.5 The application now to be considered is one for Reserved Matters and follows a successful High Court challenge against Reserved Matters approved under reference 164078/RM. The scheme comprises a residential development of 275 dwellings, comprising 110 affordable units and 165 units for the open market. Approval is sought for the details of a) appearance, b) landscaping, c) layout, and d) scale, i.e. the reserved matters, in order to satisfy the requirements of Condition 1 of the outline permission. The access from Leadon Way was approved as part of the outline permission in the form of a roundabout access. The application site and proposed layout is shown below.



- 1.6 The application has been amended since its original submission to take account of comments submitted during the consultation phase and to ensure consistency with the original Outline permission and Section 106 agreement. This has related particularly to ensuring a policy compliant delivery of affordable housing based upon the reduced number of total units proposed (275 reduced from 321). Furthermore, the proposal omits a section of the overall site which has outline planning permission from development under this reserved matters proposal. This land, as shown on the above plan as the greyed out section, is that located nearest to Ornuia (cheese factory) and is, on the plans submitted, labelled as being for a future Phase 2 of development. This Phase 2 would come forward if and when noise impact from the factory can be successfully mitigated.

2. Policies

2.1 Herefordshire Core Strategy

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
LB1	–	Development in Ledbury
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

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

2.2 Neighbourhood Development Plan

The Ledbury Neighbourhood Development Plan was made on 11 January 2019. It now forms part of the Development Plan for Herefordshire.

The application site is referenced and acknowledged within the NDP which states when combined with two other large scale housing sites – *'together amount to commitments of over 1,000 homes which the LNDP supports'*.

2.3 National Planning Policy Framework – NPPF

The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The National Planning Policy Framework 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
- 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

3. Planning History

- 3.1 143116/O – Proposed outline planning permission for the erection of up to 321 residential dwellings (including up to 35% affordable housing, structural planting and landscaping, informal public open space, children's play area, surface water attenuation, vehicular access point from

Leadon Way and associated ancillary works. All matters reserved with the exception of the main site access – Refused, then Allowed on appeal 4 April 2016.

150884/O – Proposed outline permission for erection of up to 321 residential dwellings (including up to 35% affordable housing), structural planting and landscaping, informal public open space, children's play area, surface water attenuation, vehicular access point from Leadon Way and associated ancillary works. All matters reserved with the exception of the main site access – Refused 26 June 2015

164078 – Application for approval of reserved matters following outline approval P143116/O for 321 residential dwellings – Approved w/conditions on 21 December 2017. A legal challenge followed and the decision was quashed in the High Court on a technical matter relating to noise on 23 August 2018.

164107 – Application for variation of conditions 14 and 17 of planning permission P143116/O – Approved with a Deed of Variation to the original Section 106 Agreement. *Note, Condition 1 of this permission references the plans approved under the quashed permission 164078 and as such this permission can not be implemented in its current guise.*

170075 – Application for approval of details reserved by conditions 6 – *Habitat Enhancement Plan*, 7 – *Arboricultural Method Statement*, 8 – *Method Statement for Nesting Birds*, and 23 – *Scheme for an Archaeological Watching Brief*, of planning permission 143116, all discharged 14 February 2017

173302 – Application for approval of details reserved by conditions 4 – Phasing, 11 – Levels, 13 – Construction Method, and 22 – Drainage, attached to planning permission 143116 – Undetermined

190874 – Application for approval of details reserved by condition 2 & 12 and part discharge of conditions 7 8 9 19 & 20 attached to planning permission 164107 – *Undetermined as references plans approved under the quashed permission 164078 and as such this permission can not be implemented in its current guise.*

4. Consultation Summary

4.1 Statutory Consultations

Welsh Water comments *The following response is based on a review of the potable water network only as welsh Water do not provide sewerage services in this area –*

We have previously undertaken a Hydraulic Modelling Assessment and identified a suitable point of connection which can serve the entire development. We seek your cooperation to impose a planning condition that enables suitable control to ensure that the connection point is directed towards a point of adequacy. Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

Condition – A potable water connection shall only be made to the 110mm HPPE main on Villa Way at approximate grid reference 370607, 236731. The agreed scheme shall be constructed and completed in full prior to the occupation of any dwelling hereby approved.

Reason: To ensure the site is served by a suitable potable water supply.

4.2 Internal Council Consultations

Transportation Manager comments on the amended and updated plans and details received 14 May 2019 as follows –

Further to our previous comment we would reiterate our preference for the unutilised junction mouth accessing the future application site to be omitted at this stage and built in as part of the indicated future application.

The previous highways comment identified the status of the Section 38 Agreement for the site layout and that remains unchanged.

Previous comments dated 18 April 2019 stated *The layout matches the approved Section 38 Agreement so there are no highways objections to the matters considered as part of this application.*

We would request that the 'stub' that feeds the future application site be omitted as part of this development and the footway runs straight across the proposed road serving the future application site so that the potential for an undesirable junction mouth being left is removed.

Service Manager Built and Natural Environment comments:
(Building Conservation Officer)

With regards to further amended plans and further supporting details dated 28 May 2019 comments as follows –

Recommendations:

The 3m bund and fence would be an alien feature in close proximity to the listed and curtilage listed buildings at Hazel Farm. Whilst these buildings are screened when viewed from the NE, an aspect of the setting of these building which contributes to their significance is the way in which the immediate landscape form is understood. As such it is felt that the bund would cause less than substantial harm and at the lower end of the scale. This harm should be weighed up against any public benefits of the scheme in accordance with s196 of the revised NPPF. We are mindful that the vegetation cover will change and whilst this will not mitigate the harm, it will lessen by some degree over time. If this can be taken into consideration is a matter for the planning case officer to advise on, as we are aware that there may or may not be control over these trees remaining insitu.

Background to Recommendations:

Hazel Farm Hazel Farm, previously Hazle Manor, is a grade 2 listed building (ref 1082603) which is a C17 timber framed farmhouse and a grade 2 listed Granary (ref1224716). From the property the wider agricultural setting is important to the understanding of the site as a Farmstead even though that functional relationship between the site and the landscape has to some degree lapsed. Hearth tax from 1665 assessed the Hazle at £200 with 10 hearths (Pinches Sylvia, 2009, Ledbury: a market town and its Tudor Heritage p68). Notwithstanding the intricacies of C17 tax considerations, the current building on the site has far fewer fireplaces than this which strongly suggests that in the late C17 a much larger manor house was in existence. It has not been able to determine if there was a larger property on the site what date it was built or when it was demolished. The setting of Hazel Farmhouse is mostly screened when viewed from the NE. However, whilst the impact upon those aspects of the setting of the building which contribute to its significance would not be harmed to any extent by the wider development, it is felt that the alien land form introduced some 120m to the N of the buildings would harm the appreciation and understanding of the buildings in their context. The landscape in the immediate vicinity is predominantly flat, with views across to the Malvern Hills AONB. The

3m high bund with a fence, would be clearly visible from the south in the context of the buildings. It is felt that separation of a lower bund from the road, with an increased landscape buffer would offer a more optimal solution to noise reduction, whilst mitigating any potential harm to the setting of heritage assets.

With regards to amended plans and details dated 14 May 2019 states *We would broadly re-iterate Nick Joyce's Comments on the previous scheme for the site, although we note that the revised NPPF is now in force and that acoustic measures may be proposed, in which we would ask to be reconsulted:*

- Hazel Farm Hazel Farm, previously Hazle Manor, is a grade 2 listed building (ref 1082603) which is a C17 timber framed farmhouse and a grade 2 listed Granary (ref1224716). From the property the wider agricultural setting is important to the understanding of the site as a Farmstead even though that functional relationship between the site and the landscape has to some degree lapsed. Hearth tax from 1665 assessed the Hazle at £200 with 10 hearths (Pinches Sylvia, 2009, Ledbury: a market town and its Tudor Heritage p68). Notwithstanding the intricacies of C17 tax considerations, the current building on the site has far fewer fireplaces than this which strongly suggests that in the late C17 a much larger manor house was in existence. It has not been able to determine if there was a larger property on the site what date it was built or when it was demolished. The setting of Hazel Farmhouse, as outlined by Nick Joyce in his comments, is mostly screened when viewed from the NE. As such the impact upon those aspects of the setting of the building which contribute to its significance would not be harmed to any extent which would trigger s196 of the NPPF.
- It is felt that any subsequent application for the area to the West of the site has an opportunity for forming a buffer zone allowing for mitigation of any potential less than substantial harm to the setting of Hazel Farm by creating a transition between the wider rural setting of Hazel Farm and the more suburban housing design.
- We would re-iterate Nick Joyce's comments about reinforcing local distinctiveness and would draw your attention to sections 127 and 130 of the NPPF.
- If noise mitigation is proposed to the West of the site, such as bunds or acoustic fencing we would note that this would have the potential for being visually overt and harming the setting of buildings at Hazel Farm. If such features are proposed we would ask to be re-consulted.

Previous comments dated 8 March 2019 stated *We would not have any comments relating to building conservation on the application.* These were preceded by original comments dated 25 July 2018 which were –

We would broadly re-iterate Nick Joyce's Comments on the previous scheme for the site, although we note that the revised NPPF is now in force:

- Hazel Farm Hazel Farm, previously Hazle Manor, is a grade 2 listed building (ref 1082603) which is a C17 timber framed farmhouse and a grade 2 listed Granary (ref1224716). From the property the wider agricultural setting is important to the understanding of the site as a Farmstead even though that functional relationship between the site and the landscape has to some degree lapsed. Hearth tax from 1665 assessed the Hazle at £200 with 10 hearths (Pinches Sylvia, 2009, Ledbury: a market town and its Tudor Heritage p68). Notwithstanding the intricacies of C17 tax considerations, the current building on the site has far fewer fireplaces than this which strongly suggests that in the late C17 a much larger manor house was in existence. It has not been able to determine if there was a larger property on the site what date it was built or when it was demolished. The setting of Hazel Farmhouse, as outlined by Nick

Joyce in his comments, is mostly screened when viewed from the NE. As such the impact upon those aspects of the setting of the building which contribute to its significance would not be harmed to any extent which would trigger s196 of the NPPF.

- It is felt that any subsequent application for the area to the West of the site has an opportunity for forming a buffer zone allowing for mitigation of any potential less than substantial harm to the setting of Hazel Farm by creating a transition between the wider rural setting of Hazel Farm and the more suburban housing design.
- We would re-iterate Nick Joyce's comments about reinforcing local distinctiveness and would draw your attention to sections 127 and 130 of the NPPF.

Service Manager Built and Natural Environment comments:
(Archaeology)

No objections or further comments.

Service Manager Built and Natural Environment comments:
(Landscape)

Comments on plans and details received 28 May 2019 –

I note the submission of further information to align RM and DOC applications.

I am not aware that my earlier queries have been addressed, accordingly there are no further landscape comments.

With regards to amended plans and details dated 8 April 2019 states *I have read the landscape section within the submitted Design and Access Statement which sets out the strategy for the open space. I have also viewed the plans for phase 1 for both the open space and within the plots.*

In respect of the way the landscape information has been presented it would be helpful to have an overall landscape plan submitted which then links to the individual detailed drawings, this would aid understanding of what is in essentially a complex site.

Cross referencing between plot layouts and open space layouts for various parcels of the site is not helpful, neither is showing retained and removed trees in a similar graphical form. The landscape architect is welcome to contact me directly to discuss the most useful format in which to present the information.

In terms of the open space and planting shown I have the following comments to make:

- I am content with the defined areas of open space within the site, which appear to be logically laid out and well spaced within the development.
- I am also pleased to extensive planting along the southern boundary of the site which should be retained as green infrastructure, regardless of whether future adjacent development takes place.
- Within the areas of open space to the west and east of the sites, instead of linear planting of trees which is out of character with this landscape type, I would like to see planting which addresses the transition from open countryside to residential. This should be achieved by tree planting which does not create a barrier but instead a planting across the site which filters views and species selection which progresses from larger native species such as oak inwards into the site to smaller ornamental species (as identified in the tree officers comments).
- Currently I am concerned that there is insufficient space given over to the area surrounding the attenuation basin, the resulting affect is an over engineered attenuation basin with potentially a row of trees placed in an attempt to hide it. This is not a

satisfactory approach to landscape and does nothing to enhance either the entrance to the site or the setting of Ledbury town. I would recommend seeking the opportunity to plant outside of the red line to the west of the site.

- Further tree planting is also recommend along the hedgerow boundary of Leadon Way to soften views of what will be prominent built form as well as at the entrance to the housing development.
- I note some street tree planting is proposed along the main spine road, it is essential that this planting is continued in order to link with the defined open spaces in order to provide ecological corridors for wildlife.
- I am disappointed to note that sections of existing hedgerow are shown to be removed – this fragments these corridors and negates any biodiversity benefits, I would recommend retention of existing hedgerow and trees where possible in line with local policy LD1 of the Core Strategy.

Service Manager Built and Natural Environment comments:
(Ecology)

Following further amended plans and additional details provided on 28 May 2019 the following comments were made –

Ecological protection & enhancement: The advice and guidance provided within the EDP Enhancement Plan (December 2016) and FPCR Ecological Assessment (March 2015) should be followed, including biodiversity enhancements.

Lighting: The provided lighting scheme, Murwell Consulting Engineers Ltd (dated 11/05/2018) is appropriate and provides low-level lighting to minimise environmental impacts.

Site drainage: The letter of confirmation from Georisk Management (dated 01/02/2019) confirms that surface runoff will be maintained and that the application site is on higher ground to that surrounding to the south and west, thus concerns regarding sustained ground water supply to an offsite Great Crested Newt pond/population can be reassured that there will be no negative impacts.

With regards to amended plans and details dated 14 May 2019 states *There are no additional ecology comments.*

Previous comments provided on 28 February 2019 stated *I note that Rob Widdicombe has previously commented (10/10/2018) in relation to Conditions 6 & 22 – Ecology Enhancement and surface water drainage and Bats and Lighting (Cond 10). The Ecology Mitigation and Enhancement Plan (EDP dated December 2016) is relevant and appropriate, although omits detail in relation to the off-site Great Crested Newt population (Cond 6 and 22), and Lighting (Cond 10).*

There are 3 off-site ponds to the south-west (west of Leadon Way) that support a known great crested newt population. The results of the GCN survey carried out for the land adjacent to the south, Dymock Road, Ledbury (FPCR, Oct 2018), shows that 2 of the 3 ponds support 'medium' GCN populations. Reassurance that the proposed housing development will not affect natural drainage that feeds these ponds is required.

