

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>27 SEPTEMBER 2023</b>
<b>TITLE OF REPORT:</b>	<b>181384 - PROPOSED RESIDENTIAL DEVELOPMENT OF 25 DWELLINGS ALONG WITH NEW ACCESS AND ASSOCIATED WORKS. AT FIELD ADJOINING A4112 AND CHESTNUT AVENUE, KIMBOLTON,</b>  <b>For: Mr Brown per Miss Beth Hamblett, Matthews Warehouse, High Orchard Street, Gloucester Quays, GL2 5QY</b>
<b>WEBSITE LINK:</b>	<a href="#">Planning Search – Herefordshire Council</a>
<b>Reason Application submitted to Committee – Previously referred to Committee in 2018 – Contrary to policy.</b>	

**Date Received: 12 April 2018**

**Ward: Leominster  
North & Rural  
Cllr John Stone**

**Grid Ref: 351783,261253**

**Expiry Date: 30 June 2023**  
Local Member: Cllr John Stone

## **1. Background**

- 1.1 The application was considered by the Planning and Regulatory Committee (“the Committee”) on 22 August 2018.
- 1.2 The Committee resolution was that officers named in the Scheme of Delegation to Officers be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 with regard to the obligations in the draft heads of terms and any additional matters and terms as considered appropriate. Upon completion of the aforementioned planning obligation that the officers named in the Scheme of Delegation to Officers be authorised to issue planning permission subject to conditions which are included within the 2018 Committee Report (**Appendix 1**). The Conditions listed are summarised as follows:
- Time limit for commencement (full planning permission);
  - Development in accordance with the approved plans;
  - Samples of external materials;
  - Retention of existing trees/hedgerows;
  - Protection of trees/hedgerows that are to be retained;
  - Landscaping scheme;
  - Landscaping scheme – implementation;
  - Appointment of qualified ecological clerk of works to conduct ecological inspection;
  - Implementation of ecology report recommendations;

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Further information on the subject of this report is available from Ms Chloe Smart on 01432 260139

- No windows including rooflights to be constructed in any elevations of bungalows on Plots 1 to 3;
- Vehicular access construction;
- Parking - estate development;
- Junction improvement/off site works;
- On site roads - submission of details;
- Secure covered cycle parking provision;
- Details of slab levels;
- Details of proposed foul and surface water drainage arrangements.

- 1.3 Following the Committee's resolution and prior to the completion of the required Section 106 agreement, Natural England advised Herefordshire Council that it could no longer rely upon the Nutrient Management Plan to offset the phosphate generated by development. The associated restrictions imposed follow a judgement in the Court of Justice of the European Union on the application of the Habitats Regulations. Known as the 'Dutch Case', the judgement essentially directed that in situations where a designated site is already failing its conservation objectives, planning permission can only be granted for new development where it can be shown the development would have a neutral impact (or represent betterment) upon the integrity of the designated site. This is referred to as 'nutrient neutrality'. Those requirements have been transferred into law in the United Kingdom following its exit from the European Union.
- 1.4 The application site is located within the hydrological catchment of the River Lugg, which is a tributary of the River Wye Special Area of Conservation (SAC) and forms part of the designated site. It is currently failing its conservation targets on phosphate levels. Following advice issued by Natural England (as the relevant statutory body) in July 2019, Herefordshire Council as the Local Planning Authority (LPA) has been unable to approve new developments within the Lugg catchment unless it can be demonstrated with certainty that it would be nutrient neutral with respect to water quality and the integrity of the designated site.
- 1.5 The application proposal is for residential development and would therefore generate foul water that is proposed to be managed through an on-site package treatment plant with sufficient capacity using a biological form of phosphate reduction technology within the River Lugg SSSI/River Wye SAC catchment in which Natural England's Nutrient Neutrality applies. The additional phosphate load generated by the proposed development has the potential to result in a likely significant effects on the River Wye SAC.
- 1.6 A potential effect pathway has been identified and therefore the Local Planning Authority is required to complete an 'Appropriate Assessment' before planning permission can be granted.
- 1.7 Following the 2018 Committee, a draft planning obligation under Section 106 of the Town and Country Planning Act 1990 as set out in the draft heads of terms was prepared. In the period of time between the 2018 planning committee and the legal agreement being finalised (it was signed by the applicant), Natural England wrote to the Council confirming it could no longer rely upon the Nutrient Management Plan.
- 1.8 A positive Appropriate Assessment was not possible in respect of the application proposals on the basis of the advice provided by Natural England as the statutory consultee in this matter. The applicant explored alternatives, through submission of a revised foul and surface water drainage strategy, but there were no methods available to mitigate for the effects of the development and therefore it could not be concluded the proposal would have a neutral effect on the integrity of the River Lugg SAC. As a result, the application was placed 'on hold' pending a mitigation solution that would allow for a positive HRA to be completed.
- 1.9 In the interim, Herefordshire Council has been developing a project to deliver a series of integrated wetlands to provide secondary treatment to discharge of mains wastewater treatment works. The first site in Luston has been granted planning permission with construction completed.

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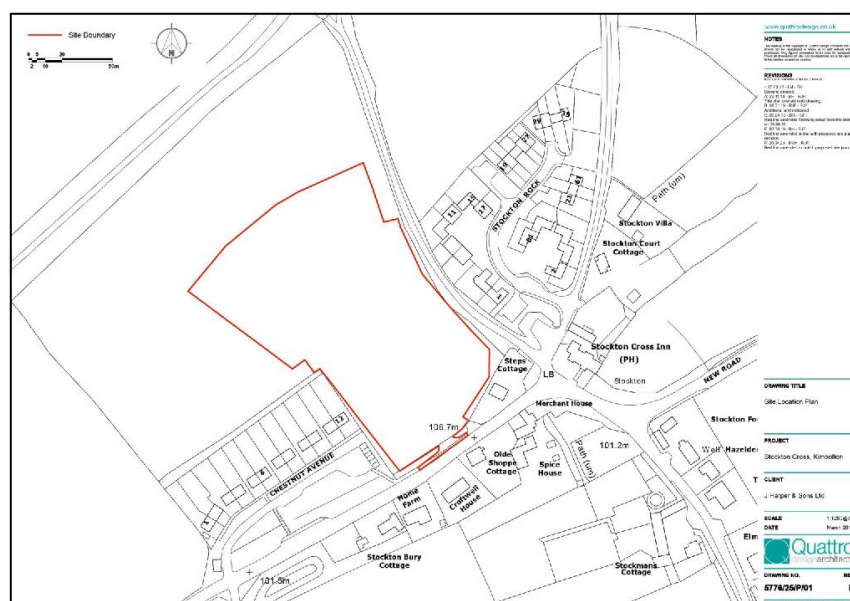
Further information on the subject of this report is available from Ms Chloe Smart on 01432 260139

The delivery of the wetlands will reduce the amount of phosphate entering the catchment, allowing Herefordshire Council to offer a Phosphate Credits scheme to mitigate for the effects of proposed development (achieve nutrient neutrality) whilst still delivering net betterment to water quality in the Lugg catchment.

- 1.10 Herefordshire Council's Cabinet took the decision to authorise the commencement of credit trading in July 2022 - <https://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?Id=8974>.
- 1.11 The Council's approach is to offer Phosphate Credits as they become available, in validation order. Credits are now available for the application proposal and on the basis of the mitigation provided through the purchase of credits, a positive appropriate assessment has now been completed and agreed by Natural England. Officers have undertaken a review of all aspects of the application proposals including the submitted plans and supporting documentation, and considered the proposals on the basis of the current planning policy context.
- 1.12 The Committee's resolution comprised the completion of a S106 agreement on the basis of the Draft Heads of Terms presented at that time and also based on conditions. The 2018 Committee Report, including recommended conditions can be found at **Appendix 1**. The minutes of the 22 August 2018 meeting can also be found at **Appendix 2**.
- 1.13 The S106 requirements differ and there have been some amendments to the application proposals since the application was previously presented to Committee. As such, from a procedural perspective officers do not consider the current resolution provides scope for such changes and the application needs to be brought back to Planning Committee.
- 1.14 The 2018 report remains relevant, but the below will focus on amendments to the application, additional representations received since the resolution at committee and updated assessment based on the current planning policy position.

## 2. Site Description

- 2.1 The application site lies between pre-existing residential development of The Chestnuts and Stockton Road, on the northern side of the A4112. The site is currently pasture land and is an irregularly shaped field that rises from the road.
- 2.2 Below is an extract of the submitted Site Location Plan (Drawing ref: 5776/25/P/01 Rev F):



### **3. Proposal and Background**

- 3.1 The application seeks full planning permission for the proposed residential development of the site for 25 dwellings along with new access and associated works.
- 3.2 Outline planning permission has previously been granted on the site for all matters apart from access (Ref: 151145) for the erection of up to 21 dwellings. Subsequently, approval of reserved matters pursuant to the outline planning permission was granted 27 March 2018 (Ref: 180323) but not before an earlier submission had been refused and dismissed on appeal (Ref: 163693). The main issues with the first reserved matters submission revolved around layout and the mix of housing proposed.
- 3.3 The original outline planning permission (Ref: 151145/O) was granted subject to a Section 106 Agreement. This included a contribution of £270,053.33 in lieu of on site affordable housing and was agreed on the basis there was not a need for additional affordable housing provision in the village.
- 3.4 The current planning application which was considered by the Committee on 22 August 2018 comprised a revised residential development to the above permitted schemes, made in full as opposed to outline and instead of the 21 dwellings previously permitted, proposed 25 dwellings. The scheme was developed principally to address concerns raised regarding the absence of affordable housing from the permitted RM (Ref: 180323). The submission of the current full planning application in 2018, followed detailed discussion and negotiation with the applicant to secure a level of on-site affordable housing. As a result of discussions, the current application was submitted proposing 21 open market dwellings, together with 4 affordable dwellings to meet definitions set out in Annex 2 of the National Planning Policy Framework.
- 3.5 The 2018 Committee report outlined should the extant planning permission be implemented, a commuted sum of £270,053.33 would be received by the Council to be used to deliver affordable housing elsewhere and that in this case, there are no other sites in Kimbolton that are likely to deliver affordable housing. At that time, it was considered the sum would be used in the wider Leominster Housing Market Area, most likely in Leominster itself where schemes are more likely to come forward with little or no benefit to local people wishing to remain in the village.
- 3.6 The scheme presented to Committee in 2018 was not policy compliant in as much as the 4 affordable housing units proposed equates to 16% of the overall scheme as opposed to the 40% sought by Policy H1 of the Core Strategy and K9 of the NDP. However, officers recognised a significant benefit to securing an on-site provision which weighed heavily in favour of the application. In reaching this conclusion officers took account of the village being unlikely to deliver any affordable housing through the payment of a commuted sum and that the extant permission is a reasonable fallback position.
- 3.7 Committee supported the officer recommendation and as set out, resolved officers to issue planning permission subject to the completion of a S106 Agreement and on the basis of the conditions put forward. However owing to the HRA issues outlined above, the application was placed on hold awaiting credits becoming available.
- 3.8 Since the above, there has been a material change in the status of the fallback position in respect of the scheme. This will be discussed in more detail within the relevant section of this report, but in summary, the previous outline (Ref: 151145/O) and permitted reserved matters (Ref: 180323/RM) are no longer extant. The application has also been subject to amendments. The proposal remains for 25 dwellings and the access, general layout, design and appearance of the dwellings remain unaltered. However there are changes in terms of housing mix, affordable housing provision and drainage arrangements.

Below is an extract of the Proposed Site Plan (Drawing Ref: 5776/25/P/10).



