

**DCNW2006/0298/F - RESIDENTIAL DEVELOPMENT
FOR 54 DWELLING, WITH CAR PARKING SPACES,
NEW ACCESS ROAD, LANDSCAPING, AT MAESYDARI
SITE, KINGTON, HEREFORDSHIRE, HR5 3FA**

**For: J R M Property Development Ltd, D P Daw
Chartered Architect, 1600 Park Avenue, Aztec West,
Bristol, BS32 4UA**

Date Received:
31st January 2006

Ward: Kington Town

Grid Ref:
29744, 56799

BVPI TARGET:
2nd May 2006

Local Member: Councillor T James

INTRODUCTION

The application was reported to the Northern Area Planning Sub-Committee with a recommendation for approval. The Sub-Committee resolved to refuse permission on the grounds that the density of development is too high and that the development would result in highway safety problems on the surrounding highway network due to the large number of proposed dwellings. The Sub-Committee considered the provisions for some on-site and some off-site open space to be less than satisfactory and found the design of the layout to be too cramped.

Notwithstanding the concerns of the Northern Area Planning Sub-Committee the density of development accords with current policy in particular Unitary Development Plan Policy H15 which requires a minimum density of 50 dwelling per hectare in and adjacent to town centres in the Market Towns. Furthermore the residential development of this site would secure important policy gains for housing, affordable housing, off-site and on-site open space, and local education facilities. Consequently a refusal of permission on these grounds would be contrary to established and emerging Herefordshire Council policies, including policies of strategic significance.

With regard to the highways concerns of the Northern Area Planning Sub-Committee the developer has submitted a Transport Assessment (since the previous refusal of permission) to demonstrate that there are no likely adverse effects on highway safety or congestion. Furthermore, the level of car parking provision within the scheme accords with National and Herefordshire Council's own policies. The Transportation Manager agrees with the conclusions of the Transport Assessment and recommends approval. In these circumstances there is no realistic chance of defending a highways reason for refusal on appeal.

For the above reasons the application is referred to this Planning Committee for determination.

1. Site Description and Proposal

- 1.1 The application site comprises a site of approximately 1.08ha located towards the north of the centre of Kington. The site has been disused for some time except for one of the bungalows that remains in occupation on the site. The remainder of the site had been used in part as a former nursery / horticultural use with some of the site given over to residential and garaging. Vehicular access to the site is currently gained via Oxford Lane and leads through the garaging which is sited in the South East corner of the site.
- 1.2 The site is bounded to all sides by mature hedgerows allowing glimpses of the site from the periphery. The southern boundary runs along prospect walk, which has a partial stone walled boundary and partially concrete block work.
- 1.3 The site lies within a primarily residential area as defined in the Leominster District Local Plan. It lies outside of the Kington Conservation Area, although the boundary of this runs along the southern periphery of the site.
- 1.4 This revised proposal is for the residential development of 54 dwellings on site to include:
 - 8 no. one bedroom flats within a two-storey block
 - 8 no. four bed units (three storey)
 - 14 no. three bed units (three storey)
 - 8 no. three bed units (two storey)
 - 11 no. two bed units (two storey)
 - 5 no two bed units (single storey over garage or access)
- 1.5 Included within the 54 dwellings are 16 affordable housing units, comprising
 - 8 for rent to be:
 - 3 no. 4 bed houses (2 x 4 bed, 6 person and 1 x 4 bed, 7 person)
 - 1 no. 2 bed houses (1 x 2 bed, 4 person)
 - 4 no. 1 bed flats (4 x 1 bed, 2 person)
 - 8 for shared ownership
 - 4 no 2 bed houses (4 x 2 bed, 4 person unit)
 - 4 no 1 bed flats(4 x 1 bed, 2 person units)
- 1.6 Access to the site would be revised with the existing vehicular access from Duke Street, along Oxford Lane being restricted to pedestrian access only to this site. Access would therefore be gained via a revised / new access from Greenfield Drive (Llewelin Road). This would involve re-aligning the cul-de-sac that lies to the east of the site and the creation of a 5m wide access road enters the site through the existing eastern boundary. Pedestrian access to the site can be gained via the existing public rights of way, with pedestrian / cycle access being incorporated into the scheme along the southern boundary onto Prospect Lane.
- 1.7 The proposal retains the majority of the existing trees and planting along the boundaries, including a small copse of trees to the east of the site. The only loss of boundary landscaping would be to allow for the access to the site. An area of public open space has been set-aside and is central to the site.