The drainage scheme provided here (Development Design Solutions, dated 03/04/17) indicates that drainage from the west of the site will flow to the east and towards the large SUDs pond to the north of the development. Any loss of newt breeding ponds and consequent impacts on the newt population will need to be mitigated under NE licence.

Additionally in relation to Condition 10, details of the proposed lighting scheme for the development have not yet been supplied. No external lighting should illuminate any of the

enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative (DEFRA-NPPF 2013/18).

The referenced comments dated 10 October 2018 from Rob Widdicombe, previous Council Ecologist, stated –

I have read the document submitted for Condition 6 – Ecology Enhancement Plan. This is broadly acceptable. However, there is an outstanding issue regarding the impact of the control of surface water drainage on nearby great crested newt ponds

I still await confirmation from the developers relating to Condition 22 on drainage, that it will not affect the natural drainage from the site to these great crested newt ponds. Consequently, I would not recommend discharging either condition until this issue is resolved.

Condition 10 also requires a lighting plan sensitive to the needs of bats. I do not find any lighting plan in the documentation for this application or for 173302.

Service Manager Built and Natural Environment comments:
(Arboriculture)

Having read and viewed the soft landscaping proposal I have a short number of requests which would be beneficial to the long term landscape value of the site:

The species selection around the perimeter of the green space east of the site will predominately consist of trees which are medium in size; Birch, Cherry and Rowan, all three species are arguably short lived.

The larger, prominent species which are longer lived like Oak, Lime and Hornbeam are less prominent and are proposed to be located on the edges.

Taking into account the location of the site on the outer edge of Ledbury and the open countryside which abuts it I think it would be prudent to plant more of the larger species at extra heavy standards, especially Oak and use the smaller species as complimentary for features such as spring flowers and autumn colour. The eastern aspect of the site will mean that there will not be a large amount of shade on properties closest to the trees.

Tree species P6 *Betula pendula* 'Fastigiata'. It appears a large proportion this species is proposed for road side trees and I'm of the opinion that it doesn't offer much to the street scene. Other parts of the sites roadside trees are *Betula utilis* 'jacqmontii' which I regard as a more attractive example of the genus but there does seem to be an excessive amount of *Betula*.

A little more variation should be considered, the green space in drawing P16-0793_06-D contains Liquidambar which could be used in place of P6 or other species such as Turkish hazel or Hop hornbeam which are both hardy species suited to roadside conditions.

Maintenance – It is proposed that a Landscape contractor will maintain and water the trees for 12 months after the trees have been planted. Generally trees need 3-5years depending on conditions to become established. Is it possible to extend this period to ensure that trees have the opportunity to become established.

Strategic Housing Manager comments –

Comments following receipt of further amended plans and details dated 28 May 2019 are –

With regards to the affordable housing mix I can confirm that this now complies with policy and I am satisfied with the mix outlined.

With regards to the open market mix, I am aware of the sites' history and if I was reviewing this application afresh then I would be looking for the mix to be 6 x1 beds, 43 x 2 beds, 78 x 3 and 38 x 4 beds. However, this is not the case and whilst the Local Housing Market Assessment 2013 (LHMA) refers to meeting identified needs, the range of house types provided across the county will be monitored to ensure an appropriate mix of housing. I can confirm that with the sites that have achieved planning in Ledbury a good and appropriate mix will and can be achieved.

Previous comments provided –

I have reviewed the amended plans 16066-5008 Rev B, letter dated 14th May 2019 and the Design and Access Statement. There seems to be a contradiction between these documents and as such I seek clarification as to which is correct. On the revised plan and letter it appears to confirm an affordable housing requirement of 107 units however, this is not reflected within the design and access statement.

In addition to this my comments regarding the open market mix not being in line with the Herefordshire Local Housing Market Assessment still stand in that there appears to be an over supply of four plus beds.

Therefore in my opinion it does not meet policy and I am unable to remove my objection.

Previous comments dated 7 March 2019 stated *I refer to my comments of 20th August 2018 and would add that an approval of phase 1 would not meet the developer's obligation with regards to the affordable housing requirement and appropriate open market mix. In addition to this there are no guarantees that a phase 2 reserved matters application on the remaining area of the site would be approved.*

Referenced comments from 20 August 2018 stated –

I refer to the above reserved matters for 247 dwellings and would advise that I am not in support of this application in its current format. Whilst I appreciate that this application is a partial resubmission of the reserved matters approval should the Courts decide to quash the extant reserved matters the developer is not providing the affordable housing requirement. In addition to this the loss of plots 5-78 will see a reduction in much needed two and three bed open market accommodation

If the original reserved matters approval is quashed and this application goes ahead then the developer will not have met their obligation with regards to the affordable housing requirement and appropriate open market mix. In addition to this there are no guarantees that any future reserved matters application on the remaining area of the site would be approved.

Environmental Health Officer (Noise and Nuisance) comments –

Background

With regard to this site and application there has been previous extensive correspondence, meetings and site visits to discuss concerns over environmental noise concerns in the area and the likely impact on the proposed dwellings. The proposed development site is located on the outskirts of Ledbury, on a greenfield site identified as a predominantly rural setting, however, in close proximity to two main noise sources; traffic noise (Leadon Way bypass) to the north and 24/7 Ornuia factory noise to the west. The reserved matters proposal for 275 houses omits 46 houses closest to the factory included in the proposed layout of the outline application.

Our department has been asked to comment on the noise constraints and proposed mitigation. In general terms when examining the impact of noise on residential development, we refer to

BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and BS4142:2014 Methods for rating and assessing industrial and commercial sound as well as the associated planning policy framework and guidance including the Noise Policy Statement for England, Planning Practice Guidance – Noise, National Planning Policy Framework (NPPF) and the ProPG Guidance.

Road traffic noise

Noise monitoring adjacent to Leadon Way gave an arithmetic average of 64.3dB LAeq day and 62.3 LAeq at night in 2014. The applicants noise assessment report dated March 2019 (Wardell Armstrong) proposes road traffic noise mitigation along the northern section of the site to protect proposed dwellings immediately to the south of Leadon Way.

These include:

- a) A reduction in the speed limit on Leadon Way from 60 to 40mph on the approach to the new roundabout (half way along the northern side of the development).
- b) A 3.00m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m² to the eastern section of the northern boundary to the site.
- c) A 2.1m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m² to the western part of the northern site boundary.
- d) A 1.8m high close boarded fence around all remaining gardens areas.

Figures 2, 3 and 4 of the applicant's March 2019 noise report (Wardell Armstrong) give the results of road traffic noise modelling at the proposed dwellings across the site with the above mitigation in place.

External amenity

All the gardens to the northern side of the site after mitigation will be exposed to daytime road traffic noise of between 50 and 55dBLAeq. This is slightly higher than the desirable standard for external amenity areas of 50dB but less than 55dB considered to be the upper guideline value for noisier environments. We are of the opinion that this greenfield site is not a 'noisy environment'. However it is recognised that the proposal incorporates close by recreational space further away from Leadon Way which is considerably quieter and less than 50dB which provides for some mitigation in accordance with the ProPG guidance.* So in this context we do not think that the amenity noise levels for the dwellings closest to Leadon Way are unacceptable.

Internal noise levels

Daytime road traffic noise at the facades of the first floor of the proposed dwellings closest to the road are, however, predicted to be above 60dB LAeq. These exposure levels are higher than the desirable external standard of 50dB at the façade which would enable the achievement of desirable internal noise levels with the windows open. Therefore the north facing elevations of the proposed dwellings and some of the side elevations would have, without mitigation, internal noise levels with partially open windows above the desirable bedroom daytime standard of 35dB.

The applicant's noise report therefore proposes the following mitigation:

- e) Two different higher glazing specifications and acoustic vents in the dwellings shown in Figure 3 of the noise specification report. The applicant has been requested to install the higher

of the two glazing specifications in all the identified properties i.e. 10/12/6 glazing with acoustic vents and this has been agreed.

Windows on the impacted elevations will need to be kept closed during the daytime to ensure desirable daytime noise standards in bedrooms. Of the properties impacted, the majority will have south facing elevations where desirable bedroom daytime noises can be achieved with the windows open as facades away from the road will have noise level of less than 50dB. However, there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, our department does not object to this proposal as noise mitigation is possible in the majority of impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation.

Figure 4 of the report models road traffic noise impacts at night time where BS8233 specifies a desirable standard of 30dB in bedrooms. Noise levels at the worst impacted facades are predicted to be greater than 55dB with a number of properties with noise exposure levels between 45 and 55dB. The mitigation discussion in e) above equally applies to night time road traffic noise impacts. In other words bedroom windows for some north facing dwellings that about the road will be required to have their windows closed and mitigation proposed in e) above will apply.

NB Day and night time noise monitoring undertaken by Ornua's noise consultant December 2017 to establish background noise levels used the same monitoring location as the applicant's location for road traffic noise. This gave readings of 50-55dB and not as high as the applicants' measurements.

Factory noise from the Ornua cheese factory

The Ornua cheese factory noise runs 24/7 generating an audible constant low frequency sound (hum) in close proximity to the factory. Unlike the passing traffic noise the factory noise source is in a fixed location so creating an audible directional point source at the north west area of the proposed development site. Road traffic noise from Leaden Way and to a degree Dymock Road is dominant during the daytime, however during the night (23:00 – 07:00), at the south western section of the proposed site the factory noise becomes the main dominant audible sound.

There has been extensive correspondence on this issue and subsequently noise mitigation work at the factory has taken place and further noise mitigation is proposed:

- The noise mitigation works were undertaken in early 2019 on the factory site included the removal of the green box extract, the acoustic enclosure of the pump motor and additional silencer to the yellow extractor. Officers from the local authority have verified subsequently that the low frequency tonal element of the noise was reduced so audibly less intrusive, however measurements of the overall volume of the factory sound was found not to be reduced.
- The applicant has removed the most adversely impacted proposed dwellings from this site proposal, increasing the distance of the now proposed dwellings from the factory (Phase 1) as the matter to be addressed in this application.

f) A 3 m high noise barrier sited on top of a physical bund 75m in length maintaining a height of AOD 55m to the north west corner of the site closes to the Ornua cheese factory is proposed.

Factory noise

It is not disputed by the representatives of the Ornua factory that the noise from the Ornua site is generally continuous and steady during the noise sensitive night-time hours (23:00-07:00),

where the local authority's main concerns have been raised with regards to the factory noise at this proposed site.

Background noise level

Central to the BS4142 assessment of the impact of the factory noise on the proposed dwellings is the establishment of a representative background sound level i.e. what is typical in context to the area. The methodology is not simply to ascertain what the lowest background sound level as is suggested by the Hayes McKenzie report of the 4th April but to identify a general, most frequently occurring representative value.

Ornua's noise consultants (Hayes McKenzie) have argued the quietest background noise levels (between 4-5 am) are lower than the typical background noise levels of 33/34dB for a proportion of the time therefore it is more appropriate to refer to background noise levels of 27dB. With factory noise significantly above the 27dB level at the facades at the closest dwellings they contend that this might lead to complaints. Our department does not disagree that background noise levels will fluctuate and that therefore the steady continuous noise from the factory may be more audible at the lowest background sound level, however the methodology to be used is BS4142 relies on the use of a typical background sound level, in context to the area being assessed.

We would concur with the applicant's noise report (Wardell Armstrong) that given the range of findings of background sound levels found that the selection of a representative background for use in the assessment of 33-34dB (LA90) night time and 41-44dB daytime is appropriate. These levels take into account that traffic movements will be through the night although to a much reduced level than in the day time. Also the presence of the factory needs to be considered as it is a well-established industrial unit in the area. The lowest measured background reading (27dB L90) would be more representative of a fully rural, green site area. The 33-44dB (LA90) background reading is more representative and in context with the development site being on the outskirts of Ledbury town where rural meets a small market town divided by a by-pass road.

Character correction and tonality

Noise which is tonal, impulsive and /or intermittent can be more intrusive and the BS4142 methodology awards penalties for the character of the noise. The initial noise report undertaken in 2014 found that there was a clearly audible tonal element to the noise and our own readings initially found that the noise had a low frequency characteristic. Ornua's noise consultants in December 2017 also identified a tonal element to the factory noise which they concluded would lead to a character correction of the noise by 6dB

The noise mitigation undertaken at the factory site in early 2019 has been found by the applicant's noise consultants not to have led to an overall reduction in the loudness of the factory noise. However, the distinctive tonal element of the noise previously identified has been eliminated and therefore in the March 2019 applicant's noise report no character corrections or penalties have been applied to the BS4142 rating. Local authority officers in spring 2019 subsequent to the mitigation works have been able to verify that the tonal element to the noise is no longer present.

The predicted factory noise has been modelled in the applicant's report such that it is expected that the rating level i.e. the specific noise level at the façade of the closest proposed dwelling will now be 43dB LAeq at first floor bedroom window height. Ornua's noise consultants in their response of 5th April 2019 argue that this is worse than what was initially predicted by Barratts consultants of 37dB LAeq in their earlier modelling in 2018 but this is addressed in Barrett's noise consultant's response to EHO questions on 25th April.

The BS4142 assessment however also requires the assessment of the industrial noise in a context. The absolute background sound levels are low and there would be noise mitigation through the structure of the proposed dwelling allowing for a 10-15dB reduction through an open window.

The outcome of the Wardell Armstrong report is that predicted noise levels across the site from the cheese factory is shown in figure 5. Their BS4142 initial assessment finds that at night time when background noise levels are lower there will be at the very closest houses a moderate adverse impact although we would advise that a difference of 9 or 10dB. The BS4142 methodology advises 'a difference of +5dB is likely to be an indication of an adverse' and 'a difference of +10 dB or more is likely to be an indication of a significant adverse impact *depending on the context*'.

Factors that the local authority has taken into consideration when considering the assessments findings in the context include a judgement that a night-time background noise level of 33-34dB is relatively low, there is still the bund and acoustic fence as mitigation to be undertaken and real-time overnight noise monitoring inside the worst impacted dwellings which are constructed show houses has been found to have desirable (BS8233) internal noise levels.

g) The March 2019 report proposes enhanced glazing and acoustic vents to the properties as set out in Figure 3 and Figure 4 to address road traffic noise impacts from Dymock Road. These will provide mitigation also for the factory noise.