- 3.9 The proposal now comprises 6 affordable housing units, 4 x 2 bed homes and 2 x 3 bed homes, all of which will be two storeys. This represents an additional 2 affordable housing units to that previously presented to Committee and equates to a total of 24% affordable housing provision for the scheme. In terms of open market housing, a total of 19 dwellings are proposed comprising 2 x 2 bed homes, 3 x 3 bed bungalows, 10 x 3 bed homes and 2 x 4 bed homes. This equates to 76% open market dwellings across the scheme.
- 3.10 The proposed design approach remains consistent. The scale of the development is predominantly two storeys, with three single storey bungalows (Plots 1, 2 and 3) positioned to the south east of the site, and adjacent to Steps Cottage. Dwellings are fairly traditional in terms of appearance comprising a mixture of red brick, white and cream render, red and grey concrete roof tiles, white uPVC windows and rear doors, timber front doors and porch detailing. The design approach is also consistent with the previously approved reserved matters (Ref: 180323/RM).
- 3.11 Drainage amendments include submission of further supporting documentation and an amended outfall position. These will be discussed in greater detail in the relevant section below. Other changes to the scheme comprise updates to the Preliminary Ecology Appraisal to ensure up to date ecology reports given the period of time the application has been 'on hold'.

#### 4. Policies

- 4.1 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:-

[Adopted core strategy – Herefordshire Council](#)

#### **Herefordshire Local Plan – 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
- RA1 – Rural Housing Distribution
- RA2 – Herefordshire’s Villages
- H1 – Affordable Housing – Thresholds and Targets
- H3 – Ensuring an Appropriate Range and Mix of Housing
- OS1 – Requirement for Open Space. Sports and Recreation Facilities
- OS2 – Meeting Open Space, Sports 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
- ID1 – Infrastructure Delivery

#### 4.2 **Kimbolton Neighbourhood Development Plan**

The Kimbolton Neighbourhood Development Plan was made on 15 June 2018. It now forms part of the Development Plan for Herefordshire.

[kimbolton neighbourhood plan \(herefordshire.gov.uk\)](http://kimbolton.neighbourhood.plan(herefordshire.gov.uk))

- K1 – Promoting a Sustainable Community
- K2 – Development Strategy
- K3 – The scale of new housing
- K4 – Housing Development within the settlement boundary
- K7 – Design of new housing
- K8 – Ensuring an appropriate range of tenures, types and sized of houses
- K10 – Protecting and Enhancing Local Character
- K11 – Heritage Assets
- K12 – Controlling light pollution
- K13 – Broadband
- K14 – Renewable Energy
- K15 – Transport and connectivity
- K19 – Enhanced Services and Facilities for the Community
- K20 – Protection and enhancement of community facilities
- K21 – Open Spaces

#### 4.3 **National Planning Policy Framework (NPPF)**

- Chapter 2** Achieving sustainable development
- Chapter 4** Decision-making
- Chapter 5** Delivering a sufficient supply of homes
- Chapter 6** Building a strong, competitive economy
- Chapter 8** Promoting health and safe communities
- Chapter 9** Promoting sustainable transport
- Chapter 11** Making effective use of land
- Chapter 12** Achieving well designed places
- Chapter 14** Meeting the challenge of climate change, flooding and coastal change
- Chapter 15** Conserving and enhancing the natural environment
- Chapter 16** Conserving and enhancing the historic environment

### 5. **Planning History**

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Further information on the subject of this report is available from Ms Chloe Smart on 01432 260139

- 5.1 151145/O - Proposed residential development of up to 21 dwellings along with new access and associated works – Approved by planning committee. Decision notice issued 29/4/16. Planning permission was granted subject to the completion of a Section 106 Agreement.
- 5.2 163693/RM – RM submission pursuant to the outline above (151145/O): Refused and appeal dismissed.
- 5.3 180323/RM – RM submission pursuant to the outline above (151145/O): Further application for approval of Reserved Matters pursuant to 151145/O: Approved 27th March 2018.

## 6. Consultation Summary

- 6.1 The application has been the subject of consultation both prior to the previous recommendation to Committee and post Committee following receipt of revised plans and additional supporting documents. All consultation responses are detailed below:

### Statutory Consultations

- 6.2 **Natural England (Dated 11 May 2018):** No objection

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

Natural England's advice on other natural environment issues is set out below.

European sites – River Wye Special Area of Conservation Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the River Wye Special Area of Conservation and has no objection to the proposed development.

We advise that surface water should be disposed of in line with Policy SD3 of the adopted Herefordshire Core Strategy and the CIRIA SuDS Manual (2015) C753

To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out. The following may provide a suitable justification for that decision:

- Application form stating that foul effluent will be disposed through sewer mains

### River Wye/Lugg Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

### Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the [data.gov.uk](http://data.gov.uk) website

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

### 6.3 Natural England (Dated 25 March 2021):

Thank you for your consultation on the above dated and received by Natural England on 05 March 2021.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Internationally and nationally designated sites

The application site is within the catchment of the River Lugg which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The SAC is notified at a national level as the River Lugg Site of Scientific Interest (SSSI).

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

European site - River Wye SAC

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal, in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that the proposal will result in adverse effects on the integrity of the sites in question. Natural England agrees with the assessment conclusions.

Following the recent Coöperatie Mobilisation judgement (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17), proposals that would increase Phosphate levels in the River Lugg part of the River Lugg SAC are deemed to be having an adverse effect on integrity.

Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017 (as amended). As the conclusion of your Habitats Regulations Assessment states that it **cannot** be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of Regulation 64; that is that there are no alternatives **and** the proposal must be carried out for imperative reasons of overriding public interest.

Your authority may now wish to consider the exceptional tests set out within Regulation 64. Specific guidance about these tests can be found at: <https://www.gov.uk/government/publications/habitats-and-wild-birds-directives-guidance-on-the-application-of-article-6-4>

Should the developer wish to explore options for avoiding or mitigating the effects described above, we advise they speak to the council in the first instance. If Natural England's advice is



required then this is available through our Discretionary Advice Service. Further general advice on the protected species and other natural environment issues is provided at Annex A.

Should the proposal change, please consult us again. Please send further correspondence, marked for my attention, to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk)

**6.4 Natural England Consulted on basis of HRA – AA prepared by Herefordshire Council’s Ecologist (Dated 5 May 2023):**

Thank you for your consultation on the above dated 04 May 2023 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**SUMMARY OF NATURAL ENGLAND’S ADVICE NO OBJECTION** Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. This is on the basis of nutrient neutrality being secured. Further advice on mitigation. This proposal drains to the River Lugg Site of Special Scientific Interest (SSSI), which is a part of the River Wye Special Area of Conservation (SAC). The River Lugg part of the SAC is exceeding the phosphate limits set for its favourable condition. Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process. The application states that the proposed development will be made nutrient neutral by purchasing credits to a constructed wetland installed at the Luston Wastewater Treatment Works. This constructed wetland has all the necessary permissions in place and has been agreed with Natural England. Your Authority has undertaken an Appropriate Assessment, informed by a nutrient budget which concludes that the proposal will not result in adverse effects on the integrity of the River Wye SAC.

As Competent Authority it is your responsibility to ensure that you are confident that there is sufficient information to support the values used in the calculation, and that the nutrient budget calculation is correct.

Natural England agrees that with the appropriate nutrient neutrality in place, there are no adverse effects on the integrity of the River Wye SAC. The proposed nutrient neutrality mitigation measures must be secured as a part of the planning permission.

**Other matters**

Natural England’s advice on this planning application is limited to the Habitats Regulations Assessment and the proposed nutrient neutrality. The Local Authority should satisfy itself that there are no other impacts on the natural environment, and reconsult Natural England if necessary.

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter please contact me via [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk) quoting our reference no: 432049

Should the proposal change, please consult us again.

**6.5 Environment Agency (Dated 24 January 2021):**

I have received consultation on a proposed development in Kimbolton (your ref: 181384). Based on the scale and nature of the proposals, I would not expect to make substantive comments. As confirmed on our consultation checklist we are a consultee for development in excess of 80 dwellings with proposed a non-mains drainage option. For an application of 25 dwellings we would defer to the Local Authority and your internal drainage team along with consideration of the Foul Drainage Assessment Form. As stated in the submitted Foul Drainage Strategy, and the comments from your internal drainage colleague, an Environmental Permit will be required for the proposed method of discharge. You may wish to seek confirmation that the applicant has secured the relevant Environmental Permit to provide certainty that the proposed method of foul drainage is acceptable.

**6.6 Welsh Water (Dated 30 April 2018):** No objection

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development. Welsh Water does not provide sewerage services in his area. The nearby properties are served by a private sewer network and private sewerage treatment works. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

**6.7 Welsh Water (Dated 15 August 2018 – Additional response following contact from Mr Read):**

Dear Mr Read

Thank you for your email to which I can provide the following comments: Our records indicate that the sewerage network and receiving Waste Water Treatment Works that serves Stockton Rock is private and we are not responsible for maintaining this system.

We have confirmed this via our billing system which shows that properties on Stockton Rock are billed for potable drinking water only and not for any sewerage services.

I hope this helps, if you require anything further please feel free to contact me on 0800 917 2652

Internal Council Consultees

**6.8 Welsh Water (Dated 11 February 2021):**

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

Dwr Cymru Welsh Water has no objection to the proposed development.

The proposed development is crossed by a trunk/distribution watermain, the approximate position being shown on the attached plan. Dwr Cymru Welsh Water as Statutory Undertaker has statutory powers to access our apparatus at all times. I enclose our Conditions for Development near Watermain(s). It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer. The developer must consult Dwr Cymru Welsh Water before any development commences on site.

Please ensure a 7.7m easement is maintained, 3.85m either side of the centre line of the main.

We have reviewed the amended new information included the foul drainage strategy and note that the intention is to utilise private treatment. Welsh Water do not provide sewerage services in

his area. The nearby properties are served by a private sewer network and private sewerage treatment works. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation. If you have any queries please contact the undersigned on 0800 917 2652 or via email at [developer.services@dwrcymru.com](mailto:developer.services@dwrcymru.com) Please quote our reference number in all communications and correspondence.

## 6.9 Area Engineer Manager (Local Highway Authority) (Dated 19 July 2018):

### Site Location and Access

The site is the 15, 848 square metre field adjoining Chestnut Avenue, Kimbolton, Leominster and on the A4112 which runs along the south boundary of the site. The site is bounded primarily by fields to the north and residential to the east and west. Tracking movements of a waste collection vehicle and emergency services vehicle (Fire engine for instance) should be provided to demonstrate that the proposed access and new road can accommodate these vehicles. It is also noted that field access is proposed as part of the scheme, if these are to be used by agricultural vehicles, then it should be ensured that mud is kept off the public highway.

### Traffic Generation

The site is expected to have some impact on the public highway network, TRICS analysis should be undertaken to demonstrate the level of intensification expected at the proposed junction to show the draw of the site.

### Visibility

This section of the A4112 is subject to a 30mph speed limit. In its current state, the visibility right out of the access is impeded by vegetation. At 30mph a splay of 43m is recommended under Manual for Streets 2. This is achievable looking towards the Stockton Cross pub. A detailed access plan should be submitted showing visibility splays of 43m in both directions. This level of visibility could be mitigated by establishing the 85<sup>th</sup> percentile speed on the road. Therefore, a speed survey should be undertaken.

### Drainage

The developer should ensure that no run off drains onto the public highway network.

### New Public Road

A new public highway which adjoins on to the existing highway and a new public footpath is proposed as part of this site. Therefore Section 38 and Section 278 need to be adhered to with this development.

### S106

Section 106 as per the councils SPD is required to support active travel in the vicinity of the development such as Public Transport and pedestrian improvements, also to improve gateway features to help manage speeds.

### Conclusion

The transportation department has no objections to this application, subject to the following conditions:

TRICS - Traffic Generation

TRICS analysis should be undertaken to determine the level of traffic associated with this development.

#### CAB - Visibility splays

Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 43 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan

#### CAL - Access, turning area and parking

The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan

#### CAJ - Parking - estate development (more than one house)

Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan

#### CAQ - On site roads - submission of details

Development shall not begin until the engineering details and specification of the proposed roads and highway drains have been submitted to and approved in writing by the local planning authority.

#### *Informative*

*145 – Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)*

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

works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

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

#### I11 – Mud on highway

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

#### I08 – Section 278 Agreement

No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.