- 1.8 The local planning authority has also recently received a design statement and transport assessment copies of which have been sent to the town council and Transportation Manager. Members may recall that a committee site visit to this site took place on the 18th October 2005.

2. Policies

2.1 Regional Spatial Strategy

- Policy RR3 – Market Towns
- Policy CF4 – The Re-use of Land and Buildings for Housing
- Policy CF5 – Delivering Affordable Housing and Mixed Communities

2.2 Leominster District Local Plan

- Policy A1 – Managing the District’s Assets and Resources
- Policy A16 – Foul Drainage
- Policy A17 – Contaminated Land
- Policy A18 – Listed Building and their Setting
- Policy A21 – Development within Conservation Areas
- Policy A22 – Ancient Monuments and Archaeological sites
- Policy A23 – Creating Identity and an Attractive Built Environment
- Policy A24 – Scale and Character of Development
- Policy A30 – Redevelopment of Employment Sites to Alternative Uses
- Policy A49 – Affordable Housing
- Policy A53 – Protection from Encroachment in the Countryside
- Policy A54 – Protection of Residential Amenity
- Policy A55 – Design and Layout of Housing Development
- Policy A61 – Community, Social and Recreational Facilities
- Policy A64 – Open Space Standards for New Residential Development
- Policy A70 – Accommodating Traffic from Development
- Policy A77 – Traffic Management

2.3 Herefordshire Unitary Development Plan (Revised Deposit Draft)

- Policy S2 – Development Requirements
- Policy S3 – Housing
- Policy DR1 – Design
- Policy DR4 – Environment
- Policy DR5 – Planning Obligations
- Policy DR9 – Air Quality
- Policy DR10 – Contaminated Land
- Policy H2 – Hereford and the Market Towns: Housing Land Allocations
- Policy H9 – Affordable Housing
- Policy H13 – Sustainable Residential Design
- Policy H15 - Density
- Policy H16 – Car Parking
- Policy H19 – Open Space Requirements
- Policy T7 – Cycling
- Policy HBA4 – Setting of Listed Buildings
- Policy ARCH1 – Archaeological Assessment and Field Evaluations
- Policy ARCH6 – Recording of Archaeological Remains
- Policy RST3 – Standards for Outdoor Playing and Public Open Space
- CF2 – Foul Drainage

CF5 – New Community Facilities

- 2.4 Planning Policy Guidance Note 3: Housing
- Planning Policy Guidance Note 13: Transportation
- Planning Policy Guidance Note 16: Archaeology and Planning
- Planning Policy Guidance Note 15: Planning and Historic Environment

2.5 Supplementary Planning Guidance

Provision of Affordable Housing. November 2004

3. Planning History

- 3.1 DCNW2005/3082/ F - residential development for 58 dwellings, 88 car parking spaces, new access and landscaping - refused 30th November 2005 for the following reasons:

1. The density of the proposed development is considered to represent an overdevelopment of the site that would be out of character with the general density of the surrounding area. As such the proposal conflicts with policies A1, A23 and A24 of the Leominster District Local Plan and Policy H13 of the Herefordshire Unitary Development Plan (deposit draft).

2. The proposed development, by virtue of the density of development would put unnecessary strain on the existing highway network to the detriment of highway safety for highway users and pedestrians in conflict with Policy A70 of the Leominster District Local Plan.