Real time noise monitoring assessment

Two dwellings have been constructed in early 2018 as show houses for the site. (These are nos 1 SH and 2 SH shown on the amended site layout plans drawings 5000B and 5001B Feb 2019 which are the same plots 1 and 2 as shown on the drawings 1000AM and 1001AM submitted in September 2016 164078). This has enabled the concerns regarding the adverse impacts at the properties closest to the factory presented in the Wardell Armstrong report which anticipated moderate adverse impacts to be verified in practice.

These sites have been visited twice by Officers from the local authority during the daytime subsequent to the Ornua site mitigation. On both occasions road traffic noise was found to be dominant as expected for this time of day.

Wardell Armstrong have undertaken overnight noise monitoring to verify the impact of the mitigation at the factory. The findings of overnight monitoring undertaken on 29th March 2019 find that without the proposed mitigation bund and fence in place, factory noise levels dropped to below the BS8233 desirable internal noise level of 30dB inside the factory facing bedrooms. On 4th April 2019 Wardell Armstrong set up further night time noise monitoring in plots 1 and 2 closest to the factory with partially open windows (approximately 10 - 12cm) witnessed by local authority officers when overnight noise monitoring set up was taking place. These measurements were undertaken in rooms without soft furnishings and curtains.

The BS4142:2014 guidance no longer addresses the likelihood of complaints referred to in the Hayes McKenzie report. Whilst our findings are that within the most sensitive dwellings there may be occasions where at night time in the bedrooms facing the factory the factory noise is audible (due to fluctuations in background noise levels) with the windows open, it is unlikely to be intrusive.

Ornua's noise consultants Hayes McKenzie contend that complaints may also occur regarding factory noise in gardens leading to complaints (there will be no attenuation through the fabric of a building). Whilst factory noise may be audible in gardens (again due to fluctuating background noise levels), the dominant noise during daytime and early evening when gardens may be in use will be road traffic noise.

Conclusion

Ornua's representative's argue that the revised NPPF (the relevant section published 24th July 2018) (reserved matters application received 18th July 2018) places an onus on the developer (the 'agent of change') such that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. This application eliminates a substantial number of proposed dwellings in close proximity to the factory and creates a distance buffer between the factory and the proposed dwellings. There are no planning controls on the factory to ensure that factory noise is not increased by for example additional plant, more intensive use of equipment or plant maintenance failure and we cannot say for certain therefore whether complaints from future occupants may or may not arise in the future.

We are of the view that substantial mitigation has been proposed by the applicant which renders the majority of the site to fall below the Lowest Observable Adverse Effect Level (LOAEL) as set out in the Noise Policy Statement for England (NPSE) and the perimeter to the north and factory facing as being above the LOAEL but below the SOAEL (Significant Observed Adverse Effect Level). The proposed dwellings in these localities would be categorised by the classification of the noise having an Observed Adverse Effect Level which could lead to small changes in behaviour or attitude and having to keep close windows for some of the time because of noise. The objective to which would be to mitigate and reduce to a minimum. The Noise Policy Statement for England (NPSE) concludes that where the noise impacts fall between the LOAEL and SOAEL 'all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development.' The second objective of the NPSE (after the avoidance of significant adverse effects).

Our department therefore takes the view that it does not object to the details of the reserved matters scheme as it relates to the noise constraints and challenges on the site providing that the noise mitigation specified in a) to g) above is conditioned.

**Pro PG Planning & Noise: Professional Practice Guidance on Planning & Noise (Acoustics and Noise Consultants, Institute of Acoustics, Chartered Institute of Environmental Health)*

Land Drainage Engineer comments –

In previous responses we have requested that the following information is provided by the applicant prior to the discharge of condition 20 regarding the sustainable management of surface water runoff:

- The drainage calculations indicated that surcharging of the onsite drainage system may occur in the 1 year event, and that flooding of the on-site drainage system may occur in the 30 year event.
- The drainage calculations did not appear to have been run for any storm durations longer than 240 mins (and not longer than 180 mins for the 1 year and 30 year storms).
- The drainage calculations did not address previous comments in which we asked the Applicant to provide confirmation of how the volume and rate of runoff that currently discharges to the culverted watercourse to the north-west of the site compares to the volume and rate currently discharged to this culvert.
- The Applicant used an FSR model rather than FEH (which is the current best practice). Reference was also made to IH124 but it was not clear how this model has been used.
- The Applicant assumed that pipes and manholes outside of their model will provide an additional storage volume 20m³/ha for the 100 year calculations but not the others. They did not explain how this was calculated.
- The CCTV footage showed some siltation (S18 – upstream headwall) which was not modelled.

- The layout of the development appears to have changed slightly since the previous submission, however no amended calculations have been submitted.
- The drainage layout shows the key carrier drains. Prior to the approval of the reserved matters application we would want to see a more detailed layout of all drainage infrastructure serving the development.
- A high level overflow has been installed upstream of the proposed attenuation pond, with direct unattenuated discharge to the downstream existing sewer network. No explanation of this system has been provided.
- No details of the proposed attenuation pond have been provided, including cross sections through the pond and details of inlet and outlet structures.
- The pond does not appear to include a high level overflow which we recommended is located 100mm below the top of the pond and at the 100yr+40%CC flood level.

This response is in regard to the points raised above, with information obtained from the following sources:

- Statement on Surface Water Run-Off, prepared by Georisk Management, dated 01/02/2019;
- Response to Drainage Strategy Comments by Balfour Beatty, prepared by DDS, dated 07/03/2019;
- Drainage Strategy Sheet 1 of 2, drawing ref: 0058_3_F.
- Drainage Strategy Sheet 2 of 2, drawing ref: 0058_4_E.

Each of the points raised above are discussed below.

The drainage calculations indicated that surcharging of the onsite drainage system may occur in the 1 year event, and that flooding of the on-site drainage system may occur in the 30 year event.

In the Response to Drainage Strategy Comments document the applicant clarifies that the surcharging of the network indicated under the 1 year return period at nodes 62 and 103 represent the pond and Hydrobrake flow control chamber respectively, and are designed to fill to some extent even on lower return periods. The applicant clarifies that no flooding is predicted during the 30 year return period, highlighting that there are nodes that are marked as 'flood risk' however this is an indication of when the water level at the node is within 300mm of the cover level. We agree with the explanation provided by the applicant, although highlight that (as discussed below) revised drainage calculations are required to support the amended site layout and drainage layout.

The drainage calculations did not appear to have been run for any storm durations longer than 240 mins (and not longer than 180 mins for the 1 year and 30 year storms).

In the Response to Drainage Strategy Comments document the applicant clarifies that storm durations between 15 and 1440 minutes have been modelled but only results for the critical events for each node have been reported. We agree with the explanation provided by the applicant, although highlight that (as discussed below) revised drainage calculations are required to support the amended site layout and drainage layout.

The drainage calculations did not address previous comments in which we asked the Applicant to provide confirmation of how the volume and rate of runoff that currently discharges to the culverted watercourse to the north-west of the site compares to the volume and rate currently discharged to this culvert.

In the Response to Drainage Strategy Comments document the applicant states that the discharge rate from the development has been set in accordance with the approved Flood Risk Assessment addendum by Banners Gate, which acknowledges the existing ground levels are

split into northern and southern parcels. The applicant states that this has been approved by Hereford Council in July 2017, although our own review of previous correspondence indicates that Herefordshire Council have continued to request analysis of the existing discharge rates and volumes that would naturally flow to the culverted watercourse to the north-west of the site.

Whilst the principles to limit discharge to the equivalent greenfield rates for the 1 year, 30 year and 100 year events is acceptable, the applicant has not yet confirmed what these existing rates would be for the current drainage catchment.

We recommend that the Council requests clarification of how the volume and rate of runoff that currently discharges to the culverted watercourse to the north-west of the site compares to the volume and rate currently discharged to this culvert and amends the submitted drainage strategy accordingly.

Further analysis of the drainage calculations submitted previously (dated December 2016) indicates that drainage from the attenuation pond will be limited to the equivalent greenfield rates for the 1 year, 30 year and 100 year events although it is not clear how this will be achieved. We note that the Drainage Strategy drawing states that flows will be limited to 64 l/s but assumed this is a maximum discharge rate that would only occur during the 100 year event. The applicant must clarify how discharge rates will be limited to lower values during smaller events.

We recommend that the Council requests further clarification of how discharge rates will be limited to the equivalent 1 year, 30 year and 100 year events.

The Applicant used an FSR model rather than FEH (which is the current best practice). Reference was also made to IH124 but it was not clear how this model has been used.

In the Response to Drainage Strategy Comments document the applicant states that whilst it is acknowledged that FEH could be considered best practice for rainfall methodology, FSR is still a widely used and accepted methodology. Whilst FSR may still be widely accepted by other local authorities, in Herefordshire the Council promote the use of FEH data as recommended by

The SuDS Manual published in 2015 and as requested in our response dated November 2017. We appreciate, however, that the use of FEH data was not specifically requested prior to the submission of the drainage calculations dated December 2016 and therefore approve of the use of FSR in this instance. The applicant also clarified that the reference to IH124 was made in error.

The Applicant assumed that pipes and manholes outside of their model will provide an additional storage volume 20m³/ha for the 100 year calculations but not the others. They did not explain how this was calculated.

In the Response to Drainage Strategy Comments document the applicant states that the additional storage of 20m³/ha approximates the volume of storage available within the private drainage serving the dwellings across the development. The applicant goes on to state that it is generally accepted that under the 100 year plus climate change return period that this small volume can be included within the simulation, and that the additional storage is not considered when simulating the 30 year return period. Consultation with our in-house drainage team suggests that the volume of storage available in the network should be based on network calculations (not including predicted flooding from the network during extreme events) and not a generalised figure of 20m³/ha, although we would welcome a reference to the industry-recognised document where this allowance is stated.

We recommend that the Council requests calculations of the available storage volume within the network during the 100 year event, or reference to the document where this allowance is stated.

The CCTV footage showed some siltation (S18 – upstream headwall) which was not modelled. In the Response to Drainage Strategy Comments document the applicant states the siltation / debris between manhole S18 and the headwall to the ditch course is noted, however the applicant states that it is reasonable to assume that this would have little to no effect on the 'main run' of the surface water network i.e. S105 > S18 > S14A along which the discharge from the proposed development would travel. As such the condition of this particular run has not been considered within the applicants submitted calculations. We approve of the approach.

The layout of the development appears to have changed slightly since the previous submission, however no amended calculations have been submitted.

No further information has been provided. We recommend that the Council requests updated calculations that reflect the amended development layout and drainage layout as presented in the submitted Drainage Strategy drawings.

The drainage layout shows the key carrier drains. Prior to the approval of the reserved matters application we would want to see a more detailed layout of all drainage infrastructure serving the development.

No further information has been provided. We recommend that the Council requests updated plans that illustrate all drainage infrastructure serving the development.

A high level overflow has been installed upstream of the proposed attenuation pond, with direct unattenuated discharge to the downstream existing sewer network. No explanation of this system has been provided.

No further information has been provided. We recommend that the Council requests confirmation of how this overflow is proposed to operate and supporting calculations.

We stress that discharge from the site must not exceed equivalent greenfield rates and volumes up to the 1 in 100 year plus climate change event and that all site-generated surface water runoff up to the 1 in 100 year plus climate change event must be retained within the site boundary, with exceedance flows directed towards the proposed attenuation pond or other areas of low vulnerability for temporary storage. We note that the drainage calculations indicate flooding from certain areas of the network during the modelled 100 year event. Whilst this is acceptable, we highlight that exceedance flows should be managed within the site up to the 100 year plus climate change event and not discharged off site.

No details of the proposed attenuation pond have been provided, including cross sections through the pond and details of inlet and outlet structures.

No further information has been provided. We recommend that the Council requests this information prior to discharging the condition.

The pond does not appear to include a high level overflow which we recommended is located 100mm below the top of the pond and at the 100yr+40%CC flood level.

No further information has been provided. We recommend that the Council requests this information prior to discharging the condition.

The above was preceded by the following comments dated 24 October 2018 –

We have reviewed the amended drawings provided for this development (182628) (Drawing Ref 0058_3_E Drainage Strategy Sheet 1 of 2, and Drawing Ref 0058_4_D Drainage Strategy Sheet 2 of 2) and cannot see any differences to the previously submitted drainage strategy. I also do not believe that any further information relevant to drainage has been provided. We

therefore have no further comments to make and our previous comments (attached) are still valid.

Open Spaces Manager commented on amended and updated plans and details received 28 and 14 May 2019 –

I can see that the overall layout has not changed in respect of Public Open Space (POS) and Play.

POS: The details for POS as shown on drawing no. 5011B are acceptable as per my previous comments

Children's Play: The details for the proposed LEAP have not changed. Drawing no. P16 - 793_08-B is the same plan as previously submitted. Therefore my comments remain largely the same.

More detail is required and the applicant needs to demonstrate that provision is made for all ages for a site of this size: infants, juniors and teenagers. The central area provides opportunity to do this but as the proposal stands this is not evident.

The only comment I would make is that my previous comments indicate a value of £220,000 which is based on the total number of houses of 321. Given that the development is now to be undertaken in phases, for phase 1 only and 275 houses on a pro rata basis the value would be approximately £188,500.

If we took this approach the play provision would need to be designed to accommodate the requirements arising from both phase 1 and phase 2 on the understanding approximately £31,500 of this could come forward at a the phase 2 stage. This could be as additional equipment on the central open space play area or could be natural play opportunities on the POS to the west of the site for example.

For comparison I attach the approved scheme for RM 182712 Holmer West Hereford (phase 1 and 2) total no. housing 380 and cost for play provision £290,000. Bloors produced an excellent scheme which does have some similarities with Leadon Way given the central POS and opportunities to incorporate natural play equipment along the POS.

Previously referenced comments from the Open Spaces Manager stated –

On Site POS/Play

Core Strategy Policies OS1 and OS2 apply.

It is noted that previously 164078 RM following outline approval 143116/O for 321 houses was approved for the full site. This application also follows outline approval 143116/O but for 247 houses only.

The layout and on-site POS is the same as 164078 RM with the exception of the houses proposed along the western edge. My previous comments in relation to POS and children's play still stand.

In summary on-site POS is well located, provides connectivity from both within and outside the site and is above the minimum policy requirement as detailed previously.

The submitted LEAP plan: ref: D/16-0793_08_B is the same plan as previously submitted under 164078/RM and I have the same issues. It does not demonstrate that the policy requirements

for a site of this size have been met as follows. To note this is calculated and based on the full number of houses (321) being delivered on site.