#### I07 – Section 38 Agreement & Drainage details

The developer is required to submit details of the layout and alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations. It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Adequate storm water disposal arrangements must be provided to enable Herefordshire Council, as Highway Authority, to adopt the proposed roadworks as public highways. The applicant is, therefore, advised to submit the engineering and drainage details referred to in this conditional approval at an early date to the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ for assessment and technical approval. No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.

#### I05 – No drainage to discharge to highway

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

#### I51 – Works adjoining highway

Any work involving the removal or disturbance of ground or structures supporting or abutting the publicly maintained highway should be carried out in accordance with details to be submitted to and approved in writing by the Highway Authority or their agent. Please contact Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517),

#### I35 – Highways Design Guide and Specification

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

SITE VISITED: YES

**6.10 Service Manager Built and Natural Environment (Landscape Officer) (Dated 3 May 2018):**

A permission upon the site for a scheme of 21 dwellings was granted as part of an outline application in 2015, at which time no landscape representation was made. Following on from this 2 proposed layouts were submitted as part of a reserved matters application (P163693/RM and P180323/RM) for which the following landscape comments were provided:

I am aware that there are no previous landscape comments in respect of this application and I have no comments to make in respect of the internal layout of the proposal.

The one point I do wish to raise however is that the application site does protrude beyond the existing line of residential curtilage northwards into open countryside. Whilst I recognise the site boundary is agreed at outline stage. I would recommend that consideration be given to mitigating any adverse visual effects from the nearby PROW through the introduction of a landscape buffer running along the northern boundary, what is currently proposed is native hedgerow and I am not satisfied this is sufficient.

I would also like to see the boundary of the dwellings along the northern edge of the site demarcated independently of the hedgerow, as this would reduce the threat of it being removed in years to come. I would recommend the introduction of a boundary marked by native hedgerow with a tree belt of a minimum of 10-20 metres beyond it.

The current application is for an increase in units to 25 units, I have reviewed both plans and note that the community orchard has been removed from the scheme. As well as garages shifted northwards within the garden space. The loss of open space is unfortunate and the increase in built form beyond the existing residential curtilage conflicts with recommendations. I can therefore only reiterate my comments above.

**6.11 Service Manager Built and Natural Environment (Landscape Officer) (Dated 29 January 2021):**

I have reviewed the foul drainage report, and the detailed layout of the attenuation tanks and associated drainage infrastructure. It appears that in the development of the design, the layout impacts proposed trees. If these trees can be relocated elsewhere on the site; or the tanks adjusted to retain the trees; or an alternative landscape proposal (i.e. hedgerow) be provided within the reduced landscape space, then I would have no issue with the proposal.

**6.12 Service Manager Built & Natural Environment (Ecology) (Dated 18 April 2018):** Thank you for consulting me on this application. The ecological survey submitted with the application is now out of date having been carried out in 2015. However, discharge of reserved matters applying to this site were dealt with in 2018 with the development found to be of low impact on biodiversity. On this basis I would suggest including a condition for a site check prior to any development including site clearance. This, plus submission of the enhancement plan informed by the site check, should prove sufficient as follows:

*Prior to commencement of the development, an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to conduct an ecological inspection at an appropriate time of year and ensure there is no impact upon protected species by clearance of the area. The results and actions from the inspection and survey shall be relayed to the local planning authority upon completion.*

Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

AND

*The recommendations set out in Section 5 of the ecologist's report from Churton Ecology dated March 2015 and the pre-commencement site checks should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection and enhancement scheme integrated with the landscape scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.*

*An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.*

Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC6 and NC7 of Herefordshire Unitary Development Plan.

To comply with Herefordshire Council's Policy NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of the NPPF and the NERC Act 2006.

#### **6.13 Service Manager Built & Natural Environment (Ecology) (Dated 18 February 2021):**

The application site lies within the catchment of the River Lugg SAC (Lugg-Lower Arrow), which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations') as being of international importance for its aquatic flora and fauna.

At present the levels of phosphates in the River Lugg exceed the water quality objectives and it is therefore in unfavourable condition. Where a European designated site is considered to be 'failing' its conservation objectives there is limited scope for the approval of development which may have additional damaging effects. The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process.

Permission can only be granted if there is scientific certainty that no unmitigated phosphate pathways exist and that the HRA process can confirm 'no adverse effect on the integrity of the River Lugg (Wye) SAC'. Natural England; the statutory nature conservation body, advise that recent case law requires effective mitigation to be demonstrated on a case by case basis whilst the River Lugg Nutrient Management Plan is reviewed to ensure greater certainty that this can provide large scale mitigation development in the area.

The proposal here is for a net increase of TWENTY FIVE new dwellings with associated creation of additional foul water flows.

The drainage strategy Hydro Logic Services ref L0317 dated 11/12/2020 refers,

The supplied drainage strategy advises that due to locally very poor permeability of both soils and underlying bedrock the intention is to utilise a shared private foul water drainage system discharging final outfall to a drainage mound.

The LPA's drainage consultants have formally advised in their comments dated 16<sup>th</sup> February 2021 that:

"The drainage mound is to be located above impermeable ground. Drainage fields rely on a discharge of effluent through the ground and in this case due to the impermeable soil the drainage mound will not act as a raised drainage field."

They also confirm that the results of permeability tests by borehole and local percolation testing included in the applicant's drainage report demonstrate that there is no viable percolation at the proposed development site.

With no local percolation or permeability a drainage mound is considered a surface water discharge feature and demonstrates a clear potential pathway for phosphates to enter the catchment of the River Lugg SAC.

It is also noted that this 'surface water discharge' would potentially directly impact and affect the local highway (and associated surface water drainage) and adjacent private property and land that also creates potential phosphate pathways in to the Lugg SAC catchment.

The proposed scheme cannot demonstrate the required scientific and legal certainty that it can be achieved without creating additional phosphate pathways in to the River Lugg SAC hydrological catchment.

With detailed evidence demonstrating potential phosphate pathways the development and associated foul water (and surface water) demonstrates for the purposes of the required HRA process that there is an identified Adverse Effect on the Integrity of the River Lugg (Wye) SAC and as the competent authority the Council cannot at this time grant a planning consent.

In conclusion:

At this time due to legal and scientific uncertainty and as the HRA appropriate assessment completed concludes there **is an Adverse Effect on the Integrity** of the River Lugg (Wye) Special Area of Conservation (a European Site, 'National Network Site' or 'Higher Status' nature conservation site) there is an Ecology OBJECTION raised as the application does not demonstrate compliance with Core Strategy SD4 (SS1, SS6 and LD2 also apply); The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'); NPPF; and NERC Act considerations.

#### 6.14 **Service Manager Built & Natural Environment (Ecology) (Dated 12 July 2022):**

A legally approved allocation of 'certain' Phosphate Credits or other nutrient neutrality scheme for the whole development must be legally secured and completed with evidence of this provided to allow required HRA to progress with a certainty of nutrient neutrality PRIOR to any planning permission being granted

This legal nutrient neutrality process is not managed by Ecology.

**HRA cannot be progressed at this time.**

The supplied Preliminary Ecology report with surveys completed October 2021 by Brindle and Green is noted. Given the rural location and good connectivity the supplied PEA would appear



relevant and appropriate on which to base final ecology conditions – such as CEMP. LEMP and detailed scheme for lighting proposals (including street lights if proposed) and a full plan and specification for Biodiversity Net Gain enhancements if a planning permission can be finally granted by April 2023 (one full optimal; season and two winter periods). This is unless there are any significant changes in current management of the site that could change the local ecological habitats. Final comments and suggested conditions can only be made when there is certainty a permission could be granted (HRA achievable).

#### 6.15 **Service Manager Built & Natural Environment (Ecology) (Dated 4 May 2023):**

**Habitat Regulations Assessment completed by the Council's Ecologist. Can be viewed in full via the following link:- [documents \(herefordshire.gov.uk\)](https://documents.herefordshire.gov.uk).**

Conclusion of the Appropriate Assessment:

On the basis of the program of integrated wetland delivery and the phosphate credit system developed by Herefordshire Council in partnership with a number of organisations including Natural England and given that the development can secure a mains drainage connection and has committed to purchasing the phosphate credits required to address the phosphate load generated by the development this proposal it is not considered to have a likely impact on the integrity of the SAC and planning permission can therefore be granted.

Conclusion of the Appropriate Assessment:

Herefordshire Council, as a Competent Authority under the Habitat Regulations 2017, Part 6, section 63(5) concludes that there would be NO adverse effects on the integrity of the Special Area of Conservation; subject to appropriate mitigation being secured via the planning conditions listed above. Planning Permission can legally be granted.

#### 6.16 **Service Manager Built & Natural Environment (Ecology) (Dated 24 May 2023):**

**Ecology-Biodiversity comments only –Previous HRA process not considered.**

The supplied Preliminary Ecology report with surveys completed November 2021 by Brindle and Green is noted.

As identified in this report and as period of time has passed since the original site surveys and to ensure full consideration is given to wider environmental effects of the proposed construction work on local ecology and potential effects on wider River Lugg SAC (eg through movement of soil and wash-out of nutrients and sediments) a Construction Environmental Management Plan that includes ecological working methods based on refreshed ecological update surveys is requested as a pre-commencement condition.

#### **Ecological Protection and Construction Environmental Management Plan**

No longer than twelve months prior to any works or site preparation commencing a detailed, comprehensive, Construction Environmental Management Plan – including but not limited to detailed ecological working methods, retained tree and hedgerow protection scheme and consideration of all environmental effects of construction processes shall be supplied to the LPA for written approval. The approved CEMP shall be implemented in full for the duration of all construction works at the site unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council's declared Climate Change & Ecological Emergency.

*Supporting information:* The CEMP does not preclude the requirement for the applicant and their contractors to comply with all statutory ecological protection legislation that lies above any planning permission process. The CEMP should include consideration for all potential environmental effects and a helpful guide to all relevant considerations for a CEMP can be found at

[https://www.designingbuildings.co.uk/wiki/Construction\\_environmental\\_management\\_plan](https://www.designingbuildings.co.uk/wiki/Construction_environmental_management_plan)

### **Nature Conservation – Biodiversity and Habitat Enhancement**

Prior to construction work commencing a detailed Landscape Ecological Management Plan (LEMP) should be supplied for written approval by the local planning authority. The LEMP must include full specifications for proposed Hedgerow planting (minimum of 7 woody plants per meter in a double staggered row); standard hedgerow trees (planted at random spacings based on 1 tree per 10m of hedgerow); specification for wildflower rich grass seed; and an establishment and maintenance plan.

The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.

All species proposed should be locally characteristic, native species considering climate change and pest-pathogen resilience. No spikey or thorny species should be planted adjacent to any highway, footway or areas of formal public open space.

Reason: To ensure that biodiversity net gain is secured and habitats enhanced having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3; and the council's declared Climate Change and Ecological Emergency. Compliance with Highways Design Guide and to consider resident safety.

For private dwellings, lighting should be controlled to minimise effects on local dark skies and foraging/commuting of light sensitive nocturnal species (including protected species such as known local bat populations). A suggested condition would be:

### **Protected Species and Dark Skies (external illumination)**

No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3; ; and the council's declared Climate Change and Ecological Emergency.

All 'public' lighting should be designed with dark skies and ecology interests in mind and street lighting should be directional down-lighting luminaires and have a 'warm' colour temperature (under 3000 Kelvin). The same proportional dimming system across the period of darkness as previously utilised by the council would be welcomed to further reduce any effects of new lighting.

6.17 **Archaeological Advisor (Dated 26 April 2018):** No objection

**6.18 Service Manager Built and Natural Environment (Historic Buildings Officer) (11 May 2018):**

We have no objections to the proposals on heritage grounds.

**6.19 Parks & Countryside Officer (9 May 2018):** No objection

Open Space Requirements.  
Core Strategy Policies

OS1: Requirement for open space, sport and recreation facilities  
OS2: Meeting open space and recreation needs

Kimbolton Neighbourhood Development Plan: referendum stage.  
Policy K21: Open Spaces

It is noted that this site has an existing approval for 21 houses (151145/O and 180323/RM). This included an off-site contribution towards POS in lieu of on-site provision as agreed in the heads of terms. This would still be applicable but with the addition that the off-site contribution could be used towards POS improvements in the village as described below.