An appeal has also been lodged with the Planning Inspectorate against this refusal which will be heard at a public inquiry. Date to be confirmed.

- 3.2 DCNW2004/4387/F - Residential development for 50 dwellings, 75 car parking spaces, new access, landscaping and children's play area - Withdrawn 20th September 2005

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water have no objection subject to the inclusion of conditions and advisory notes regarding the drainage from the site.

Internal Council Advice

- 4.2 The Transportation Manager recommends approval for this development with the following conditions and observations:-

The highways officers also notes the reason for refusal on the previous application included highway issues and notes that a Transport Assessment (TA) has now been submitted and demonstrates that the development would not "strain the highway network to the detriment of highway safety".

- Inclusion of Conditions H17, H18, H19, H21, H26 (Greenfield Drive), H27, H29 and Informatives: HN1, HN4, HN5, HN7, HN8, HN9, HN10, HN16, HN17, HN22
- Section 278 Agreement required for alteration to existing road "Greenfield".

- "Greenfield Drive" will require re-surfacing up to its junction with Llewellyn Road, as well as parking area south of 12 Greenfield.
- Pedestrian access shown onto Prospect Lane and Oxford Lane to be constructed to adoptable cycle access standards; both width of the opening and the pavement leading to it from the development must be wide enough as per accepted guidance.
- Widen Prospect Lane (Footpath ZE18) and Footpath ZE23 from Greenfield Drive to Prospect Lane to at least 2.0m in line with "Inclusive Mobility" guidance along boundary.
- Limit height of boundary wall along Prospect Lane to 1.2m maximum, to enhance personal security of users of the lane.
- Provide lighting and re-surface Prospect Lane (ZE18), and ZE23 from Greenfield Drive to Prospect Lane (S38 works).
- Parking allocation for properties adjacent to the tandem parking spaces is unclear and requires clarification and marking.
- Footways to Plots 1 - 6, 12 - 18, and 55 - 58 to be widened to 2.0m to be suitable for adoption.
- Section 106 Agreement required for contribution to Highways to mitigate the increase in traffic generated by the development. Contribution sought of 1,500 per dwelling. Schemes suggested for such mitigation include, but are not limited to:
 - Traffic calming and improved signing in Llewellyn Road and Greenfield Drive
 - Contribution to improved bus service
 - Contribution to Safe Routes for Schools
 - Improved cycle parking in town centre, shops and schools
 - Improved bus shelters/stops in Kington
 - Improve lighting to highway on routes leading to site

4.3 The Forward Planning Manager comments can be summarised as follows:

The application, through the negotiations that have taken place and the discussions with relevant officers is acceptable under current and emerging policies, meeting density requirements of such a site along with supplying affordable housing in a prime site location. The amount of affordable housing is 16 instead of 18, which seems to have been negotiated by officers. Material considerations, such as suitability of layout, design and materials, along with highways issues, such as traffic generation and access are subject to the comments of relevant officers.

4.4 The Conservation Manager makes the following observations:

Conservation Officer:

The Maesydari site is located adjacent to the Kington Conservation Area. It appears that issues raised by the previous conservation officer regarding this proposal have been addressed. The use of materials reflecting the character and appearance of the Conservation Area is welcomed. No objections subject to the approval of materials.

Ecologist:

The applicants have provided me with an ecological report based upon a protected species assessment of the site. This highlighted a diversity of habitat for nesting birds and for reptiles such as slowworm, evidence of the presence of bats utilising the site with roosting potential in one of the buildings. I note that the assessment for protected species has been compromised somewhat by the time of year it was carried out and the adverse weather conditions. **It is vital that further surveys are carried out within**

season and in appropriate weather conditions prior to development operations taking place.Landscape Officer:

With this revised scheme, the landscape issues remain the same. I support the proposals to retain as much of the boundary hedgerow and the better tree specimens, as proposed. Regarding new tree planting, I reiterate my recommendation that trees should be planted along both sides of the new access road into the site, set back from the pavement. It appears that there is only one short section on this road, where this might not be possible, due to visibility requirements.