Size: As required by policy the formal play element should be a minimum 1800sq m.

Location: Play could be provided both on the central area as formal play equipment and some more natural play opportunities such as play trails in the other areas of POS if preferred by the applicant.

A detailed schedule including:

- Provision for particular age groups: infants, juniors and teenagers, to include a kick-about which should be a flat area.
- Equipment list (with suppliers and part numbers), details of safety fencing (if applicable), safety surfacing, information on signage, seating and litter bins to be included
- Costs of providing and installing the equipment. I previously gave a value of £220,000 which includes equipment, bins, benches, surfacing, pathways, installation, landscaping costs etc. This is based on the SPD on planning obligations play tariffs (development costs only) and is comparable to other developments in the county.
- Maintenance schedule. A 15 year maintenance schedule which will include safety surfacing repair/replacement, regular safety checks and the recommended annual ROSPA standard independent safety inspection.

It is noted that the applicant has chosen to use a maintenance company.

If details are not forthcoming then as previously, I would ask that the play area details are conditioned as before:

164078/RM: Land south of Leadon Way: application for approval of reserved matters following outline approval P143116/O for 321 residential dwellings:

Condition 2: no development shall be undertaken to commence details of the play areas including equipment, surfacing, landscaping, means of enclosure and provision of seating, litter bins and the phasing of their provision until plans have been submitted and approved in writing by the Local Planning Authority. The play areas shall be constructed in accordance with the approved details and thereafter retained.

Reason: in order to comply with the requirements of the Policies OS1 and OS2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Waste Manager commented on amended plans received 14 and 28 May 2019 –

Whilst the new plan did address my primary concerns, there are still just a couple of small tweaks that could be made that would reduce the likelihood of future problems. A prior to occupancy condition securing appropriate details is considered acceptable to address the remaining points and secure appropriate refuse collection facilities over the whole site, which are –

- Plots 116-188 – the distance the crew would need to walk to collect the bins I have measured as being over 25 metres.
- I noticed on the main site plan part of this private road is marked as being constructed to commercial vehicle standard, however it does look like it might be too tight for the vehicle to travel this, so the collection point needs to be within a 25 metre walking distance from the road.
- Shared collection points next to parking spaces aren't ideal, as you have a situation where multiple bins are being put directly next to someone's car – for plots 156-158 there could be another collection point

Amended plans received 14 and 28 May 2019 responded to the following comments dated 29 March 2019 –

Collection points all appear to be too large – bins are collected on an alternate weekly basis, therefore only need to be large enough for one bin from each premise

It is not clear which roads it is expected the refuse collection vehicle (RCV) will travel. Therefore comments on collection points assume the RCV will not travel what appear to be shared private drives / roads. *Please see refer to comments below regarding refuse collections from private roads.*

Collection point opposite plot 207 on LEAP area. This collection point is not acceptable. The distance some residents would be required to take bins is over 30 metres. The number of bins at the collection point, the visibility and accessibility from the LEAP area would increase the likelihood of more rubbish being deposited alongside the bins. This would have a visual impact on the houses opposite and may result in an accumulation of rubbish.

There is a turning head on this private road, could this be upgraded as far as is indicated on the site layout plan (drawing no. 1000AK & 1001AK) to a standard that would be suitable for the RCV to travel? This would remove the need for both the collection points located on the edge of the LEAP area.

Collection point adjacent to 207 – this collection point would be better located on the opposite side of the private drive to limit the impact of the collection point on future occupants of plot 207
Collection point near plot 116 is not acceptable – this is over the 25 metre carry distance from the highway

Plots 263, 264, 313 and 314 are located over 25 metres from the highway, along a private drive. A bin collection point is required.

Plots 269, 311 & 312 are located over 25 metres from the highway, along a private drive. A bin collection point is required.

Plots 244 – 251 are located over 25 metres from the highway, along a private drive. A bin collection point is required.

Plot 120 is located over 25 metres from the highway, along a private drive. A bin collection point is required.

Plot 147 and 146 are located over 25 metres from the highway, along a private drive. A bin collection point is required.

Plot 319 is located over 25 metres from the highway, along a private drive. A bin collection point is required.

Private roads

In the event that the roads within this development do not become adopted by Herefordshire Council:

- The council will only agree to travel private roads for the purposes of waste collection if:
- The council and its contractor determine that collections can be carried out safely;
- The council receive written confirmation from the landowner/developer that the roads over which the RCV will travel are built to a suitable specification for this type of vehicle to travel over on a frequent basis; and
- The council and its contractor are indemnified against damage to property and general wear and tear, other than that caused through negligence.

The council and/or its contractor will assess the safety of collections at the development via the completion of a risk assessment which will take into consideration the access and suitability of the road surface, width, obstructions and turning areas for a 26 tonne RCV.

If a private road is not suitable for the RCV to travel or an indemnity is not signed by the landowner, the collection point for rubbish and recycling will be at a point adjacent to the nearest public highway, as determined by Herefordshire Council.

The council and its contractor reserve the right to cease collections from private roads if the roads or entrance are not maintained to a standard suitable for the RCV or there are any obstructions in place

Planning Obligations Manager comments –

The revised plans now accords with our discussion with representatives of Barratt West Midlands in respect of the policy requirement for affordable housing. The plans propose 40% affordable housing which is in accordance with the original outline permission.

5. Representations

5.1 Ledbury Town Council commented on the first tranche of amended plans on 8 March 2019 –

At the meeting of Ledbury Town Council's Economic Development and Planning Committee held on Thursday 8 March 2019, members resolved NOT TO SUPPORT planning consultation reference 182628 on grounds previously stated, with the additional comments:

- continuing concern ref noise abatement;
- uncertainty about adequacy of SUDS system;
- and reassurance needed that the social mix remains the same.

Comments from the Town Council dated 8 August 2018 stated –

At the meeting of Ledbury Town Council's Economic Development and Planning Committee on 2 August 2018, Members Resolved Not to Support due to the following:

1. Lack of clarity in visual plans on market mix, suggesting the mix of affordable housing may now be below the level previously agreed.
2. Lack of proper impact assessment.
3. Potential drainage problem due to surface attenuation pond not being at lowest of development.
4. Potential impact on off-site pond, which is a breeding ground for great crested newts.
5. Lack of a suitable plan for the vacant area in the now vacant western part of the site, beyond spur roads to facilitate future development.

Six **letters of objection** have been received from local residents. Comments received are summarised as –

- The road building particularly serving the second phase of development is premature. If the second phase is not approved it will leave an inappropriate eyesore detrimental to the surroundings
- The mix of houses has changed, the percentage of affordable dwellings and smaller homes now proposed is inappropriate
- Changes to housing mix are by stealth and to give greater profitability to the detriment of Ledbury
- The technical noise appraisal does not form part of the Reserved Matters application
- Impact of proposed surface water drainage plans on a third party pond which is a Great Crested Newt habitat
- This site is going to be blighted for ever by the factory noise and the developers should plan to accept it

- The phase 2 area should be a substantial planted landscaping area to mitigate noise
- The bund and acoustic fence by their combined size, are inappropriate to the area and will dominate and 'tower' over the hedgerows
- It is noted there is potential for the site to serve access to an adjoining field and proposed development, all of which would be served by a single access on to Leadon Way
- It is not possible to make substantive comments with phase 2 area omitted
- Future residents will have adverse amenity due to proximity to industrial premises
- Social housing located nearest industrial premises mean these homes are 'sacrificial' acting as a noise barrier
- Insufficient details regarding green spaces
- No services or facilities on the site, which is an out of town satellite settlement. A convenience store should be included

Following consultation on amended plans dated 28 May 2019 local residents have commented as follows –

- Pleased some consideration has been made regarding landscaping, essential as this is after all a bund plus barrier almost 20 feet high highly visible as one enters the Dymock Road and open countryside
- Requested that the following conditions be included:- 1) Materials used including colour etc for sound attenuation barrier to be approved prior to installation. 2) Tree landscaping to be: full length of bund; minimum 3 metres high on planting; x 4 trees deep on each side of barrier; spacing along length to be similar; species to be advised. Overall high density planting required albeit with some consideration required of future growth.
- The proposed amended layout and inclusion of a sound barrier bund do not go far enough in terms of mitigating the noise exposure from the existing cheese factory.
- One cannot look at this Application in isolation from the 'future application' section of the overall site.
- The phase 2 of the site is integral to the overall layout and workings of this new estate and must therefore be understood alongside this Application to be correctly and fairly approved or not.
- The location of affordable properties remains unchanged: next to the main roads and closest to the industrial premises i.e. affordable housing being used as an acoustic barrier.
- A second access route into the site should be included: there are simply too many properties proposed for a single access.
- It appears that the 'solution' to noise nuisance from the former Meadow Cheese plant is to create a 2 metre high bund with a further 3 metre high fence on top. this 'solution' as being a wholly unwarranted intrusion into the existing 'natural' landscape of the surrounding area.
- Why cannot a solution be sought to reduce the noise, to acceptable levels, at source, ie within the plant's own machinery, buildings
- If the bund plus fence 'solution' is approved there must be full living screening on both sides of the eyesore.

Ornua Ingredients UK Limited (Ornua) objects to the proposed reserved matters application as set out in below –

The additional following comments were received 16 May 2019 –

1. In respect of the email below from Wardell Armstrong (enclosing x2 notes), dated 8 April 2019

There is no indication where the Plots 1 and 2 show homes are on any of the plans provided by the Applicant. The Council should be provided with this information.

It would have been helpful for the Applicant to provide photos of the proposed or assessed measurement locations / situations of the open window; particularly the openness of the windows. It is not clear specifically what assumption was used.

The two notes are explicit that a slightly open window attenuates noise by 15 dBA. However, the guidance provides that open window attenuation is generally 10-15 dB (see for instance in BS8233, which WA do refer to but they do not provide the range of attenuation, they simply use the upper range cited in the guidance with no justification for doing so). The notes are of course based on predicted noise level outside and measured noise level inside. My client's consultant considers that it would have been more helpful if the Applicant had measured inside and out – it is not clear what the purpose of the measurements in the gateway were.

The Applicant's argument seems to boil down to the fact that people will have to shut their windows because of the traffic noise so, in turn, the factory noise will not be an issue. However, my client's consultant does not consider that this will stop people complaining of noise from the Cheese Factory because the noise emission (i.e. potential nuisance from the Cheese Factory) is outside. Ornuu has never disputed the fact that internal noise levels will be below the BS8233 guidance (which apply to 'anonymous' noise); the issue is BS4142 and the likelihood of complaints based on significant impact (externally).

In that regard, these submissions do not change the thrust of Ornuu's original objection.

2. In respect of the [Wardell Armstrong Letter dated 11 April 2019, titled *Response to Hayes McKenzie Comments 4th April 2019*], sent to Ornuu on 12 April 2019

Ornuu still has outstanding concerns following WA's response of 11th April but at this stage Ornuu does not propose submitting any further substantive response given the points it has raised to date.

The headline point is that windows will need to remain closed to mitigate the noise impact from the factory, which is assessed as significant adverse even without tonal components (see Ornuu's original objection). The inclusion of facade insulation / double glazing can only be seen as a contextualising factor noted by BS4142 as affecting (reducing) the sensitivity of the receptor to the assessed level of impact. Ornuu does not consider that this will prevent complaints, or even minimise them for the proposed layout, at the predicted level of noise.

3. Noise barrier

I am still unclear under what planning consent the Applicant is proposing to develop the acoustic barrier. I cannot see that it is authorised by the outline consent. Has the Applicant discussed this with you please?

Next steps

Clearly, my client's consultants still consider that there are gaps and insufficient detail in the responses provided by Barratt. I would be grateful if you could ensure that these comments are taken into account by the Council and passed on to your Environmental Health Officer for review. I would also be grateful if you could please provide me with your EHO's response once you receive it as my client would like the opportunity to review these points and comment on them accordingly.

Background

Ornua is the owner and operator of the Meadow Cheese Factory, located opposite the proposed development site. Ornua successfully challenged the grant of the original reserved matters application (ref: 164078) which was quashed by the High Court. It is now with the Council for redetermination. We understand that this application, whilst live, is not being pursued by Barratt as they would prefer to focus attention on ref: 182628.

Application ref: 164078 was quashed because the Council did not take into account a representation submitted by Ornua which demonstrated that the noise levels to be experienced at a number of the proposed houses would be too high, causing detriment to the occupiers of those properties and potential nuisance issues which could affect the operation of the Cheese Factory. Ornua was clear that granting consent for the layout before discharging the noise condition could prejudice the outcome of the proposed noise mitigation. Ornua also contested that the methodology used by Barratt in assessing noise impacts was flawed on a number of points, one of which was that it did not take into consideration tonal emissions which attract a 6dB penalty under BS4142:2014.

RMA 182628 now seeks approval of what is known as Phase 1 i.e. the first 275 units consented by the original outline consent (which granted consent for a total of 321 units). The remaining 46 units will, we understand, be brought forward by Barratt as part of a future planning application (presumably known as Phase 2). Phase 2 is being delayed due to the greater noise issues that will be experienced by future occupiers of this part of the site because it is in even greater proximity to the Cheese Factory. As such, we understand that Barratt will bring Phase 2 forward once it has worked out how it can secure adequate noise mitigation for this part of the site which Ornua considers would need to be more extensive here compared to elsewhere.

Ornua and Barratt has separately sought to reduce noise emissions from the Cheese Factory and agreed a noise limit at the closest properties to the Cheese Factory which includes a correction for any tonal components. As part of this agreement Ornua gave Barratt the opportunity to undertake mitigation works to the Cheese Factory to lower the noise levels. Unfortunately, these works have not succeeded and the overall noise levels emitted from the factory have not reduced, as Wardell Armstrong note in their report on p.9, para. 2.2.31 – see the first bullet point. Barratt is now predicting significantly higher noise levels than previously stated, including a predicted noise level of 43dB at the boundary of the current Phase 1 properties.

Considering noise as part of the RMA

Ornua appreciates that Barratt has submitted a separate condition discharge application to the Council under ref: 190874 for Phase 1 and it has been explained (in the Council's letter to Ornua of 13 March 2019) that noise will be dealt with through this application and not through the RMA 182628.