Core Strategy Policies OS1 and OS2 apply. Open space requirements from all new development are to be considered on a site by site basis and in accordance with all applicable set standards which are set out below. Where on-site provision is not appropriate off-site contributions may be sought where appropriate on an equally beneficial basis for the local community.

Kimbolton Neighbourhood Development Plan Policy K21 although at referendum stage will carry some weight. This recommends that all new development proposals should include the provision of new open space and recreational facilities to meet the needs of those living/working within their developments in accordance with Herefordshire Core Strategy policies OS1 and OS2. Where provision cannot be met on site, developers should look to enhance or extend current provision, including assisting with obtaining land for such purposes. Measures that will increase accessibility to recreational facilities such as the public rights of way network may be advanced as an alternative. Where appropriate, any possible development proposals should ensure such space and the public rights of way network are as accessible as possible, including through a choice of sustainable means, such as cycleways and footways.

The Neighbourhood Plan identifies two areas of Local Green Space which includes the land at Chestnut Avenue which is located in the heart of Kimbolton village and adjacent to this site.

Proposal: The proposed site plan for this application does not include any on-site POS and the orchard that was previously proposed is now no longer shown, given the need to accommodate additional housing. It is a shame as its provision could enhance the offer in this part of the village. It is near to the existing POS at Chestnut Avenue which is described in the Neighbourhood Plan as an important open space and the only area publically accessible within the heart of the village. The two areas could have potentially been linked via a footpath and in doing so provide well-connected open space offering a range of opportunities which is seen as good planning.

Off-Site contribution: With no on site provision for POS an off-site contribution is sought in lieu of this in accordance with both Core Strategy and Kimbolton Neighbourhood Development Plan Polices described above. It is calculated in accordance with the SPD on Planning Obligations on market housing only as follows:

1 bed: £193  
2 bed: £235  
bed: £317  
4+ bed: £386

The contribution would be used towards improving the public rights of way in and around the village in accordance with the Public Rights of Way Improvement Plan and POS in the village in accordance with the Kimbolton Neighbourhood Development Plan.

6.20 **Land Drainage Officer (Dated 19 June 2018):** Qualified comment

**Overall Comment**

The proposals are largely acceptable in principle, although we recommended that the following information is submitted for a review before a planning permission is granted:-

- Drawing showing the proposed surface water and foul water drainage strategy developed for the current proposal, supported by description of the strategy. The drawing should clearly show the location and type of the proposed SuDS, attenuation measures and package treatment plant.
- Revised calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event, and that there will be no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change (including calculations of proposed storage). Note that we recommend that these use FEH methods and 2013 rainfall data.
- Consideration of the risk of water backing up the foul/surface water drainage system from the proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere.
- Confirmation that the proposed construction of c.400m of pipeline below the public highway and subsequent discharge to the watercourse is agreed in principle with the Council. A written agreement will be needed to facilitate the construction of a headwall on third party land.
- Confirmation that the adoption of the surface water drainage system by DCWW (including combined system downstream of the site) is acceptable in principle.
- Assessment of the suitability and sensitivity of the receiving watercourse to receive treated effluent.
- Provision of an Environmental Permit for the proposed Package Treatment Plant and Outfall.
- Demonstration that appropriate access is available to maintain foul water drainage features.

Should the Council be minded to grant planning permission, we recommend that the Applicant submits the information requested above along with the following information requested in suitably worded planning conditions:-

- Results of infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology.
- Detailed drawings of proposed drainage layout, attenuation features and outfall structures.
- Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event.
- Detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system up to and including the 1 in 100 year event with climate change.
- Confirmation that the adoption and maintenance of the drainage systems has been agreed with the relevant authorities.
- Demonstration that appropriate access is available to maintain drainage features.
- Operational and maintenance manual for all proposed drainage features that are to be adopted and maintained by a third party management company.

- Calculations to inform the assessment of the risk of water backing up the foul/surface water drainage system from any proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves.

#### 6.21 **Land Drainage Officer (Dated 5 July 2018):**

##### Overall Comment

As stated in our previous response we consider that the proposals are largely acceptable in principle. We however recommended that the following information is submitted for a review before a planning permission is granted:

- Revised calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event, and that there will be no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change (including calculations of proposed storage). Note that we recommend that these use FEH methods and 2013 rainfall data.
- Consideration of the risk of water backing up the foul/surface water drainage system from the proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere.
- Confirmation that the proposed construction of c.400m of pipeline below the public highway and subsequent discharge to the watercourse off-site is agreed in principle with the Council. A written agreement will be needed to facilitate the construction of a headwall on third party land. The applicant should clarify who will own the pipe.
- Confirmation that the adoption of the surface water drainage system by DCWW (including combined system downstream of the site) is acceptable in principle.
- Assessment of the suitability and sensitivity of the receiving watercourse to receive treated effluent.
- Provision of an Environmental Permit for the proposed Package Treatment Plant and Outfall.

Should the Council be minded to grant planning permission, we recommend that the Applicant submits the information requested above along with the following information requested in suitably worded planning conditions:

- Results of infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology.
- Detailed drawings of proposed drainage layout, attenuation features and outfall structures.
- Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event.
- Detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system up to and including the 1 in 100 year event with climate change.
- Confirmation that the adoption and maintenance of the drainage systems has been agreed with the relevant authorities.
- Operational and maintenance manual for all proposed drainage features that are to be adopted and maintained by a third party management company.
- Calculations to inform the assessment of the risk of water backing up the foul/surface water drainage system from any proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves.

#### 6.22 **Land Drainage Officer (Dated 25 March 2021):**

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Further information on the subject of this report is available from Ms Chloe Smart on 01432 260139

We have been formally reconsulted on this site now, but I've had a look at the planning portal and there appears to be no new information submitted apart from the attached that you sent the other day.

We note that the Vp rate is 300 s/mm, which is unfeasible to support a drainage mound discharge, we use a rate of between 100 and 140 s/mm as set out in SEPA guidance (there are no approved English or Welsh standards). It is encouraging that the NE response is consistent with ours.

Please let me know if you require anything further from us, however I will mark this consultation request as complete for now at our end.

## 6.23 Land Drainage Officer (Dated 10 May 2023):

### Application Details

The Applicant proposes the construction of 25 dwellings with new access road. The site occupies an area of approximately 1.5ha and is currently used for agricultural purposes. A previous application was submitted for the same site proposing the construction of 21 dwellings with new access road.

Under a previous response we advised that the proposal to discharge treated effluent to a surface watercourse was acceptable, however this was prior to Current Development in the River Lugg Catchment Area Position Statement released in March 2020. Subsequently the Applicant proposed a foul water discharge to ground via a drainage mound. However, this was not considered to be a viable option when we previously responded to this planning application in February 2021. The site is now eligible to purchase phosphate credits, which allows for the discharge of treated effluent offsite to a non-seasonal watercourse. The following documents have been reviewed as part of this response:

- Amended Proposed Site Plan (Rev A); and
- Technical Note 01 (Rev 0): Mitigation Strategy Review;
- Drainage & External Works Layout (2/2) (Rev N);
- Section 38 Highways Drainage Plan (2/2) (Rev M);
- S104 Flow Control Chamber & Tank Details (Rev F).

For completeness, the last Land Drainage consultation response, which was based on the final surface water and foul water drainage arrangements for the site was submitted in July 2018. The response requested that the additional information was submitted prior to planning being granted and that further information would then be required at Discharge of Condition. Some of the requested information has been subsequently received, however the information was still outstanding, which we have addressed as part of this final Land Drainage consultation response:

- Results of infiltration testing undertaken in accordance with BRE Digest 365 methodology. The Ground Investigation Report Field Adjoining Chestnut Avenue Kimbolton (November 2016) has been confirmed that an infiltration rate could not be established.
- Drainage calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event, and that there will be no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change (including calculations of proposed storage). These calculations should confirm that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event. Note that we recommend that these use FEH methods and 2013 rainfall data.

*Surface water drainage calculations for the private (Rev B) and highway drainage (Rev D) for the development site have been submitted as part of the application and confirm that there is no surcharging in the below ground drainage network in all events.*

- Detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system up to and including the 1 in 100 year event with climate change. A Flood Routing Plan (Rev A) has been submitted as part of the application which confirms that any exceedance flow routes will be managed within the access road.
- Confirmation that the location of the proposed surface water attenuation tank and foul water package treatment plant is located on open land. The Drainage and External Works Layout Sheets 1 (Rev I) & 2 (Rev N) confirm that the attenuation tanks and package treatments plants are to be located in areas of open space.
- Surface water and foul water management and maintenance plan. A Sustainable Drainage Systems Typical Maintenance Schedule has been submitted as part of the planning application.

Based on the reviewed documents stated above, provided there are no changes made to the proposed surface water and foul water drainage arrangements, at any other planning stages and will be constructed in line with the design and plans under this application, in principle, we hold no objections to the proposed development.

#### 6.24 **Land Drainage Officer (Dated 12 September 2023):**

##### Application Details

The Applicant proposes the construction of 25 dwellings with new access road. The site occupies an area of approximately 1.5ha and is currently used for agricultural purposes. A previous application was submitted for the same site proposing the construction of 21 dwellings with new access road.

Under a previous response we advised that the proposal to discharge treated effluent to a surface watercourse was acceptable, however this was prior to Current Development in the River Lugg Catchment Area Position Statement released in March 2020. Subsequently the Applicant proposed a foul water discharge to ground via a drainage mound. However, this was not considered to be a viable option when we previously responded to this planning application in February 2021. The site is now eligible to purchase phosphate credits, which allows for the discharge of treated effluent offsite to a non-seasonal watercourse. The following documents have been reviewed as part of this response:

- Amended Proposed Site Plan (Rev A); and
- Technical Note Mitigation Strategy Review;
- Drainage & External Works Layout (2/2) (Rev O);
- Section 38 Highways Drainage Plan (2/2) (Rev N);
- S104 Flow Control Chamber & Tank Details (Rev G).
- 881-042B Off Site Drainage Layout Rev B 30/8/2023

BBLP comments 7/9/2023 – The applicant has presented a revised discharge route for the highway drainage and also for the proposed privately owned drain that will serve the site. The proposed privately owned drain will convey treated effluent and surface water from the curtilages of private property. The route is shown on the Off Site Drainage Layout Plan Rev B.

The proposal to connect the highway drainage to the existing highway drain outside Stockton Cross Inn is acceptable. The survey work completed by the applicant shows that the existing highway drain discharges into the highway drain that serves the U94213 highway. This highway drain discharges at the Cogwell Brook.

A Condition will be required requiring the applicant to complete cleansing work and CCTV survey on the existing highway drain to confirm its functionality. If significant defects are identified that may compromise the flow capacity of the highway drain then the developer will need to facilitate repair works to the highway drain.

The proposed privately owned drain will be installed in the highway. The highways authority accept the proposal for a headwall that would be built within the highway extents. A NRSWA section 50 notice will be required assigning ownership of the asset to the proposed Management Company.

For completeness, the last Land Drainage consultation response, which was based on the final surface water and foul water drainage arrangements for the site was submitted in July 2018. The response requested that the additional information was submitted prior to planning being granted and that further information would then be required at Discharge of Condition. Some of the requested information has been subsequently received, however the information was still outstanding, which we have addressed as part of this final Land Drainage consultation response:

Results of infiltration testing undertaken in accordance with BRE Digest 365 methodology.

- The Ground Investigation Report Field Adjoining Chestnut Avenue Kimbolton (November 2016) has been confirmed that an infiltration rate could not be established.

Drainage calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to and including the 1 in 30 annual probability storm event, and that there will be no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change (including calculations of proposed storage). These calculations should confirm that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to and including the 1 in 2 annual probability storm event. Note that we recommend that these use FEH methods and 2013 rainfall data.