However, Barratt has submitted its noise report (prepared by Wardell Armstrong, dated March 2019) in support of the RMA ref: 182628 (see the Wardell Armstrong letter of 22 February 2019 and the March 2019 report itself). EHO comments in respect of this application also express concern with the noise being emitted from the Cheese Factory, which is a 24/h operation, and the need to engage Ornua on both of these applications. As such, we come back to the principle discussed in the High Court case about the interaction between the layout of the site and how, in Ornua's view, approving the layout before the discharge of condition 19/21 will prejudice the mitigation that can be provided. The Court was clear that the Council, having considered noise as part of the RMA, should have considered it fully and properly. The same is true of the applications currently before the Council.

Admittedly, we are in a different position today than we were in December 2017 because at that stage Barratt had not submitted any detail concerning the discharge of the noise condition. Today we have this detail but, for the reasons noted below, it is inadequate. Given that application ref: 182628 has now been submitted to the Council and given the importance of ensuring that the information in both applications is consistent, Ornuva considers that both applications (refs: 182628 (Phase 1 RMA) and 190874 (Condition 19 discharge for Phase 1)) should be considered at the same time by the Council once sufficient explanation and information in respect of the layout and proposed mitigation has been provided by Barratt and been considered by the Council, in agreement with Ornuva. As mentioned, this is a principle that Ornuva put forward in the High Court and one it maintains.

Objection to ref: 182628

Ornuva's noise consultants, Hayes McKenzie, has produced the attached note on the noise report submitted by Barratt in support of both applications. This notes a number of points which the Council should take into consideration. In headline terms, it is of great concern to Ornuva that:

- the predicted noise levels to be experienced at the Phase 1 properties closest to the Cheese Factory have increased from less than 37dB LAeq (assessed in June 2018 by Wardell Armstrong) to 43 dB dB LAeq. No comment on this is made in the report and no explanation is provided as to why this level has increased so significantly;
- the report states that no tonal content correction has been included in Barratt's assessment but no data is provided to support this assumption. As mentioned above, tonal emissions require a tonal penalty of up to 6dB to be applied to the overall results and this then requires more adequate mitigation measures to be applied;
- due to the high noise levels that will be experienced by the occupiers of these properties, notwithstanding the measures proposed, occupiers are likely to complain about noise from the Cheese Factory if they are required to keep windows closed to prevent noise impact internally; and
- there a number of questions and inconsistencies raised in Barratt's noise report which should be clarified with them, as per the attached note.

Clearly therefore the current layout of the site means that those Phase 1 properties in closest proximity to the Cheese Factory will experience unacceptable noise levels which is likely to cause issues for Ornuva in the future.

As an aside, the Hayes McKenzie review of Wardell Armstrong's March 2019 report does not cover the detail submitted on behalf of Barratt in the 22nd February 2019 letter from Wardell Armstrong. This also states that it is submitted in support of the noise condition discharge application and the reserved matters application. The letter refers to the various guidance documents, also referred to in the report, and the proposed mitigation measures, but notes the adverse noise impact predicted at the nearest receptors. It is notable that the predicted noise levels from the Ornuva premises, shown at Figure 5 in the WA letter, include the properties now noted to form Phase 2 of the development with levels which would be judged to have a significant adverse impact, using Wardell Armstrong's own assessment methodology.

It is also arguable that the predicted levels at the closest of the properties which now form Phase 1 would also be judged to have a significant adverse impact (see the Hayes McKenzie review of WA report). WA argue that this will be resolved through facade insulation but note in their conclusions that '*windows of proposed dwellings closest to and facing the cheese factory will need to be kept closed, to achieve internal guideline noise levels in bedrooms during the night-time*'. Ornuva does not therefore consider that the noise from the Cheese Factory can be considered negligible, as suggested in WA's conclusions, when assessed in accordance with BS4142:2014 which very specifically uses '*outdoor sound levels to assess the likely effects of*

sound on people who might be inside or outside a dwelling'. Ornuia also considers that complaints about noise from the Cheese Factory will be very likely if this layout is approved and are not resolved through the mitigation measures secured through the noise condition discharge.

Next steps

The layout of the proposed Phase 1 development should not be set before it is clear whether Barratt can deliver a noise mitigation scheme which adequately secures a reduction in the level of noise emitted from the Cheese Factory and secures the amenity of future residents. Currently, the March 2019 noise report does not adequately deal with this and needs more explanation because it proposes inadequate mitigation. Ornuia considers that the two applications should be considered together for the reasons detailed above and to ensure consistency in approach and flexibility.

Whilst Ornuia has been and remains willing to cooperate with Barratt to secure a mutually beneficial outcome it clearly wants to ensure that its current operation can run in the same manner as today. On this point, it is worth noting the protection afforded to existing businesses under the NPPF. Whilst the NPPF has always been clear that pre-existing businesses should be protected, and it is a well-established legal principle that decision makers should not promote land-use competition, the revised NPPF issued in July 2018 introduced the concept of 'agent of change'. Paragraph 182 seeks to ensure that decisions taken by local planning authorities should ensure that new development can be integrated effectively with existing businesses and that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. This requires that where existing businesses could have adverse effects on the new development, the applicant (or agent of change) of the new development should be required to secure suitable mitigation. This is a material consideration in the assessment of both of the applications before the Council. And, at this stage, Ornuia does not consider that Barratt has proposed adequate noise mitigation for the reasons noted above and maintain that the proposed layout could effectively prejudice the noise mitigation to be secured.

The **Campaign to Protect Rural England** (CPRE) objected on 23 August 2018 as follows –

- The ratio of affordable to open market housing is not as per the approved reserved matters application P164078/RM and is well below the 'up to 40%' outlined in the planning inspectors report.
- The application shows a reduction in the percentage of open market 2 and 3 bedroom houses, these are the type of houses needed in Ledbury and Herefordshire as a whole
- The site seems to have been designed assuming that development of the western part of the site will eventually go ahead as per the original submission P143116/O. However should that not be the case the spur roads to the west of the site will be redundant and ugly and there will be no real western boundary to the development. This part of the site could be used to plant a buffer of trees/hedges to help mitigate noise to the development.

5.2 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=182628&search=182628

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 Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 state the following respectively:-

"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."

"In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Herefordshire Local Plan – Core Strategy

- 6.3 Policy LB1 – *Development in Ledbury* states Ledbury will accommodate a minimum of 800 new homes balanced with a minimum of 15 hectares of new employment land during the plan period. The majority of new housing development will be focussed to the north of the town as set out in Policy LB2 and the strategic location for new employment of around 12 hectares to the west of the town, south of Little Marcle Road. Further development will take place through the implementation of existing commitments, infill development, and sites allocated through a Neighbourhood Development Plan. A number of sites which have future potential for development have been identified in the Strategic Housing Land Availability Assessment (SHLAA).

Within Ledbury, new development proposals will be encouraged where they are relevant to this application:

- maintain and enhance the vitality and viability of the existing town centre.
- improve accessibility within Ledbury by walking, cycling and public transport, particularly where they enhance connectivity with, for example, local facilities, new employment areas and the town centre;
- contribute to addressing deficiencies in community facilities and/or allow for infrastructure improvements (including broadband) in the town, to promote sustainable development;
- reflect and enhance the characteristic built historic elements of Ledbury, such as its stone, brick and timber-framed buildings, medieval plan form, conservation areas and setting overlooking the Leadon Valley;
- protect and enhance its green infrastructure, including connections to the public right of way network and biodiversity, particularly the Malvern Hills Area of Outstanding Natural Beauty to the east and the Leadon valley to the west;
- protect and enhance the setting of the town from eastern and western viewpoints; and, where this is not possible, incorporate appropriate mitigation measures; and have demonstrated engagement and consultation with the community including the town council.

- 6.4 Policy H3 – *Ensuring an appropriate range and mix of housing* states Residential developments should provide a range and mix of housing units which can contribute to the creation of balanced and inclusive communities. Also, Policy H3 indicates that the latest *Local Housing Market Assessment* will provide evidence of the need for an appropriate mix and range of housing types and sizes. Whilst it is not in dispute these are policies for the supply of housing they also have wider implications in terms of ensuring the social benefits of providing a suitable mix of housing types.
- 6.5 The Herefordshire Local Housing Market Assessment (HLHMA) formed part of the evidence base for the CS, although it is now some five years old. However, it is specifically cited in CS Policy H3 and without any other substantive evidence in regard to housing need in this area significant weight is attached to this. For the Ledbury area the HLHMA indicated that the greatest demand was for two and three bedroom housing, which was estimated as providing 30.5% and 55.2% of open market housing needs, and 38.3% and 30% of affordable housing need with four bedroom or larger housing providing only 10% of the estimated open market and 4% of the affordable housing needs.
- 6.6 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.*
- 6.7 Policy SS6 then states in its list of criteria states *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.*
- 6.8 Core Strategy Policy SS7 – *Addressing climate change* states Development proposals will be required to include measures which will mitigate their impact on climate change. At a strategic level, this will include:
- focussing development to the most sustainable locations;
 - delivering development that seeks to reduce the need to travel by private car and which encourages sustainable travel options including walking, cycling and public transport;
 - designing developments to reduce carbon emissions and use resources more efficiently;
 - promoting the use of decentralised and renewable or low carbon energy where appropriate;
 - supporting affordable, local food production, processing and farming to reduce the county's contribution to food miles*;
 - protecting the best agricultural land where possible

Key considerations in terms of responses to climate change include:

- taking into account the known physical and environmental constraints when identifying locations for development;
- ensuring design approaches are resilient to climate change impacts, including the use of passive solar design for heating and cooling and tree planting for shading;
- minimising the risk of flooding and making use of sustainable drainage methods;
- reducing heat island effects (for example through the provision of open space and water, planting and green roofs);
- reduction, re-use and recycling of waste with particular emphasis on waste minimisation on development sites; and
- developments must demonstrate water efficiency measures to reduce demand on water resources.

- 6.9 Core Strategy policy LD1 – *Landscape and townscape* 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
- 6.10 Core Strategy policy LD4 – *Historic environment and heritage assets* sets out as relevant to this appeal that Development proposals affecting heritage assets and the wider historic environment should:

1. Protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible

2. the conservation and enhancement of heritage assets and their settings through appropriate management, uses and sympathetic design. Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas

Neighbourhood Development Plan

- 6.11 The Ledbury Neighbourhood Development Plan was made on 11 January 2019. It now forms part of the Development Plan for Herefordshire.

The application site is referenced and acknowledged within the NDP which states when combined with two other large scale housing sites – *‘together amount to commitments of over 1,000 homes which the LNDP supports’*.

The NDP with regards to housing delivery sets out *It is considered that these sites, in conjunction with the site allocated by the LNDP and windfall sites that will come forward within the settlement boundary, more than meet the needs of the town in terms of housing provision over the plan period.*

Policy HO2.2 – *Housing Density* requires The housing density of new development should respect its surroundings through good design which responds positively to local character. Housing densities should be within the range of 30 to 50 dwellings per hectare. In keeping with local character, housing densities should be at the higher end of this range towards and within the town centre and at the lower end of the range towards the edge of the settlement.

Policy HO4.1 – *Housing for Young People* – states Proposals for 1, 2 and 3 bedroom starter homes will be supported.

A key built environment objective of the NDP is To protect the transition from town centre to edge of town where it is more rural, so that any new ‘edge of town’ development maintains the character of the current settlement boundary.

Policy BE2.1 – *Edge of Town Transition* states The density of housing in the vicinity of the perimeter of the town should be appropriate to the location and type of housing that is required, and its environment. Whilst exceptions may be appropriate, buildings in the vicinity of the perimeter of the town should respect local character and not be more than 2.5 storeys in height. The protection and enhancement of existing, or establishing of new, hedgerows, woodland,

green spaces, landscape features and street trees will be supported. Development should respect the setting of the Malvern Hills AONB.

Policy BE1.1 – *Design* states Development should demonstrate that it is sympathetic to the character and appearance of Ledbury and where possible, that it contributes to the conservation and enhancement of the overall distinctiveness of the Neighbourhood Area. The use of design review is strongly supported.

National Planning Policy Framework

- 6.12 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. The National Planning Policy Framework 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
 - 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
- 6.13 Paragraph 7 sets out and defines 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.
- 6.14 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.
- 6.15 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 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.

6.16 NPPF paragraph 180 states Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life

Assessment of Proposals

Sustainable Development and Addressing Climate Change

- 6.17 The site benefits from an outline planning permission for residential development and the application hereby assessed is for approval of reserved matters of layout, appearance, scale and landscaping relating to that permission. In accordance with the NPPF and Policy SS1 a *positive approach* must be taken by Herefordshire Council to reflect the presumption in favour of sustainable development. Furthermore the LPA through policy SS1 will be proactive wherever possible and to secure development that improves the social, economic and environmental conditions in Herefordshire.
- 6.18 The principle of residential development for up to 321 dwellings with an access from Leadon Way has been established by the outline planning permission. In accordance with Local and National Planning policy approval should be given unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. It is not considered that there are any restrictive policies that are applicable in this instance as outline planning permission has already been established and as such the acceptability of the proposals is based on the assessment of both material and technical considerations. These matters are considered in the report below.
- 6.19 Policy SS7 is a strategic policy requiring focus on measures to address climate change. Reducing carbon footprint and CO2 emissions has been at the forefront of recent political and media discourse, receiving rightful prominent coverage. Herefordshire Council's Core Strategy has been 'ahead of the curve' in that regard with Policy SS7 in place and a requirement to be satisfied by development since October 2015.
- 6.20 The site is located on the edge of Ledbury, its location lends itself to the ability to walk or cycle to the town centre and other services and facilities nearby. Improved pedestrian linkages have been secured including new controlled crossing facilities on Leadon Way. The development also includes substantial open and recreational space within it. Accordingly, the proposal is located whereby many day to day functions and journeys by future occupiers can be undertaken without the need to use a private vehicle.
- 6.21 The development includes a substantial amount of new planting exceeding previous green coverage on the site with regards to trees. A comprehensive drainage plan and proposals are also incorporated.

6.22 With regards to built form and energy efficiency Barratt and David Wilson Homes set out their approach to addressing climate change through the design of their dwellings is delivered through a fabric first approach to CO₂ emission reduction includes the following:

- High levels of insulation
- Higher performance windows and doors
- Reduced air infiltration rates
- Enhanced thermal bridging performance
- Enhanced services
- Maximisation of passive solar and metabolic gains

Under current Building Regulations Approved Document Part L 2013 there is a backstop fabric energy efficiency standard which the developers' standard specification exceeds.