- Surface water drainage calculations for the private (Rev B) and highway drainage (Rev D) for the development site have been submitted as part of the application and confirm that there is no surcharging in the below ground drainage network in all events.

Detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system up to and including the 1 in 100 year event with climate change.

- A Flood Routing Plan (Rev A) has been submitted as part of the application which confirms that any exceedance flow routes will be managed within the access road.

Confirmation that the location of the proposed surface water attenuation tank and foul water package treatment plant is located on open land.

- The Drainage and External Works Layout Sheets 1 (Rev I) & 2 (Rev N) confirm that the attenuation tanks and package treatment plants are to be located in areas of open space.

Surface water and foul water management and maintenance plan.

- A Sustainable Drainage Systems Typical Maintenance Schedule has been submitted as part of the planning application.

Based on the reviewed documents stated above, provided there are no changes made to the proposed surface water and foul water drainage arrangements, at any other planning stages and will be constructed in line with the design and plans under this application, in principle, we hold no objections to the proposed development.

## 6.25 **Waste Officer (Dated 15 May 2018):** Qualified comment



I have concerns that the turning head near plot 21 is not large enough to allow the refuse collection to turn. Turning heads need to meet highways specifications to allow the RCV to turn. Can tracking be provided to show principle whether the RCV can access and turn within the development?

6.26 **Housing Officer (Dated 13 August 2018):** I refer to the above planning application and can confirm that I support the proposal to provide 4 x 2 bed Low Cost Market (LCM) units on this site.

LCM housing is housing that is sold at a discounted price in perpetuity with the values determined by reference to the council's Technical Data that is attached to Planning Obligations SPD. Therefore I would expect the initial asking price to be in line with the current technical data and any future discount to be agreed prior to the S106 being signed.

There will be a requirement for these units to be available for households with a local connection to Kimbolton.

6.27 **Housing Officer (Dated 18 May 2023):**

Thank you for including me within the consultation on the additional plans for the above planning application.

I can confirm that the proposed 4 x 2 bed and additional 2 x 3 bed low cost market (LCM) units are acceptable as is the locations of the units on the site.

Due to the length of time and the changes in the property market, I would advise that I will be looking for an amendment to the S106 in relation to the discount in perpetuity for the LCM units, with the 2 bed being discounted 43% off open market value and the 3 bed 47% off open market value.

Local connection to Kimbolton in the first instance.

6.28 **Public Rights of Way Officer (Dated 18 April 2018):** No objection.

6.29 **Education Officer (Dated 9 May 2018):** Seeks a financial contribution towards adding capacity to the village primary school.

6.30 **Education Officer (Dated 11 August 2023):**

Schools affected:	St James, Kimbolton Primary School Earl Mortimer Secondary School	
Breakdown of Housing:	2+ bedroom flat / apartment 2/3 bed house / bungalow 4+ bed property	2 x 2 bed; 13 x 3 bed 4 x 4 bed
Total Contribution expected:	<b>£107,134</b>	

The educational facilities provided for this development site are Leominster Early Years, St James, Kimbolton Primary School, Earl Mortimer High School and Leominster Youth.

St James, Kimbolton Primary School has a planned admission number of 15. As at the schools summer census 2023:-

- 1 year group is over capacity- Y5=16

Earl Mortimer Secondary School has a planned admission number of 140. As at the schools summer census 2023:-

- All Year groups have spare capacity

In accordance with the SPD the Children's Wellbeing Directorate would therefore be looking for a contribution to be made that would go towards the inclusion of all additional children generated by this development. The Children's Wellbeing contribution for this development would be as follows:

<b>Contribution per dwelling</b>	<b>Pre-School</b>	<b>Primary</b>	<b>Secondary</b>	<b>Post 16</b>	<b>Youth</b>	<b>SEN</b>	<b>Total</b>
<b>2/3 bedroom house or bungalow</b>	£432	£3,063	£0	£121	£850	£468	£4,934
<b>4+ bedroom house or bungalow</b>	£639	£5,018	£0	£121	£1,675	£828	£8,281

Although no contribution has been requested for the catchment secondary school for this development, please note that parental preference may dictate that children from this development may attend other schools that would ordinarily require a contribution as a result of this development taking place.

Please note this is the contribution that would be requested at this point in time based on the current information available that is pupil census data and the criteria in the SPD. It is therefore likely that this level of contribution will change (increase or decrease) for all subsequent applications made.

The schemes that these contributions will be requested for will be determined as the development scale is developed in the event that permission is granted.

- 6.31 **Wye Valley Trust (Dated 27 April 2018):** Using impact assessment formulae, the WVT seeks a contribution of £13,212.21.

## 7. Representations

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

[Planning Search – Herefordshire Council](#)

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>

- 7.2 **Kimbolton Parish Council (Dated 2 May 2018):**

Kimbolton Parish Council are in favour of the second proposal option to incorporate an additional 4 affordable properties totalling 25 units. We believe that this would provide a vital opportunity to local first-time purchasers in conjunction with the wider development. The additional properties

would also have minimum impact on the overall low density layout. We would ask that any "affordable status" legal conditions are applied to the selected properties in perpetuity enabling future purchasers to also benefit from the scheme. Please also see previous comments as below -The introduction of selected stone chimney breasts and traditional oak porches to a small number of the properties would further enhance the development. We would also encourage native planting along the northern boundaries. Treated sewage outflow and surface water management requires clarification to avoid potential flooding of existing low lying properties within the locality of the site.

### **7.3 Kimbolton Parish Council (Dated 9 March 2021):**

Kimbolton Parish Council have significant concerns regarding the most recent Stockton Field Development drainage application dated 18/1/21 ref L0317 as follows:

The proposal of an encapsulated on site 'sand mound' to accommodate an average of 8,725 litres per household) is highly impractical taking into account that the land percolation is virtually zero, potential evaporation will not occur, and having no provision of an outlet pipe due to ongoing local phosphate issues. It is highly likely that this system will simply overflow during periods of heavy rain affecting neighbouring properties below the proposed engineered liquid settlement line.

There has been a succession of wet winters during the last few years which have resulted in the Cogwell Brook flooding, or being at maximum capacity on multiple occasions. We strongly suggest that there is a practical solution which would be to take both storm and treated waste water away to the west of the site onto Endale Farm land. Endale Farm belongs to the family of the site owners and has many potential benefits regarding drainage. The land covers a large area, is situated the edge of a naturally well-draining valley basin, and links to into an existing established ditch network. A wayleave would be required to cross one neighbouring field to the west of Chestnut Avenue where by the owner has come forward previously and verbally offered to negotiate potential access.

### **7.4 Kimbolton Parish Council (Dated 12 June 2023):**

Kimbolton Parish Council would like to raise the following comments and considerations under the most recent 181384 Stockton Field Planning application.

1. There are still concerns regarding the position and suitability of the drainage mound. Whilst we are not in a position to comment on the technical aspects of the drainage mound, we are concerned about the potential impact on nearby houses and the proximity to the main road.

2. We request that the Parish Council are consulted directly regarding the allocation of Section 106 Grant monies set aside specifically for the community of Kimbolton. Provision for traffic calming will be a priority. We request that this is written into the legal conditions of any planning approvals.

3. We request that the four 'at cost' affordable homes are offered strictly to local persons in the first instance with family, or similar historical connections to the village. We request that this is written into the legal conditions of any planning approvals.

4. The revised plans showing a combination of brick and render finishes, still result in the scheme being a little bland. Blending of the properties within the existing village varied housing types will be an important part of aesthetic integration. Introducing a small number of upgraded oak porches, and limited areas of traditional stone similar to other local schemes (example – recent Bodenham and Wellington developments) would achieve this.

### **7.5 West Mercia Police – Secured by Design comments (Dated 4 May 2018):**

I do not wish to formally object to the proposals at this time. However there are opportunities to design out crime and/or the fear of crime and to promote community safety. I note that this application doesn't makes reference to the nationally accredited Secured by Design scheme, within the Design & Access Statement. There is a clear opportunity within the development to

achieve the Secured by Design award scheme and by doing so address the new Approved Document Q requirements.

7.6 **20 letters of representation** have been received in respect of the application from **12 contributors**. 12 of the contributors raise objections to the application.

All representations can be viewed in full using the following link :-  
[Planning Search – Herefordshire Council](#)

Summary of concerns raised include:

- Concerns regarding drainage and flooding - Drainage proposals proposed to go into the Cogwell Brook North of the A4112. The road, surrounding land and gardens flood already. Additional water is a concern;
- Brook is already at full capacity.
- At least 2 other options for the water – including going down into to the A49 drains;
- Potential impacts on wildlife as a result of drainage changes on the brook;
- Objection to connecting to existing road drainage system;
- Highway safety concerns in respect of proposed entrance including visibility;
- Increase in traffic movements at the access point and also concerns regarding impact on amenity of occupiers of adjacent properties as a result of additional traffic movement, relationship of access with opposite dwellings, light pollution as a result of headlights – general reduced standard of amenity;
- Potential risk of collision at access point;
- Concerns regarding overdevelopment and the proposals not sympathetic to the look of the village;
- Proximity of the dwellings to Steppes Cottage given that property lies on lower land;
- Maintenance issues associated with package treatment plants;
- Housing mix – The community needs lower cost units to make it possible for younger people to afford housing in the village;
- The application is significantly deficient in terms of S106 and should not be approved;
- Impact on trees and particularly the west bank of The Ryde;
- Need for agreements to be in place to undertake works which may impact beyond the application site;
- Potential impact on private water supply which runs underneath the development;
- Concern regarding potential future development;
- Drainage mound proposals not supported

## 8. Officer's Appraisal

### Policy context and Principle of Development

- 8.1 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."*
- 8.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the Kimbolton Neighbourhood Development Plan (NDP). The NDP was made on 15 June 2018 and forms part of the Development Plan for Herefordshire.
- 8.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and Paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and was updated in

November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any applications. In this case the relevant policies have been reviewed and are considered entirely consistent with the NPPF and therefore can be attributed significant weight.

- 8.4 The 2018 Committee Report identified a range of policies relevant to the development. The policy context remains consistent to that identified in the previous Committee Report in that the development plan comprises the Herefordshire Core Strategy and Kimbolton Neighbourhood Development Plan. It should be noted the Council is currently able to demonstrate a five year housing supply
- 8.5 Core Strategy Policy SS1 identifies a presumption in favour of sustainable development. This means, when considering development proposals Herefordshire Council will take a positive approach that reflects the presumption in favour of sustainable development contained within national policy.
- 8.6 Paragraph 11 of the National Planning Policy Framework requires plans and decisions should apply a presumption in favour of sustainable development and for decision-taking, this means:
- 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 planning policies most important for determining the application are out-of-date, granting planning permission unless:
    - i. the application of policies in this Framework that protects areas of 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.
- 8.7 Core Strategy Policy RA1 remains consistent in terms of identifying the need and distribution for rural housing in county. The policy sets out the minimum requirement for 5,300 new homes to be distributed across seven Housing Market Areas (HMAs). Kimbolton is a main settlement within the Leominster HMA, which has an indicative growth target of 14% (equivalent to delivering 730 new homes across the plan period). For the parish of Kimbolton, this equates to a minimum of 35 new dwellings.
- 8.8 Policy K2 of the Kimbolton Neighbourhood Development Plan identifies the village will be the focus for development within the Parish and identifies a settlement boundary for the village. The application site is recognised within the NDP as an existing commitment, having benefitted from a previous planning permission for residential development and is within the defined settlement boundary.
- 8.9 The principle of residential development of the site remains in accordance with both the Herefordshire Core Strategy and Kimbolton Neighbourhood Development Plan.

### **Housing Mix and Affordable Housing**

- 8.10 Core Strategy Policy H1 relates to affordable housing. The policy requires all open market housing proposals on sites of 10 or more dwellings to contribute towards meeting affordable housing needs. The policy specifies the amount and mix of affordable housing will vary depending on evidence of housing need as identified through the latest housing market assessment and an assessment of the viability of the development. The policy then goes onto identify indicative housing targets based on evidence of need and viability in the county's housing market areas.