6.23 On the basis of the above and in principle the proposal represents sustainable development. Given the Governments requirement to deliver a significant number of new homes during the plan period, on the broad basis outlined above, the development will within that balance of meeting housing need and addressing climate change, in principle contribute to meeting both objectives. As such Core Strategy policies SS1 and SS7 and the associated aims and objectives of the NPPF are satisfied.

Noise

Background and Context

6.24 The proposed development site is located on the outskirts of Ledbury, on a greenfield site identified as a predominantly rural setting, however, in close proximity to two main noise sources; traffic noise (Leaddon Way bypass) to the north and 24/7 Ornua factory noise to the west.

6.25 The Core Strategy notes the protection of residential and local amenity is essential to ensuring local communities are and remain sustainable. Amenity considerations include such issues as noise. Policy SD1, within its list of criteria for sustainable design requires new development does not contribute to, or suffer from, adverse impacts arising from noise.

6.26 The NPPF paragraph 170 (e) requires the decision making process should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Paragraph 180 requires development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

6.27 The Ornua cheese factory noise runs 24/7 generating an audible constant low frequency sound (hum) in close proximity to the factory. Unlike the passing traffic noise the factory noise source is in a fixed location so creating an audible directional point source at the north west area of the proposed development site. Road traffic noise from Leaddon Way and to a degree Dymock Road is dominant during the daytime, however during the night (23:00 – 07:00), at the south western section of the proposed site the factory noise becomes the main dominant audible sound.

6.28 Primary concern regarding noise and amenity relates to during the noise sensitive night-time hours (23:00-07:00), where the local authority's main concerns have been raised with regards to the factory noise at this proposed site.

6.29 It is noted there are no planning controls on the factory to ensure that factory noise is not increased by for example additional plant, more intensive use of equipment or plant

maintenance failure and we cannot say for certain therefore whether complaints from future occupants of the proposed development may or may not arise in the future.

- 6.30 As detailed above, a previous approved Reserved Matters application was subsequently quashed by the Courts. The claim proceeded on one ground only, that the council failed to take into account a material consideration in that it did not take account of representations made by Ornuu, including a report by acoustic engineers on its behalf which cast doubt on a conclusion reached by the council that it would in principle be possible to produce a scheme for mitigation of noise emitted by the cheese factory such that it would be reduced to acceptable levels at houses built to the proposed layout.
- 6.31 The Judge found *It follows in my judgment that an error of law was committed*. The error may be considered either as a failure by the planning authority to consider, either at the level of members or officers, a material factor in the form of the information provided by Ornuu, or as a failure by officers properly to exercise the delegated power they had been given by evaluating and coming to a conclusion on that information.
- 6.32 The result and Court judgement was the decision (planning permission) must be quashed and remitted to the planning authority for redetermination.

Assessment

- 6.33 The application is presented with a Noise Assessment Report which includes acoustic contour modelling based on real time noise recordings. The Council's Environmental Health Officers have visited the site on a number of occasions and undertaken their own readings. The application features noise mitigation proposed or already implemented as follows to address both noise from the cheese factory and noise from traffic on Leadon Way –
- The noise mitigation works undertaken on site at the cheese factory in early 2019 included –
 - the removal of the green box extract
 - the acoustic enclosure of the pump motor and
 - additional silencer to the yellow extractor
- 6.34 Environmental Health Officers have verified subsequently that the low frequency tonal element of the noise was reduced so audibly less intrusive, however measurements of the overall volume of the factory sound was found not to be reduced.
- The applicant has removed the most adversely impacted proposed dwellings from this site proposal (shown as *Phase 2* on the proposed site plans), increasing the distance of the now proposed dwellings from the factory to the dwellings proposed within this application.
 - A 3 metre high noise barrier sited on top of a physical bund 75 metres in length maintaining a height of AOD 55m to the north west corner of the site, closest to the Ornuu cheese factory.
 - A reduction in the speed limit on Leadon Way from 60 to 40mph on the approach to the new roundabout (half way along the northern side of the development).
 - A 3.00m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m2 to the eastern section of the northern boundary to the site.
 - A 2.1m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m2 to the western part of the northern site boundary.

- A 1.8m high close boarded fence around all remaining gardens areas.

6.35 The following extract from Figure 3 of the *Noise Assessment Report* by Wardell Armstrong shows dwellings which are built with additional higher glazing specifications and acoustic vents.

- Green dots denotate elevations with standard glazing and ventilation via opening windows achieve guidance internal noise levels
- Yellow dots denotes standard glazing and alternative means of ventilation required to achieve guidance internal noise levels
- orange dots denote elevations with enhanced glazing and alternative means of ventilation required to achieve guidance internal noise levels

6.36 The applicant was requested and has agreed to install the higher of the two glazing specifications in all the identified properties (orange and yellow dots) shown below and this will be secured by condition. These glazing measures also contribute to mitigation from noise from the cheese factory along with mitigation against road noise, in particular the dwellings abutting Leadon Way.



Factory Noise

- 6.37 The starting point to the BS4142 assessment of the impact of the factory noise on the proposed dwellings is the establishment of a representative background sound level i.e. *what is typical in context to the area*. The methodology is not to ascertain what the lowest background sound level but to identify a general, most frequently occurring representative value.
- 6.38 Environmental Health Officers have considered both Wardell Armstrong's (applicant) and Hayes McKenzie's (objectors) positions on this and concluded given the range of findings of background sound levels found that the selection of a representative background for use in the assessment of 33-34dB (LA90) night time and 41-44dB daytime is appropriate. These levels take into account traffic movements will be through the night although to a much reduced level than in the day time. Also the presence of the factory needs to be considered as it is a well-established industrial unit in the area. The lowest measured background reading (27dB L90) would be more representative of a fully rural, green site area. The 33-44dB (LA90) background reading is more representative and in context with the development site being on the outskirts of Ledbury town where rural meets a small market town divided by a by-pass road.
- 6.39 Two dwellings were constructed in early 2018 as show houses for the site and has enabled the concerns regarding the adverse impacts at the properties closest to the factory presented in the

Wardell Armstrong report (which anticipated moderate adverse impacts) to be verified in practice. Noise readings have been taken internally from these dwellings.

- 6.40 These sites have been visited twice by Officers from the local authority during the daytime subsequent to the Ornua site mitigation. On both occasions road traffic noise was found to be dominant as expected for this time of day.
- 6.41 Overnight noise monitoring has been carried out to verify the impact of the mitigation at the factory. The findings of overnight monitoring undertaken on 29th March 2019 find that without the proposed mitigation bund and fence in place, factory noise levels dropped to below the BS8233 desirable internal noise level of 30dB inside the factory facing bedrooms. On 4th April 2019 Wardell Armstrong set up further night time noise monitoring in the two built dwellings closest to the factory with partially open windows (approximately 10 - 12cm) witnessed by local authority officers when overnight noise monitoring set up was taking place. These measurements were undertaken in rooms without soft furnishings and curtains.
- 6.42 The findings are that within the most sensitive dwellings there may be occasions where at night time in the bedrooms facing the factory the factory noise is audible (due to fluctuations in background noise levels) with the windows open, however it is unlikely to be intrusive.
- 6.43 The noise mitigation undertaken at the factory site in early 2019 detailed above has been found by the applicant's noise consultants not to have led to an overall reduction in the loudness of the factory noise. However, the distinctive tonal element of the noise previously identified has been eliminated and therefore in the noise report no character corrections or penalties have been applied to the BS4142 rating. Local authority officers in spring 2019 subsequent to the mitigation works have been able to verify that the tonal element to the noise is no longer present.
- 6.44 Ornua's further concerns are that complaints may also occur regarding factory noise in gardens leading to complaints. There will be no attenuation through the fabric of a building. Whilst factory noise may be audible in gardens (again due to fluctuating background noise levels), the dominant noise during daytime and early evening when gardens may be in use will be road traffic noise.

Road Noise

- 6.45 All the gardens to the northern side of the site after mitigation will be exposed to daytime road traffic noise of between 50 and 55dBLAeq which is slightly higher than the desirable standard for external amenity areas of 50dB but less than 55dB considered to be the upper guideline value for noisier environments. As the site is a greenfield site it is not by its nature a 'noisy environment'. However it is recognised that the proposal incorporates close by recreational space further away from Leadon Way which is considerable quieter and less than 50dB which provides for some mitigation in accordance with the ProPG guidance. Within this context Environmental Health Officers do not think that the amenity noise levels for the dwellings closest to Leadon Way are unacceptable.
- 6.46 With regards to internal areas, daytime road traffic noise at the facades of the first floor of the proposed dwellings closest to the road are predicted to be above 60dB LAeq. These exposure levels are higher than the desirable external standard of 50dB at the façade which would enable the achievement of desirable internal noise levels with the windows open. Therefore the north facing elevations of the proposed dwellings and some of the side elevations would have, without mitigation, internal noise levels with partially open windows above the desirable bedroom daytime standard of 35dB. As detailed above, combination of glazing and structural mitigation is proposed.

- 6.47 Windows on the impacted elevations directly facing Leadon Way will need to be kept closed during the daytime to ensure desirable daytime noise standards in bedrooms. Of the properties impacted, the majority will have south facing elevations where desirable bedroom daytime noises can be achieved with the windows open as facades away from the road will have noise level of less than 50dB. However, there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, Environmental Health Officers do not object to this proposal as noise mitigation is possible in the majority of impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation.

Conclusion

- 6.48 Ornu's position is the revised NPPF places an onus on the developer, the '*agent of change*', such that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. The application eliminates a substantial number of dwellings from the development as previously proposed, all of which are in close proximity to the factory and furthermore creates a distance buffer and increased separation between the factory and the nearest proposed dwellings.
- 6.49 Environmental Health Officers advise that on the basis of the substantial mitigation that has been proposed this renders the majority of the site to fall below the Lowest Observable Adverse Effect Level (LOAEL) as set out in the Noise Policy Statement for England (NPSE) and the perimeter to the north and factory facing as being above the LOAEL but below the SOAEL (Significant Observed Adverse Effect Level). The proposed dwellings in these localities would be categorised by the classification of the noise having an Observed Adverse Effect Level which could lead to small changes in behaviour or attitude and having to keep closed windows for some of the time because of noise. The objective to which would be to mitigate and reduce to a minimum. The Noise Policy Statement for England (NPSE) concludes that where the noise impacts fall between the LOAEL and SOAEL 'all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development.' The second objective of the NPSE (after the avoidance of significant adverse effects).
- 6.50 Environmental Health Officers therefore confirm they have no objection to the details of the reserved matters scheme as it relates to the noise constraints and challenges on the site providing that the noise mitigation specified above is implemented. On the basis that can be secured and implemented by the use of conditions as set out below, Core Strategy policies SS6 and SD1 and the relevant aims and objectives of the NPPF as relate to noise and associated amenity are satisfied.

Design

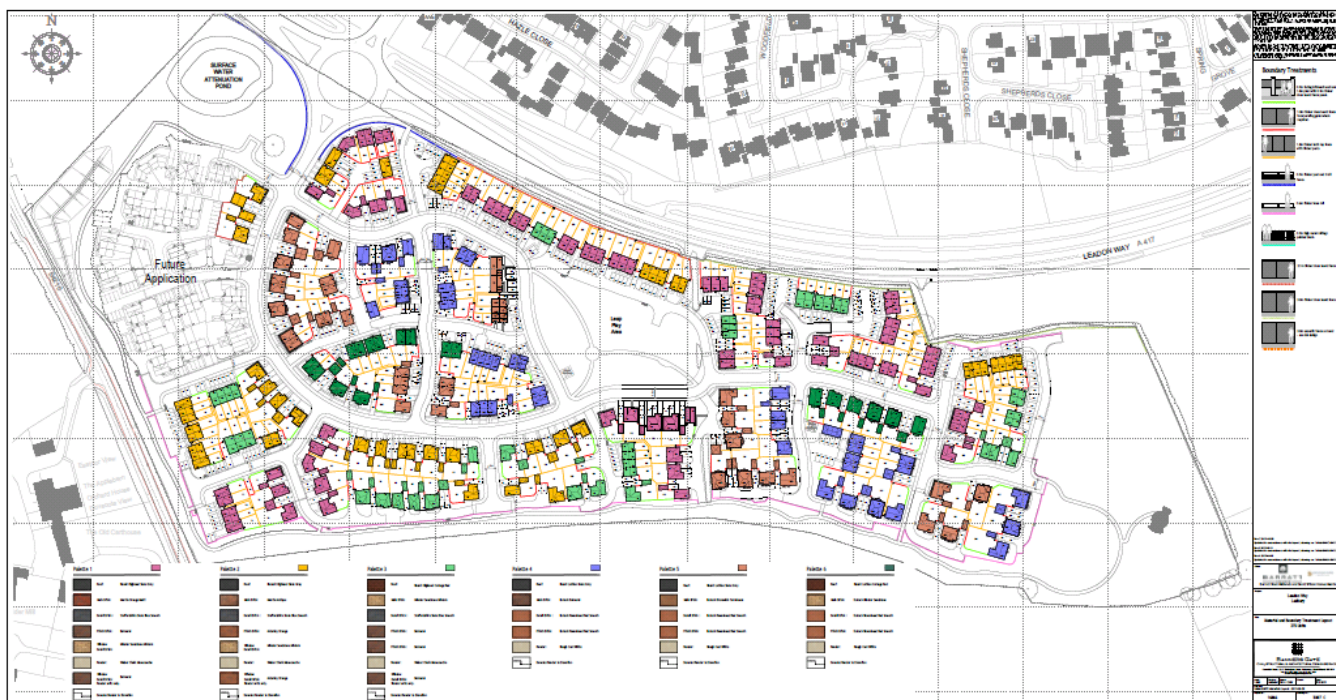
- 6.51 The detailed design approach is similar to that of the dwellings previously approved under the quashed reserved matters application with a number of subsequent updates and amendments to reflect the applicants new house types. In broad terms, however these changes are minimal and include the introduction of hipped roofs within the design portfolio so when viewed with traditional gabled designs, there will be reduced massing and greater variety within the streetscene. Proposed streetscenes are shown below –



6.52 Overall the development comprises 32 different designs of dwellings over the 275 units proposed on the site. Only 8 of those 32 individual designs feature ten or more times over the development. All except 5 units are two storey in extent, with 5 units being 2.5 storeys. All garages are single storey. Numerous design features which are also indicative to Ledbury and its surrounding area included within house types are –

- bay windows
- dormer windows
- Brick course detailing
- Feature gables
- Dormer windows
- Flat roofed open porches
- Symetrical principal elevation design

6.53 Further to the above, a mix of 6 materials palettes are used across the house types and a variety of boundary treatments also feature over the site to add variety and interest, reduce commanality and utilise design aspects from local vernacular as follows. Materials include a range of bricks utilising various shades of 'red' and sandstone, slate and red roof tiles, brick plinths and detailing of various contrasting colours and use of render. Fencing variation includes larch lap, close boarded, timber post and rail and painted metal railings to deliniate and enclose public and private spaces.



- 6.54 Overall the proposals draw on various elements of local character, ranging from materials to design features and detailing. The range and mix of house designs and materials provides visual interest and dilutes uniformity on what is a large housing development. This is welcomed and provides design merit and individuality to the development as a whole. Combined with the general landscaping proposals and heights of the proposed units all being 2 or 2.5 storeys in extent, it is considered the proposal represents an appropriate design response in respect of context and quality and as such Core Strategy policies SS6, LB1, LD1 and SD1, Ledbury Neighbourhood Plan policies BE1.1 and BE2.1, and the relevant design aims and objectives of the National Planning Policy Framework are satisfied.

Landscape

- 6.55 The landscape proposals generally conform to the details provided and approved by the Local Planning Authority under Reserved Matters application 160478 which also in turn were considered satisfactory to be able to discharge the relevant landscaping conditions attached to Outline permission 143116. Notably, the landscaping details omit the *Phase 2* area. With regards to the above, the Senior Landscape Officer commented at the time *The information submitted satisfies the requirements of the Reserved Matters and is approved by the Councils Landscape Officer.*
- 6.56 Whilst I attach considerable weight to that position, clearly there has been the passage of time since the assessment of those details was made and further to that, whilst there has been no change to Core Strategy policies, or changes to the relevant aims and objectives of the NPPF that would render the above position obsolete, the Neighbourhood Development Plan is now made and a material consideration. As such regard must be had and assessment made against NDP Policy BE1.1 – *Design* and BE2.1 – *Edge of Town Transition* in particular.
- 6.57 The overall layout affords areas of open space within the development and a significant amount of new landscape planting. This is indicative of and responds to the edge of settlement location and its function as a transitional area from town to countryside. Furthermore hard landscaping and structural elements create a sense of place and appropriateness to an edge of market town location.
- 6.58 It is undoubtable the bund, which has start/ end of 51.17 and 52.12 OAD with a highest part at 55.00 AOB upon which an acoustic fence itself measuring 3 metres tall is located, as shown on

Further information on the subject of this report is available from Mr C Brace on 01432 261947

the cross section below, creates and introduces a new, prominent feature within the streetscene and one which forms the setting and one of the approaches to Ledbury, however this would be read partially within a context and with views of the industrial estate opposite the site. It is noted substantial planting is proposed around the bund and accoustic fence, as part of wider green landscaping in the north east part of the site which includes an attenuation pond, which will have landscape and noise mitigation benefits along with biodiversity and drainage features. The approach utilised here replicates in many respects that used and approved at *Porthouse development site, Bromyard*. The detailed landscaping proposals around the bund and attenuation pond (Extract from Drawing titled *Public Open Space Detailed Landscape Proposals, Sheet 1 of 4*, Drawing Ref: P16_0793_04-L, Received 28 May 2019), along with sectional drawing (Extract from Drawing titled *Landscape Section to Earth Bund*, Drawing Ref: P16_0793_09-A) are shown below –



- 6.59 It is noted the site is not within the Malvern Hills AONB and although within its foreground, there is limited intervisibility between the two and in particular, from key viewpoints from the AONB, in particular the Hills themselves.
- 6.60 With regards to longer range views, the wooded nature of the slopes on this side of the Malvern Hills generally limits outward views from public vantage points towards the site. The site comprises a very minor component in a much larger landscape. With the landscape mitigation proposed and conditioned, there would be no material harm to views of the surrounding area from the AONB, on its overall setting, or its special qualities.
- 6.61 The site is barely perceptible in the much longer range views from Marcle Ridge, some 6.5 kilometres away to the west. Consequently, particularly when landscape mitigation is taken into account, the development proposed would, if noticeable at all given the distance involved,

represent a negligible change, with no material impact on views from the Ridge, or on its landscape setting.

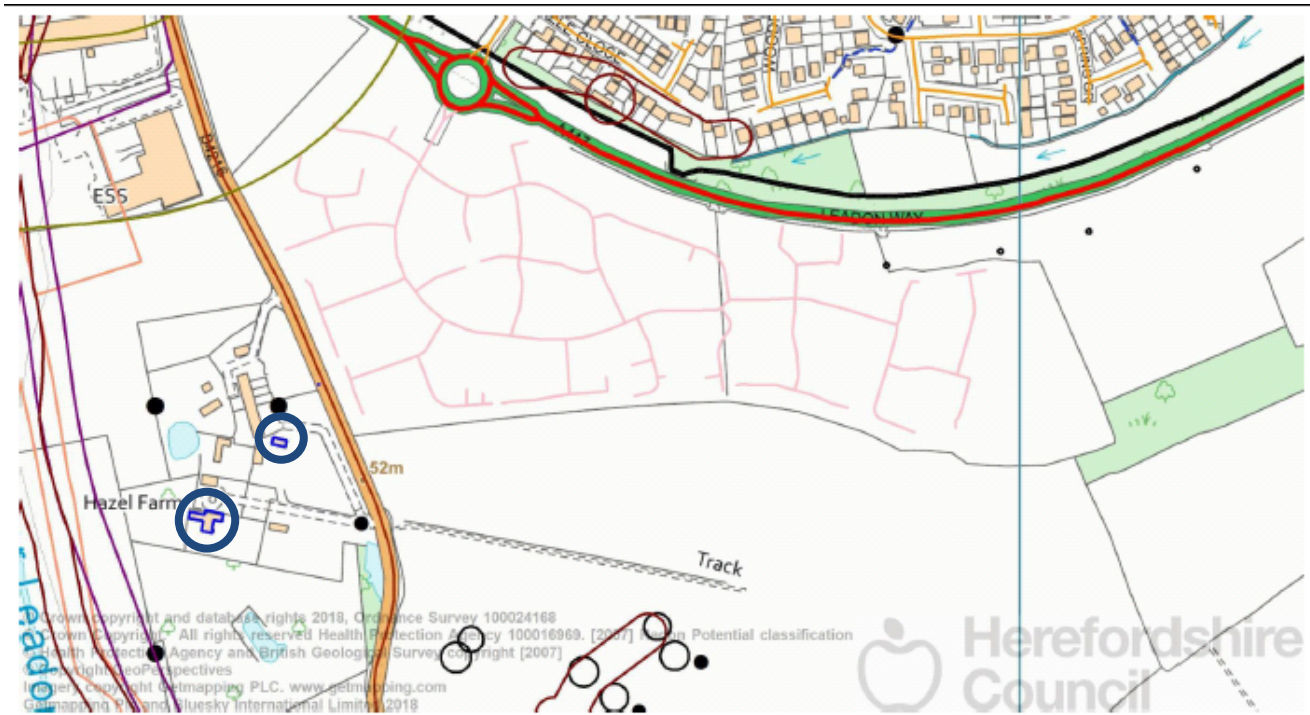
- 6.62 The defined areas of open space within the site are logically laid out and well spaced within the development and extensive planting along the southern boundary of the site which should be retained as green infrastructure, regardless of whether future adjacent development takes place and can be protected by condition. Within the areas of open space to the west and east of the linear planting of trees proposed is out of character with this landscape type, and as such in landscape terms, planting which addresses the transition from open countryside to residential is recommended. This could be achieved by tree planting which does not create a barrier but instead a planting across the site which filters views and species selection which progresses from larger native species such as oak inwards into the site to smaller ornamental species as identified in the Arboriculturists comments. The over engineered attenuation basin with potentially a row of trees placed in an attempt to hide it is not a satisfactory approach to landscape and does not enhance either the entrance to the site or the setting of Ledbury Town. A more suitable solution to the attenuation pond area and other improvements can be secured by condition.
- 6.63 Generally, the Landscape and Arboriculturalist Officers have no objection however their comments identify areas where the landscaping and planting can be both improved and beneficial to the development and wider setting of Ledbury. Notwithstanding the previously agreed landscaping plan, and having regard to since then the Ledbury NDP is now a material consideration, conditions securing details to align with the comments received and ensure long term benefit and management of these features, particularly the southern boundary treatments and landscaping at the east of the site and around the acoustic fence, a landscaping condition is recommended. On this basis it is considered the landscaping criteria and policies of the Core Strategy, SS6, LD1, LD1 and SD1 are satisfied, along with the relevant policies of the Ledbury Neighbourhood Plan and landscape aims and objectives of the NPPF.

Heritage

- 6.64 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.”*
- 6.65 When an authority finds that a proposed development would harm the setting of a listed building, it must give special attention to that harm with “considerable importance and weight”. Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.
- 6.66 While Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. As a result, and in order to properly consider the effects of development on heritage assets, recourse should be had to the NPPF in the first instance.
- 6.67 Paragraphs 193 – 196 of the NPPF (2018) deal with the approach to decision-making according to the significance of the heritage asset (this being the adjoining listed buildings) and the degree of harm arising as a consequence of development. Paragraph 193 confirms that great weight should be given to the conservation of designated heritage assets. Paragraph 195 is a restrictive policy and directs refusal where a proposed development will lead to substantial harm

to or total loss of significance of a designated heritage asset. Paragraph 196 explains the approach to decision-making where less than substantial harm to the significance of a designated heritage asset would arise. It states that such harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. 196 is thus also a restrictive policy.

- 6.68 Accordingly it is necessary for the decision-maker to judge, on the evidence before them and having particular regard to expert heritage advice, whether the proposal in this case represents substantial harm to the setting of listed buildings and their significance (in which case paragraph 195 directs refusal unless the scheme achieves substantial public benefits that outweigh the harm) or whether the harm falls within the purview of paragraph 196; in which case it is necessary to weigh the less than substantial harm against the public benefits in an unweighted planning balance. Even if harm is less than substantial, it is absolutely clear that such harm weighs heavily in the planning balance – the fact that it is not necessary to demonstrate that harm significantly and demonstrably outweighs the benefits gives weight to paragraph 196 as a restrictive policy.
- 6.69 The nearest heritage assets are located south west of the application site as shown below outlined blue. These buildings are the Grade II Hazel Farm farmhouse and associated Granary, Grade II listed in its own right.



- 6.70 Intervening distances from the development and Hazel Farm (130 metres) and the Granary (75 metres) to the nearest proposed dwellings. The setting of Hazel Farmhouse is mostly screened when viewed from the north east. However, whilst the impact upon those aspects of the setting of the building which contribute to its significance would not be harmed to any extent by the wider development.
- 6.71 The Council's historic advisors have considered the proposals and conclude that the acoustic fence and bund to the north of the buildings would harm the appreciation and understanding of the buildings in their context. The landscape in the immediate vicinity is predominantly flat, with views across to the Malvern Hills AONB. The bund with an acoustic fence, would be visible from the south in the context of the buildings and it will take a number of years for the proposed planting to establish and mitigate.

- 6.72 This is considered as less than substantial harm (para 196) Therefore such harm should be weighed against the public benefits of the proposal and this matter is considered in the conclusions below.
- 6.73 The edge of Ledbury Conservation Area lies approximately 0.72 kilometres to the north-east of the appeal site. The Conservation Area contains numerous listed buildings, including the grade I listed church of St Michael and All Angels. In as much as the bell-tower spire of the church can be seen, together with the roofs of other buildings, then the Conservation Area can be said to be experienced from the site. As a consequence, the site lies within its setting.
- 6.74 However, the site is separated from the Conservation Area by intervening post-war residential development (Martins Way estate) and the John Masefield High School, with the consequence that there is little, if any, awareness of the presence of these fields from within the Conservation Area. On that basis, I am not persuaded the site makes any contribution to the heritage significance of the Conservation Area which derives from its history as a market town and its architecture, including numerous listed buildings. As such I find no harm to significance of the Conservation Area.
- 6.75 As such the proposals are considered to result in less than substantial harm on designated heritage assets. When assessed against the requirements of the NPPF, the proposal is considered acceptable based on an assessment of the assets value and importance weighed against and considering the wider benefits of the proposal. It is concluded the proposal accord with policies SS6 and LD4 of the Herefordshire Core Strategy, heritage aims and objectives of the NPPF and Section 66 (1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Ecology

- 6.76 The comments of the Council's Ecologist and Natural England are noted as are concerns from an objector regarding protected species.
- 6.77 The lighting scheme has three different lights all of which feature LED banks and photo electric control units set to switch on at 35 lux and has been assessed by the Council's Ecologist. The provided lighting scheme is considered appropriate and provides low-level lighting to minimise environmental impacts and in particular impact upon bats.
- 6.78 Concerns regarding the impact of the drainage proposals on adjoining ponds on third party land and impact upon them as Great Crested Newt habitats has been reviewed by the Ecologist.
- 6.79 The landform of the site prior to development broadly comprised an elevated ridge broadly running east-west in the central portion of the site, with ground levels falling away primarily to the north/north west and to a lesser degree to the south. The application site is on higher ground to that surrounding to the south and west. This landform would encourage surface water to flow following the natural fall of the land. Additionally, any water seepage through the soils in this locality, including the development site and arable land to the south, is likely to be minimal and slow.
- 6.80 Therefore, in terms of the development, the potential for surface water run-off to surrounding areas is unlikely to be significantly affected and it is considered that there is a very low risk of the site contributing to a significantly reduced flow of water off-site.
- 6.81 It is concluded there will be no negative impacts on offsite Great Crested Newt ponds and populations or sustained ground water supply to them will be impaired to have such a detrimental impact.

6.82 It is noted Outline permission 143116 Condition 6 stated –

Development, including works of site clearance, shall not begin until a Habitat Enhancement Plan, including a timetable for implementation, based on the recommendations set out at Section 4 of the Ecological Appraisal (October 2014) submitted with the planning application and integrated with the landscaping scheme to be submitted pursuant to condition 1 above, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Habitat Enhancement Plan.

6.83 The requirements of the condition were discharged under reference 170075 on 14 February 2017 on the basis of details contained within the submitted Mitigation, Enhancement and Management Plan prepared by The Environmental Dimension Partnership Ltd, received 12 January 2017.