The site falls within the Northern Rural Housing Area where there is an indicative target of 40% affordable housing.

- 8.11 Core Strategy Policy H3 relates to ensuring an appropriate range and mix of housing. The policy requires residential development to provide a range and mix of housing units which can contribute to the creation of balanced and inclusive communities.
- 8.12 Kimbolton Neighbourhood Development Plan Policy K9 also relates to affordable housing and identifies on windfall development providing 10 or more homes, a minimum of 40% of properties are made available to meet local needs.
- 8.13 Paragraph 65 of the National Planning Policy Framework also relates to affordable housing and sets out criteria in terms of home ownership.
- 8.14 The affordable housing provision and housing mix has been amended since the 2018 resolution by Committee. The scheme previously presented to Committee proposed a total of 4 affordable housing units which equated to 16% of the dwellings. In assessing the affordable housing proposals at that time, officers attributed weight to the fallback position in the form of the 2015 outline planning permission and permitted 2018 reserved matters approval. Through those permissions the applicant could implement a scheme with no on-site affordable housing, with the likelihood of the commuted sum being spent elsewhere and no provision in the area.
- 8.15 The application benefitted from a resolution to issue planning permission subject to legal agreement and has been in a 'queue' for phosphate credits, with the Council's scheme operating in validation order of applications.
- 8.16 During that time, the status of the fallback position has materially changed in that the previously approved planning permission is no longer extant having now lapsed. The applications remain of relevance in assessing this application, but do not attract the same level of weight. Concerns have been raised in submitted letters of representation in respect of the level of contributions and affordable housing provision associated with the proposals.
- 8.17 Officers have reviewed the affordable housing position in the current context and discussed this with the applicant. The applicant has confirmed the following:
- The site was purchased in January 2016 with outline planning permission for 21 units with no affordable provision;
  - In March 2016 an application was submitted for reserved matters which was refused due to primarily layout issues;
  - Following discussions with officers at the time, a full planning application was encouraged to include on site affordable housing;
  - This was submitted and in 2018, the application was supported by Committee subject to legal agreement;
  - The legal agreement was signed by the applicant. Legal fees were also paid to the Council, but while awaiting completion by the LPA, the phosphates issue meant the permission could no longer be positively progressed. By this time the fallback position had expired.
- 8.18 It is noted the economic context has changed in recent years in terms of increased build and material costs, inflation and interest rates. Furthermore, the scheme is also now subject to a financial contribution to provide the required phosphate mitigation. Officers requested the applicant undertake a review of the position in terms of viability with a view to securing additional affordable housing than the 16% previously agreed.
- 8.19 The applicant has reviewed the scheme. The amended affordable housing provision before committee is as a result in 2 open market units being amended to affordable housing, resulting

in an affordable housing provision of 24% (6 units) for the scheme. The Council's Strategic Housing Manager has been consulted on the current revised housing tenure and does not raise any objection to the proposal in terms of affordable housing provision. The comments confirm the proposed low cost market housing units are acceptable and due to the length of time and changes in the property market an amendment to the Draft Heads of Terms is required to further discount those units. Also for local connection to Kimbolton in the first instance to be secured.

- 8.20 As detailed above there is a tension with CS Policy H1 and NDP Policy K9. It is noted Policy H1 does offer some degree of flexibility in that the percentages are a target and there is acknowledgement of variation depending on need and viability. Policy RA2 also supports proposals resulting in the delivery of schemes that will generate the size, type, tenure and range of housing required in particular settlements, reflecting local demand. The proposal does provide a good mix of housing to meet the local needs in the area. The affordable housing units are to be provided on site, offered to those with a local connection and also comprise a small number of bungalows. Given the specific circumstances in this case, officers are content the affordable housing provision is in this instance acceptable.

### **Scale, design and appearance of dwellings**

- 8.21 Core Strategy Policy SD1 and NDP Policy K7 are most relevant in terms of assessing design.

Policy K7 of the NDP provides specific advice about the design approach to be taken for new development in the village. It is a criteria-based policy which advises that development proposals should:

1. Incorporate locally distinctive features and materials.
2. Utilise physical sustainability measures associated with buildings that include, in particular, orientation of buildings, cycle and recycling storage and broadband infrastructure.
3. Include adequate parking and ensure that movement to, within, around and through the development is acceptable.
4. Retain important features such as tree cover, ponds, orchards and hedgerows, adding to the natural assets of the Parish where opportunities are available.
5. Hard and soft landscape proposals should not result in a suburbanised appearance.
6. Seek on-site measures that support energy conservation, such as tree planting and other forms of green infrastructure to provide shade and shelter and include sustainable drainage systems, the maximum use of permeable surfaces and minimising the use of external lighting to that which is necessary.

- 8.22 The design of the proposal remains broadly consistent to that previously considered by the Committee. There have been some changes to house tenure as discussed above but the overall layout scale and appearance of the scheme remains consistent.
- 8.23 Concerns have been raised in letters of representation in respect of density of the scheme and the design of the dwellings not in keeping with local character and scale, adjacent to existing development.
- 8.24 Officers remain of the view the proposals do take a lead from the surrounding area in terms of design and appearance. The plans indicate a mixture of brick and render, with tiled roofs proposed. The variation of materials, combined with the gaps between buildings and the low density layout creates a visual break and adds interest to the development. Despite concerns raised regarding density, the development is fairly low in density at approximately 14 dwellings per hectare. The properties are well spaced and set within large curtilages which is positive from a design perspective. The development strikes a balance between the need to maximise land for residential development and respecting local character. Concerns have been raised with regard to the impact of the development on the adjacent Steps Cottage. Three dwellings at the front of

the site are proposed as bungalows. This ensures the existing levels of the site are respected and respects the relationship with the existing dwelling. A levels condition is also included.

- 8.25 There are no significant material changes in terms of the approach to design with the most important policies Core Strategy Policy SD1 and NDP Policy K7. Overall officers consider the scale, design and quantum of development remains acceptable in the current context and accords with the relevant policies informing design.

### **Impact on Heritage Assets**

- 8.26 The application does not fall within or adjacent to a conservation area. The Stockton Cross Inn is a Grade II listed building (List Entry No. 1349548) which lies approximately 50 metres from the north eastern boundary of the site.
- 8.27 There are further listed buildings in the locality comprising a Grade II listed barn (List Entry No. 1349549) approximately 90 metres west of Stockton Bury Farmhouse (farmhouse itself not listed) and a grade II\* listed dovecot (List Entry No.1166938) approximately 70 metres south east of Stockton Bury Farmhouse, which is also a Scheduled Monument (List Entry No. 1007317). These listed buildings are further removed from the application site being located beyond existing residential development to the south of the A4112 and are not considered to be impacted by the proposal.
- 8.28 The 2018 Committee Report provides an assessment of the impacts of the residential development on Stockton Cross Inn, noting it is visually separate from the site, with the public house and application site being separated by a belt of mature native-species trees and an intervening property (Steps Cottage). Additionally, that there is no inter-visibility between the two and acknowledging there is known historic context between the site and listed building that would suggest the proposed development would cause harm to the significance of the heritage asset.
- 8.29 The 2018 report references Paragraph 196 of the National Planning Policy Framework in assessing the impact of the proposals on heritage assets. The NPPF has been revised in the interim and Paragraph 196 is now Paragraph 199, albeit the requirements remain consistent. Paragraph 199 states that 'when considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 8.30 The Building Conservation Officer and Archaeology Advisor both raise no objection with regards to impacts on any heritage assets. The position in terms of the impact on designated heritage assets remains consistent with the previous assessment. Officers are of the view there will be no harm caused to the significance of Stockton Cross Inn or any other heritage assets in the vicinity. As such the requirements of CS Policy LD4, NDP Policy K 11 and Paragraph 199 of the Framework are met.

### **Impacts on Residential Amenity**

- 8.31 Core Strategy Policy SD1 requires proposals to ensure residential amenity is safeguarded for existing and proposed residents. The layout remains broadly consistent to the application as presented to Committee in 2018. At that time, the conclusions in terms of residential amenity were that in order to both safeguard the residential amenity of Steps Cottage and to maintain housing mix, a condition be included to ensure that all three bungalows continue to provide single storey accommodation, with a condition proposed to remove permitted development for new windows into their roofs (including rooflights).



- 8.32 Plots 1, 2 and 3 remain unchanged in terms of layout and are proposed as bungalows. For the reasons identified in terms of housing mix, the previously suggested condition relating to windows in the roofs of the three bungalows is included within this recommendation. A condition requiring the details of site / finished floor levels has also been suggested.
- 8.33 Additional concerns have been raised in terms of the impact of the proposed vehicular access on amenity of dwellings opposite. The access remains consistent with the previously permitted schemes. Officers are content the proposed relationship between the application site access and dwellings opposite, which are positioned in close proximity of the existing highway and existing vehicular traffic is acceptable.

### **Drainage and Flooding**

- 8.34 Policies SD3 and SD4 of the Core Strategy deal with issues relating to sustainable water management, waste water treatment and river quality.
- 8.35 Since the 2018 Committee the scheme has been the subject of revised drainage strategies in response to HRA matters, as the position in terms of what could be acceptable from a drainage perspective evolved. The majority of representations from local residents raise concerns regarding drainage and flooding issues. Particular concerns relate to discharge to watercourse, existing surface water issues and the outfall location.
- 8.36 The most recent Land Drainage response provides commentary in terms of the context regarding changes. The proposal to discharge treated effluent to surface watercourse was acceptable at the time the application was first presented to Committee and was entirely consistent with the permitted drainage strategy for 151145/O and 180323/RM. The previously approved drainage scheme pre-dated the Current Development in the River Lugg Catchment Area Position Statement released in March 2020.
- 8.37 The position in terms of the development in the River Lugg Catchment has evolved since the 2019 letter from Natural England. In seeking to overcome the HRA matters, the applicant proposed foul water discharge to ground via a drainage mound. A formal re-consultation took place however the Council's Land Drainage Officer considered this not to be a viable option. A number of representations were received from local residents and Kimbolton Parish Council expressing concerns regarding this approach.
- 8.38 The application is now eligible to purchase phosphate credits, which allows for the discharge of treated effluent offsite to a non-seasonal watercourse. The applicant has submitted the following updated drainage information since the 2018 Committee. It is on the basis of the following documents the most recent Land Drainage response is made:
- Amended Proposed Site Plan (Rev A); and
  - Technical Note Mitigation Strategy Review;
  - Drainage & External Works Layout (2/2) (Rev O);
  - Section 38 Highways Drainage Plan (2/2) (Rev N);
  - S104 Flow Control Chamber & Tank Details (Rev G).
  - 881-042B Off Site Drainage Layout Rev B 30/8/2023
- 8.39 The applicant has presented a revised discharge route for the highway drainage and also for the proposed privately owned drain that will serve the site. This is in response to concerns raised by residents regarding the location of the outfall and existing issues in the area. The proposed privately owned drain will convey treated effluent and surface water from the curtilages of private property. The route is shown on the Off Site Drainage Layout Plan Rev B.