6.84 Further to this the advice and guidance provided within the EDP Enhancement Plan (December 2016) and FPCR Ecological Assessment (March 2015) should be followed, including biodiversity enhancements and this is ensured by condition. On the basis of this and discharged condition 6 of Outline permission 143116 it is considered suitable biodiversity and habitat enhancements are secured and will be delivered.

6.85 As such the proposal satisfies Core Strategy policies LD2 and LD3 and the wider ecological and biodiversity aims and objectives of the NPPF.

Highways

6.86 It is noted access arrangements were approved under the original outline permission. The applicants propose to retain the spur and turning head referenced by the comments from the CPRE so to provide suitable access to the attenuation pond for maintenance purposes. The layout also matches the approved Section 38 Agreement so there are no highways objections to the matters considered as part of this application. The Transportation Manager confirms no objection on highway grounds to the proposals.

6.87 Dwellings are served by suitable levels of off road parking and garages which are of dimensions recommended within the Council's Highways Design Guide.

6.88 Amended plans received 14 and 28 May 2019 addressed most points raised by the Waste Manager with regards to refuse collection points and accessibility for refuse vehicles and a prior to occupation condition is considered suitable to address specific points raised within their response.

6.89 As such regarding highway safety and related technical matters the proposal accords with CS policies SS4 and MT1, Herefordshire Council's Highways Design Guide and the NPPF.

Drainage

6.90 Whilst precise drainage details have not yet been agreed, it is noted Condition 22 attached to the original outline permission states –

No development shall take place in any phase, including works of site clearance, until details of a sustainable surface water drainage scheme, based on the surface water drainage strategy set out in the Flood Risk Assessment and Surface Water Drainage Strategy dated October 2014 and the accompanying Drainage Strategy layout (Plan No 101 at Appendix E of the same) submitted with the planning application, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and

maintained in accordance with the approved details and timetable. The scheme to be submitted shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for implementation of the scheme in relation to each phase of the development; and,
- iii) provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 6.91 This condition has not been discharged however details have been provided to support this application and are commented on by the Council's Drainage Engineer as set out above. Whilst unresolved, on the basis of this existing condition and previous assessment of drainage mitigation by the Appeal Inspection, the proposal accords with policies Core Strategy policies SD3 and SD4. It is emphasised conditions ensure surface water will be disposed off without adverse impact upon adjoining land uses and this position has been confirmed through the Inspector Decision and their appeal decision reference 143116 attached as to the Report.

Housing Mix

- 6.92 The 275 dwellings are made up of a mix of open market and affordable housing as follows:

Open Market – 165 Units

- 25 no. 2 bed units
- 70 no. 3 bed units
- 51 no. 4 bed units
- 19 no. 4/5 bed units

Affordable Housing – 110 units

- 10 no. 1 bed units
- 60 no. 2 bed units
- 35 no. 3 bed units
- 5 no. 4 bed units

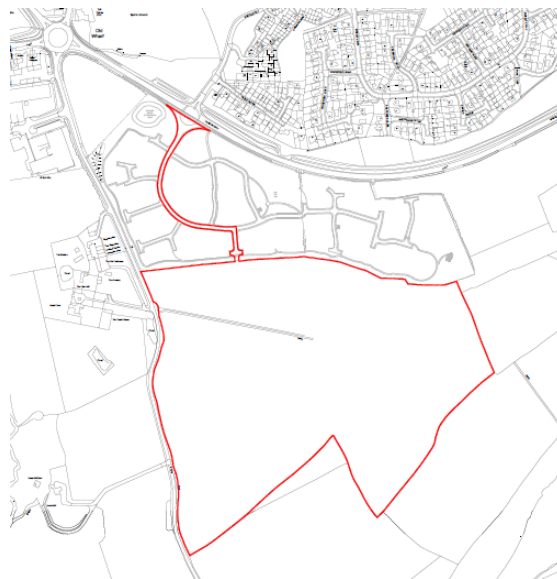
- 6.93 The housing mix of open market and affordable housing within the development is shown on the plan below (Drawing Title *Tenure Layout*, Drawing No. 5008 C, Received 28 May 2019), open market units are coloured blue, affordable rented units green, and affordable intermediate units red.



- 6.99 Noting the Council's previous position on a comparable open market mix, what is offered and the policy compliant affordable housing numbers it is considered the housing mix is acceptable.
- 6.100 The mix of 1, 2 and 3 bed units within the open market and affordable housing provision is considered to also meet the requirements of NDP Policy HO4.1 which supports such sized starter homes to help ensure young people can obtain suitable accommodation. This also reflects the areas of most need identified in the Housing Market Area Assessment.
- 6.101 On this basis The proposal will deliver an adequate suitable mix and numbers of housing and deliver much needed affordable housing compliant with Herefordshire Core Strategy policies SS2, SS3, H1 and H3 and relevant housing policies of the Ledbury Neighbourhood Plan and as such represents development that meets with regards to housing, the social objectives of the NPPF.

Other Matters

- 6.102 Objectors refer to a proposed adjoining development which would utilise the singular access to and from Leadon Way which serves the proposal subject to this report, and associated highway concerns from such a scenario.
- 6.103 An outline application for upto 420 dwellings with public open space, land for community facilities, landscaping and sustainable drainage system was made under reference 184032. The proposal has access for consideration within the application and would be as shown below utilising one of the main estate roads of the development under consideration in this report to then serve on and from Leadon Way via the new roundabout –



- 6.104 The application is subject to an Appeal which will be heard as a Public Inquiry with all dates regarding submission of statements, comments and the Public Inquiry itself still to be confirmed.
- 6.105 Comments have been made that Phase 2 should be considered and included within the reserved matters application to ensure appropriate assessment, however the applicant is not obliged to make a 'full area' application and phased approaches are not uncommon. In this situation the approach enables much needed housing to be delivered without delay whilst the area most impacted by noise is further assessed.

Section 106 Agreement / Planning Obligations and Conditions

- 6.106 On the basis of the 40% affordable housing proposed and as confirmed by the Planning Obligations Manager, the development is policy compliant with regards to Core Strategy policies and the completed Section 106 associated with the outline planning permission.

Summary and planning balance

- 6.107 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Core Strategy constitutes a spatial strategy and policies designed to achieve sustainable development under the three objectives; social, economic and environmental. The NPPF, a material consideration, also seeks sustainable development through the economic, social and environmental objectives for planning. To enable a conclusion to be reached on whether the application proposals are in accordance with the development plan and to take account of material considerations, I now consider the conflicts with the development plan alongside the benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn.

Turning to the three objectives of sustainable development;

Economic Objective

- 6.108 A key aspect of the economic role played by the planning system is to ensure that sufficient land of the right type is available in the right places and at the right time to support growth.
- 6.109 In this context, the proposals score, in economic terms at least, positively. The proposal could help to support economic growth arising from:
- employment and supply of associated materials, goods and services in the construction phase
 - support to local services and facilities arising from the new resident population
 - economic benefits to the Council through the payment of New Homes Bonus.
- 6.110 The positive economic benefits arising from the scheme are significant, however, not unique to this application proposal however on the basis of the scale of the development I attach significant weight to these benefits.

Social Objective

- 6.111 Planning's social role incorporates providing support to 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.
- 6.112 The proposal delivers a mix and range of housing, including affordable housing, which helps meet identified local demand now and for the future along with providing on site recreation facilities. The delivery of these houses will also contribute to the social wellbeing of Ledbury through occupiers using and contributing to the town's existing society and life.
- 6.113 As such the *social* objective is considered to be satisfied and I attribute significant weight to the benefits in community terms, particularly to establishing sustainable communities and a sense of place the development will secure.

Environmental objective

- 6.114 The environment objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy).
- 6.115 The proposal will enable more sustainable patterns of activity through providing new housing located where the town centre and other services and facilities are accessible by foot or bicycle from the new houses. It is however clear the noise mitigation measures, namely acoustic fence and bund, will introduce a prominent feature, particularly until green landscaping and planting has matured to mitigate and screen it and a less than substantial harm to heritage asset results.
- 6.116 Taking all of the above into account, officers consider that the public benefits arising from the scheme, as outlined above are positive. There is no evident harm arising in relation to other technical matters as discussed above, and officers do not feel that the impacts of the development should tip the planning balance in favour of refusal.

Conclusions and planning balance.

- 6.117 Policy SS1 of the CS reflects the presumption in favour of sustainable development in national policy and provides that planning applications that accord with the policies in the Core Strategy will be approved unless material considerations indicate otherwise.
- 6.118 The NPPF paragraph 11 provides the mechanism for the determination of the application stating:

For decision Making

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) 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:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. 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.

- 6.119 As detailed above there is conformity with the housing and sustainable development policies of the development plan. These policies are consistent with the guidance contained within the NPPF.
- 6.120 The potential benefits that could be delivered by the scheme have also been considered above to which officers consider significant weight can be attributed.

RECOMMENDATION

That Approval of Reserved Matters be granted subject to the following conditions and any further conditions considered necessary by officers named in the scheme of delegation to officers.

- 1. The development hereby approved shall be carried out strictly in accordance with**

the approved plans and details.

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

2. Prior to the first occupation of the development hereby permitted details for the long term maintenance of the acoustic fence and structural noise mitigation adjoining Leadon Way as shown on the approved plans listed under Condition 1, shall be submitted to the Local Planning Authority for written approval. The maintenance of the fence and noise mitigation shall be undertaken in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the long term mitigation of noise and ensure adequate amenity to residents of the development hereby approved and to comply with Herefordshire Core Strategy policies SS6 and SD1 and the relevant aims and objectives of the National Planning Policy Framework as relate to noise and associated amenity are satisfied.

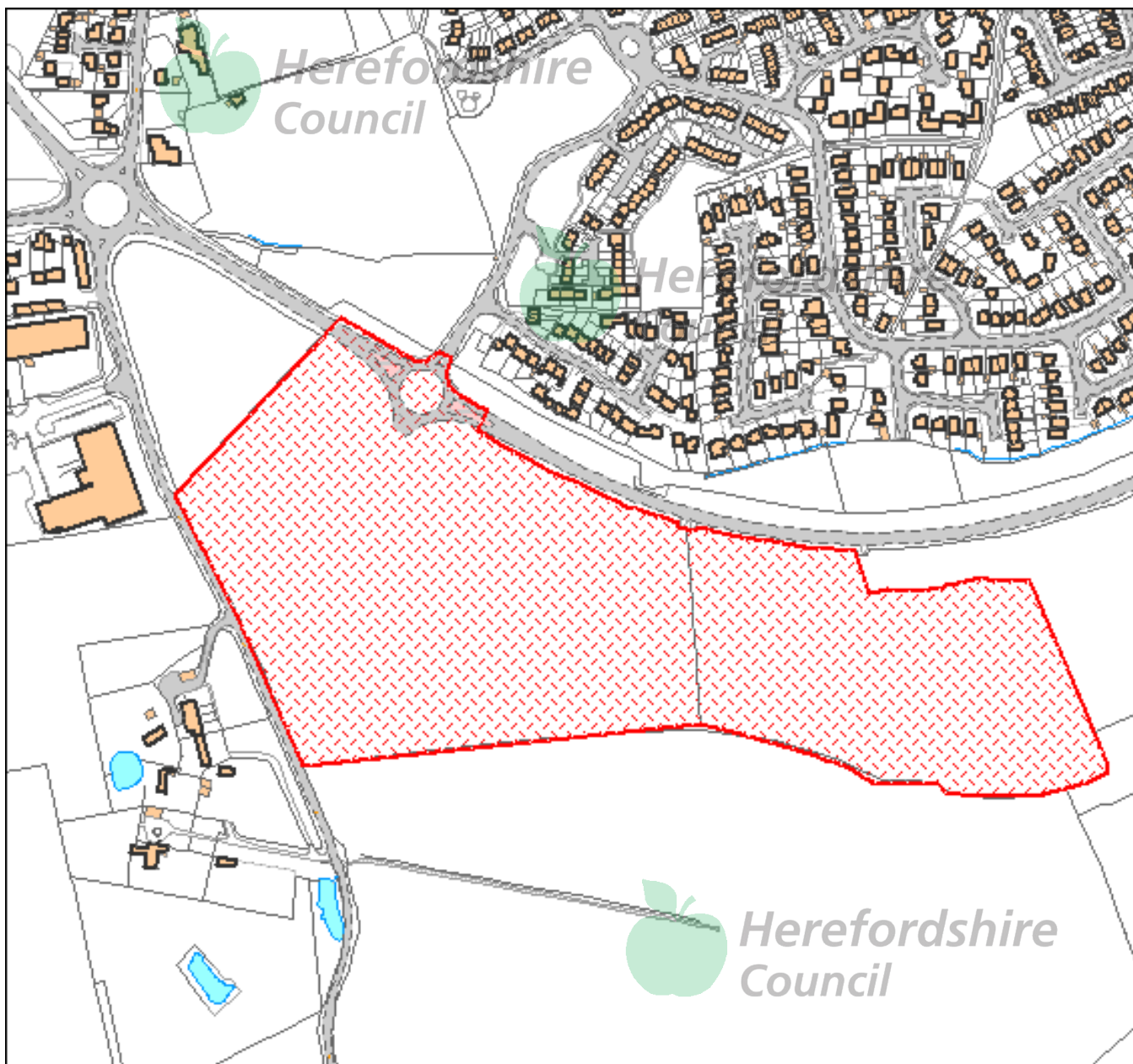
3. Prior to the first occupation of the development hereby permitted specifications and details of the play areas including equipment schedule for each element: LAP, LEAP, kick-about/MUGA, surfacing, landscaping, means of enclosure and provision of seating and litter bins shall be submitted to and approved in writing by the Local Planning Authority. The play areas shall be constructed in accordance with the approved details upon occupation of the 20th dwelling and thereafter retained.

Reason. In order to comply with the requirements of Policies OS1 and OS2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. C96 – Landscaping Scheme
5. C97 – Landscaping Implementation
6. C99 – Tree Planting
7. CA1 – Landscaping Management, Maintenance and Monitoring
8. Maintenance condition for acoustic fence

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. Attention is drawn to the approved plans, details and conditions attached to Outline Planning Permission reference 143116/O which run concurrently with the Reserved Matters hereby approved.



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APPLICATION NO: 182628

SITE ADDRESS : LAND TO THE SOUTH OF LEADON WAY, LEDBURY

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