- 8.40 The proposal to connect the highway drainage to the existing highway drain outside Stockton Cross Inn is considered acceptable by the Land Drainage team who are the Lead Local Flood Authority. The LLFA are a statutory consultee in the development management process.
- 8.41 To accompany the drainage strategy, the applicant has undertaken further survey work which shows the existing highway drain discharges into the highway drain that serves the U94213 highway. This highway drain discharges at the Cogwell Brook.
- 8.42 Land Drainage confirms a condition will be needed to require the applicant to complete cleansing work and CCTV survey on the existing highway drain to confirm its functionality. If significant defects are identified that may compromise the flow capacity of the highway drain then the developer will need to facilitate repair works to the highway drain. As such, whilst concerns raised by local residents are noted, the documentation submitted by the applicant confirms in principle the approach is acceptable but further repair may be needed to facilitate this development.
- 8.43 The proposed privately owned drain will be installed in the highway. Land Drainage confirms the highways authority accept the proposal for a headwall that would be built within the highway extents. A NRSWA Section 50 notice will be required assigning ownership of the asset to the proposed Management Company.
- 8.44 In terms of the remaining areas of consideration regarding the proposed surface water and foul drainage arrangements, Land Drainage has confirmed as below:
- Results of infiltration testing undertaken in accordance with BRE Digest 365 methodology.
    - *The Ground Investigation Report Field Adjoining Chestnut Avenue Kimbolton (November 2016) has been confirmed that an infiltration rate could not be established.*
  - Drainage calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to and including the 1 in 30 annual probability storm event, and that there will be no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change (including calculations of proposed storage). These calculations should confirm that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to and including the 1 in 2 annual probability storm event. Note that we recommend that these use FEH methods and 2013 rainfall data.
    - *Surface water drainage calculations for the private (Rev B) and highway drainage (Rev D) for the development site have been submitted as part of the application and confirm that there is no surcharging in the below ground drainage network in all events.*
  - Detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system up to and including the 1 in 100 year event with climate change.
    - *A Flood Routing Plan (Rev A) has been submitted as part of the application which confirms that any exceedance flow routes will be managed within the access road.*
  - Confirmation that the location of the proposed surface water attenuation tank and foul water package treatment plant is located on open land.
    - *The Drainage and External Works Layout Sheets 1 (Rev I) & 2 (Rev N) confirm that the attenuation tanks and package treatment plants are to be located in areas of open space.*
  - Surface water and foul water management and maintenance plan.
    - A Sustainable Drainage Systems Typical Maintenance Schedule has been submitted as part of the planning application.
- 8.45 The Environment Agency has previously been consulted on the proposals and confirmed it would not expect to make substantive comments and for an application of this scale would defer to the

Local Authority and internal drainage team. Welsh Water have also recommended foul and surface water strategies are appropriately conditioned to ensure implementation with agreed details.

- 8.46 Land Drainage, as the Local Lead Flood Authority has reviewed the submitted technical documentation. On the basis of the information provided, which also includes a Flood Risk Assessment, the LLFA confirm in principle there are no objections to the proposals in terms of surface water and foul water drainage arrangements.
- 8.47 Conditions suggested have been included within this recommendation and it is acknowledged the applicant will need to obtain an Environmental Permit from the Environment Agency in connection with the drainage proposals to discharge to watercourse and agreements under alternative legislative regimes.

### **Ecology and Biodiversity**

- 8.48 Policy LD2 of the Core Strategy seeks to ensure that development proposals conserve, restore and enhance biodiversity assets of Herefordshire. Important sites, habitats and species shall be retained and protected in accordance with their status. Relevant guidance and principles are set out within the NPPF at Chapter 15.
- 8.49 Since the Committee resolution, an updated Preliminary Ecology report with completed surveys has been submitted (Dated November 2021). The reason being the previously submitted Preliminary Ecology Appraisal is out of date (dated March 2015).
- 8.50 There have been a number of re-consultations to the Council's Ecology Officer since the 2018 Planning Committee. The approach in terms of nutrient neutrality has become clearer during the period since Natural England's 2019 letter through updated position statements. The applicant has amended the scheme or provided revised information in seeking to overcome the matter of nutrient neutrality within that period. For clarity the most recent Ecology response dated 24 May 2023 is the relevant response in respect of the ecological considerations associated with the residential development and relates to the current scheme and ecological information.
- 8.51 Due to the period of time which has passed since original site surveys were undertaken and in order to ensure full consideration is given to wider environmental effects of the proposed construction work on local ecology and potential effects on wider River Lugg SAC (eg through movement of soil and wash-out of nutrients and sediments) a Construction Environmental Management Plan that includes ecological working methods based on refreshed ecological update surveys is requested as a pre-commencement condition.
- 8.52 The above suggested condition alongside all other conditions suggested by the Ecology Officer are included within this updated recommendation.

### **Impact on the River Lugg/Wye Special Area of Conservation**

- 8.53 The application site lies within the hydrological catchment of the River Lugg, which forms part of the River Wye Special Area of Conservation (SAC), which is currently failing its conservation status as a result of phosphate levels within the river.
- 8.54 As the competent authority, Herefordshire Council is required to complete an Appropriate Assessment of the implications of the plan or project for the site in view of its conservation objectives. Regulation 63 (5) directs that the competent authority may agree to the project (i.e. grant planning permission) only after having ascertained that it will not adversely affect the integrity of the European site. Regulation 63 (3) requires consultation and regard to representations made by the relevant statutory body, which in this case is Natural England.

- 8.55 The Applicant has utilised Natural England's 'Nutrient Neutrality Budget Calculator – River Lugg Catchment' to determine that the development would create an annual phosphorus load of 2.94kg TP/year which must be managed against in order to avoid detriment to the River Lugg.
- 8.56 The Council's Built and Natural Environment Team (Ecology) has reviewed the development proposal and associated phosphorous load figures. The developer has applied for, and received an allocation of Phosphate Credits to mitigate for the generated load.
- 8.57 In purchasing these credits, the Applicant will be funding the delivery of the wetland project which, in turn, will mitigate for the effects of their development and deliver net betterment to the Lugg. The amount of credits to be purchased must therefore be commensurate with the impact that requires mitigation. The Council's Phosphate Credit Pricing and Allocation Policy April (2022) sets a charge of £14,000 per Kg of phosphate generated (plus VAT). Based on the annual phosphorus load of 2.94kg TP/year, the applicant is required to purchase credits to the value of £41,160.00.
- 8.58 The sum would be secured by way of Section 106 agreement. The Council's Built and Natural Environment Team (Ecology) has completed an Appropriate Assessment (AA). This can be viewed using the following link  
<https://myaccount.herefordshire.gov.uk/documents?id=43c52440-14d0-11ee-906b-005056ab3a27>  
On the basis of the program of integrated wetland delivery and the phosphate credit system developed by Herefordshire Council in partnership with a number of organisations including Natural England and, given the development has committed to purchasing the phosphate credits required to address the phosphate load generated by the development, this proposal is considered not to have a likely impact on the integrity of the SAC and planning permission can therefore be granted.
- 8.59 A completed AA has been sent to Natural England and in a response dated 5 May 2023, Natural England confirms it considers the proposal will not have significant adverse impacts on designated sites and has no objection. This is on the basis of nutrient neutrality being secured. In addition to the legal agreement to secure the sum required, it is also noted a condition is included to control water efficiency measures to a maximum of 110l per day water usage together with the requirement for a Package Treatment Management Plan to be submitted. Those conditions are included within this recommendation.

## Highways

- 8.60 Core Strategy Policy MT1 relates to traffic management, highway safety and promoting active travel. The policy identifies a number of principle requirements which should be incorporated into proposals. Those relevant to this application include:
- Promote and, where possible incorporate integrated transport connections and supporting infrastructure, including access to services by means other than private motorised transport;
  - Encourage travel behaviour through use of travel plans;
  - Ensure developments are laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for emergency services;
  - Protect existing local and long distance footways, cycleways and bridleways;
  - Have regard to the Council's Highway Development Design Guide and cycle and vehicle parking standards, having regard to the location of the site and the need to promote sustainable travel choices.
- 8.61 Additional representations have been received since the 2018 Committee raising concerns in respect of access, highway safety and number of dwellings proposed. The access location remains as per the previously approved outline and reserved matters. Highway arrangements are also unchanged from the development considered by Committee in respect of this application in

2018. The Core Strategy and NDP Policy context remains consistent. The Local Highway Authority has assessed the proposed development and raises no objection subject to various conditions which are included in the recommendation.

### Section 106 – Planning Obligations

- 8.62 A development of this scale and nature attracts various financial contributions which would need to be secured via a Section 106 Agreement. The provision of affordable housing would also need to be secured via such an agreement.
- 8.63 Consultation comments have been provided in respect of certain requirements, for example for open spaces, health care provision and education. These are set out within Draft Heads of Terms as included within the table below:

Infrastructure	Quantum of contribution
Affordable Housing	6 units of Low Cost Market affordable housing comprising; <ul style="list-style-type: none"> <li>• <b>4 x 2 bedroom</b> with 43% discount off open market value</li> <li>• <b>2 x 3 bedroom</b> with 47% discount off open market value</li> </ul> with local priority to Kimbolton.
Healthcare contribution	A financial contribution of <b>£528.48</b> per dwelling to provide the Health Care Facilities required at Hereford Hospital.
Education contribution	A financial contribution of; <ul style="list-style-type: none"> <li>• <b>£4,934.00</b> per 2 bedroom open market dwelling</li> <li>• <b>£4,934.00</b> per 3 bedroom open market dwelling</li> <li>• <b>£8,281.00</b> per 4+ bedroom open market dwelling</li> </ul> to provide the education facilities at Leominster Early Years, St James Kimbolton Primary School, Post 16, Leominster Youth and Special Education Needs.
Recycling and waste contribution	A financial contribution of <b>£80.00</b> per dwelling to provide 1 x black bin and 1 x green bin  In the event that the council implements a new waste strategy a contribution of <b>£130.00</b> per dwelling to provide 5 waste bins
Sports contribution	A financial contribution of <b>£152.00</b> per open market dwelling to provide a multi-use sports hall to the rear of the St James Kimbolton primary school and/or improvements/enhancement to both outdoor and indoor sports facilities at Bridge Street Sports Park
Open Space/Play contribution	A financial contribution of; <ul style="list-style-type: none"> <li>• <b>£965.00</b> per 2 bedroom open market dwelling</li> <li>• <b>£1,640.00</b> per 3 bedroom open market dwelling</li> <li>• <b>£2,219.00</b> per 4+ bedroom open market dwelling</li> </ul> To provide a new recreation and play area in Kimbolton or improvements to the existing public right of way network in Kimbolton.

Further information on the subject of this report is available from Ms Chloe Smart on 01432 260139

Transport contribution	<p>A financial contribution of;</p> <ul style="list-style-type: none"> <li>• <b>£2,457.00</b> per 2 bedroom open market dwelling</li> <li>• <b>£3,686.00</b> per 3 bedroom open market dwelling</li> <li>• <b>£4,915.00</b> per 4 bedroom open market dwelling</li> </ul> <p>To provide any or all of the following transport infrastructure improvements;</p> <ul style="list-style-type: none"> <li>• Providing and improving footpaths in the village</li> <li>• Installation of features to reduce road traffic speeds and provide safer environments for pedestrians, cyclists and motorists</li> <li>• Improved 30mph signage</li> <li>• Speed Indicator Devices</li> <li>• Cycle way link to A49</li> </ul>
Libraries	<p>The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of;</p> <ul style="list-style-type: none"> <li>• <b>£120.00</b> (index linked) 1 bedroom open market dwelling</li> <li>• <b>£146.00</b> (index linked) for a 2 bedroom open market dwelling</li> <li>• <b>£198.00</b> (index linked) for a 3 bedroom open market dwelling</li> <li>• <b>£241.00</b> (index linked) for a 4+ bedroom open market dwelling</li> </ul> <p>The contribution will provide for improved library infrastructure at Leominster library.</p>
Phosphate Credit	<p>The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of <b>£41,160.00</b> based on a requirement of 2.94kg x £14,000.00.</p> <p>The contribution will provide for the management and ongoing development of the Integrated Wetland Schemes.</p>

8.64 The S106 now also includes the mechanism for the securing of the requisite purchase and allocation of phosphate credits to mitigate the phosphate impacts of the development as above set out.

8.65 The S106 is not finalised and therefore the recommendation is that permission is granted subject to either the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the S106 Contributions stated in the report, or a condition requiring the completion of an agreement prior to the commencement of development, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions considered necessary.

### Other issues

8.66 A submitted letter of representation raises a concern in respect of trees. A tree report accompanies the application, however, a condition requiring updated details in respect of trees and further details in terms of their protection during the construction process has been included.

### Conclusion

- 8.67 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.68 In this case, the proposal does not provide the level of affordable housing sought by Policy H1 and K9 of the Kimbolton Neighbourhood Development Plan. The circumstances surrounding the affordable housing proposals have been summarised within the relevant sections of this report.
- 8.69 Overall, the scheme is considered to provide the size, type, tenure and range of housing that is reflective of local demand and is policy compliant in all other respects. The application is recommended for approval subject to the completion of a Section 106 Agreement in accordance with the Draft heads of Terms detailed within this report.

## **RECOMMENDATION**

**That subject to either the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions or amendments to conditions considered necessary:**

### **General Conditions**

1. **The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

**Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.**

2. **The development shall be carried out strictly in accordance with the approved plans (Drawing Nos Inserted) except where otherwise stipulated by conditions attached to this permission.**

**Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

### **Details required prior to commencement**

3. **Prior to commencement of development, a detailed plan, showing the levels of the existing site, the proposed slab levels of the dwellings approved and a datum point outside of the site, shall be submitted to and be approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**

**Reason: In the absence of sufficient detailed information, the clarification of slab levels is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to define the permission and ensure that the development is of a scale and height appropriate to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

4. **Prior to commencement of development, a detailed, comprehensive, Construction Environmental Management Plan – including but not limited to detailed ecological working methods, retained tree and hedgerow protection scheme and consideration of all environmental effects of construction processes shall be supplied to the LPA for written approval.**

The approved CEMP shall be implemented in full for the duration of all construction works at the site unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council's declared Climate Change & Ecological Emergency.

5. Prior to commencement of development, a detailed Landscape Ecological Management Plan (LEMP) should be supplied for written approval by the local planning authority. The LEMP must include full specifications for proposed Hedgerow planting (minimum of 7 woody plants per meter in a double staggered row); standard hedgerow trees (planted at random spacings based on 1 tree per 10m of hedgerow); specification for wildflower rich grass seed; and an establishment and maintenance plan.

The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.

All species proposed should be locally characteristic, native species considering climate change and pest-pathogen resilience. No spikey or thorny species should be planted adjacent to any highway, footway or areas of formal public open space.

Reason: To ensure that biodiversity net gain is secured and habitats enhanced having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3; and the council's declared Climate Change and Ecological Emergency. Compliance with Highways Design Guide and to consider resident safety.

6. Prior to commencement of development, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:

- a. Construction Access details (including visibility splays and any boundary treatments)
- b. Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.
- c. Parking for site operatives and visitors which shall be retained and kept available during construction of the development.
- d. A plan to show the location of site offices and rest areas for staff
- e. A noise management plan including a scheme for the monitoring of construction noise.
- f. Details of working hours and hours for deliveries
- g. A scheme for the control of dust arising from building and site works
- h. A scheme for the management of all waste arising from the site
- i. A travel plan for employees

Reason: In order to protect the residential amenity of adjacent properties, to ensure that an appropriate mix of housing is maintained across the site, and to comply with



**Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**No works with the exception of site clearance and groundworks**

7. **With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls and roofs have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**

**Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

8. **With the exception of site clearance and groundworks, no further development shall commence until a landscape scheme has been submitted and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:**
- a) **Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.**
  - b) **Trees and hedgerow to be removed.**
  - c) **All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.**
  - d) **All proposed hardstanding and boundary treatment.**

**The landscaping scheme shall be carried out in accordance with the approved details prior to occupation of the dwellings hereby approved.**

**Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.**

9. **With the exception of site clearance and groundworks, no further development shall take place until the applicant has undertaken and cleansing work and CCTV survey on the existing highway drain to confirm its functionality. The details of that assessment shall be submitted to and approved in writing by the local planning authority and any remedial works undertaken prior to occupation of the dwellings hereby approved.**

**Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

10. **Development shall not begin in relation to the provision of road and drainage infrastructure (on and off site works) until the following details are submitted to and approved in writing to the local planning authority:**

- Visibility Splays
- Access Gradient
- Surface finishes
- Drainage details
- Future maintenance arrangements (including any technical approvals / adoption)

The development shall be carried out and thereafter maintained in accordance with the approved details before the occupation of any of the dwellings hereby approved (unless a phasing plan is submitted to and approved in writing by the Local Planning Authority)

**Reason:** To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

**Details required prior to occupation**

11. Prior to the occupation any dwelling hereby permitted, a Package Treatment Plant Management Plan for the management in perpetuity of the approved package treatment plant including all elements of monitoring, maintenance and dosing shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall be written by a British Water Accredited Service Technician, or other suitably qualified professional, and all elements of management/maintenance shall only be carried out by a professional individual/company. Sludge shall be removed by a registered waste carrier. Management of the system shall then be in accordance with the approved details for the lifetime of the development.

**Reason:** To ensure that nutrient neutrality is secured and habitats enhanced having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3; and the council's declared Climate Change and Ecological Emergency. Compliance with Highways Design Guide and to consider resident safety.

12. Prior to occupation of any dwelling hereby permitted, a schedule of implementation and landscape maintenance for any areas of outside of the residential curtilage shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with this approved schedule.

**Reason:** To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

13. Prior to the first occupation of any dwelling hereby permitted, an area for car parking shall be laid out within the curtilage of that property, in accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.

**Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 14. Prior to the occupation of any dwelling hereby permitted, full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of each dwelling shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained;**

**Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 15. Prior to the first occupation of any dwelling hereby permitted, a scheme demonstrating measures for the efficient use of water demonstrating a maximum water usage of 110l per person per day water usage shall be submitted to and approved in writing by the local planning authority and implemented as approved. The development shall be retained in accordance with the approved details thereafter.**

**Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy and the National Planning Policy Framework and having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3; and the council’s declared Climate Change and Ecological Emergency.**

- 16. Prior to the first occupation of any dwelling hereby permitted, a scheme to enable the charging of plug in and other ultra low emission vehicles (e.g. provision of outside electric sockets ) to serve the occupants of the dwellings hereby approved shall be submitted to and approved in writing by the local planning authority.**

**Reason: To address the requirements policies in relation to climate change SS7 and SD1 of the Herefordshire Local Plan Core Strategy and the guidance contained within the National Planning Policy Framework.**

### **Compliance**

- 17. The foul and surface water drainage arrangements shall be implemented in accordance with the following documents:**
- Amended Proposed Site Plan (Rev A); and**
  - Technical Note Mitigation Strategy Review;**
  - Drainage & External Works Layout (2/2) (Rev O);**
  - Section 38 Highways Drainage Plan (2/2) (Rev N);**
  - S104 Flow Control Chamber & Tank Details (Rev G).**
  - 881-042B Off Site Drainage Layout Rev B (Dated 30 Aug 2023).**

The development shall be carried out and thereafter maintained in accordance with the approved details before the occupation of any of the dwellings hereby approved (unless a phasing plan is submitted to and approved in writing by the Local Planning Authority)

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no windows; including rooflights, shall be constructed in any of the elevations of the bungalows shown on Plots 1 to 3 of the approved plan - Proposed Site Plan (Drawing Ref: 5776/25/P/10).

Reason: In order to protect the residential amenity of adjacent properties, to ensure that an appropriate mix of housing is maintained across the site, and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

19. No retained tree or hedgerow shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for 10 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars.

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

20. No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3; ; and the council's declared Climate Change and Ecological Emergency

#### **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. This full planning permission is issued pursuant to a Section 106 Town & Country Planning Act 1990 obligation agreement dated (date to be added in upon completion of S106 Agreement).**
- 3. This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517),), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.**
- 4. Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel. 01432 845900.**
- 5. It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.**
- 6. No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.**
- 7. The developer is required to submit details of the layout and alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations. It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Adequate storm water disposal arrangements must be provided to enable Herefordshire Council, as Highway Authority, to adopt the proposed roadworks as public highways. The applicant is, therefore, advised to submit the engineering and drainage details referred to in this conditional approval at an early date to the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ for assessment and technical approval. No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.**
- 8. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.**

9. Any work involving the removal or disturbance of ground or structures supporting or abutting the publicly maintained highway should be carried out in accordance with details to be submitted to and approved in writing by the Highway Authority or their agent. Please contact Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517),
10. The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'

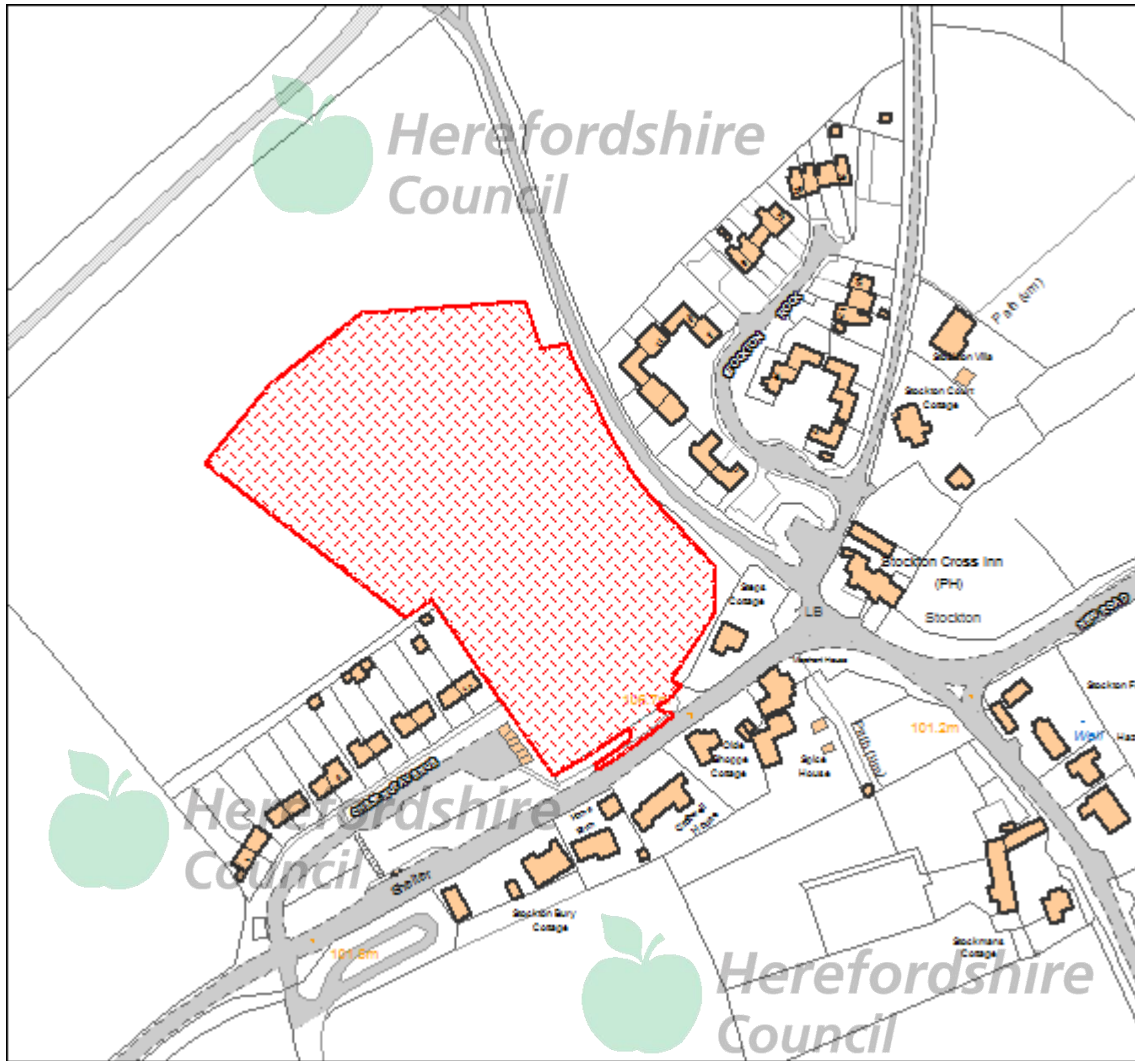
Decision: .....

Notes: .....

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**Background Papers**

None identified.



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**APPLICATION NO:** 181384

**SITE ADDRESS :** FIELD ADJOINING A4112 AND CHESTNUT AVENUE, KIMBOLTON, LEOMINSTER

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