I will require details of the landscape proposals for the land between the housing and the access road. This is not indicated as garden space but no details are given for its treatment.

If permission is granted for this development, Conditions G02 & G03 (Landscaping scheme), G09 (Retention of trees & hedgerows) and G18 (Protection of trees) should be attached.

Archaeologist:

Archaeological evaluation trenches were undertaken on site. Under the circumstances I have no further requirements and no further comments to make.

4.5 The Environmental Health Manager requests that the following conditions are attached to any consent to protect residential amenity:

1. F16 - Restriction of hours during construction
2. No materials or substances shall be incinerated within the application site during the construction phase.
3. All machinery and plant shall be operated and maintained in accordance with BS5228:1997 'noise control of construction and open sites'.

Environmental Health Manager (Landfill and Pollution) also makes the following comment:

I understand that the site presently has various uses, including residential, a former nursery and garaging areas. Due to the fact that parts of the site are changing to a more sensitive use, residential with gardens, I would recommend that a desk-study, site walk over and preliminary risk assessment be undertaken. This requirement is in line with Planning Policy Statement 23. Should any concerns be raised at the desk-study stage then a contaminated land investigation should be undertaken.

I would therefore recommend that a contaminated land condition should be applied to the planning permission, an example of a suitable condition is suggested. (Please see recommendation)

4.6 The Public Rights of Way Manager makes the following comments:

The proposed development would not appear to affect public footpaths ZE18 and ZE23 however the following points should be made.

The right of way should remain open at all times throughout the development. If development works are perceived to be likely to endanger members of the public then a

temporary closure order should be applied for, preferably 6 weeks in advance of work starting.

The right of way should remain at its historic width and suffer no encroachment or obstruction during the works or at any time after completion.

4.7 The Strategic Housing Officer makes the following comments:

No comments have been received on this application but lengthy negotiations on the previous application have taken place between yourselves, Strategic Housing and the developer/owner and agents, based on the requirement for 35% affordable housing on this site and an agreement on the housing types in accordance with the Housing Needs Survey for Kington.

4.8 Education make the following comments:

The provided schools for this site are Kington Primary and Lady Hawkins High School.

- Kington Primary is nearing capacity and any additional children entering the area would put a situation where we would have to create permanent buildings, In addition the school has two small classrooms and a nursery, which is housed in temporary accommodation and other teaching areas that are also thoroughfares.
- There is a small amount of space at Lady Hawkins, however additional children entering the area would prevent us from removing temporary classrooms. They also have a number of small classrooms and poor circulation areas.
- The Children's Services Directorate would therefore be looking for a contribution to be made towards Education in the area.
- A contribution of £1000 per dwelling is requested for education in the area.

4.9 The Drainage Engineer has no adverse comments to make on this application. I have spoken to the developers agents and received correspondence on the basis of this I am satisfied that these will be no adverse affects on drainage.

4.10 The Parks & Countryside Officer comments:

"The new development needs to have as much open space as possible and it would be appropriate to provide an equipped play space in or near the development, however, if the developer were willing to provide a £25,000 contribution and upgrade the short length of footpath linking this site to the public open space known as Crooked Well Meadow we could provide a play area that would meet the needs of this development whilst also benefiting the community at large. There is an active play ground committee in the community, who, with some help, should be able to double the money through grants, which would allow us/them to provide an excellent facility for all."

5. Representations

5.1 Kington Town Council object to this application and their comments can be summarised as follows:

- The number of dwellings in the application exceeds the guideline for new stite density (UDP H15), 54. The average density of brownfield sites is 25 to the hectare.
- Barons Cross development is only 35 per hectare.
- Housing Corporation Standards (2003) recommends that location, site layout and building orientation should provide a convenient and attractive environment, visual and acoustic privacy. This scheme would not.

- Letting units in one area would potentially create a ghetto and all problems this entails.
- There is a surplus of 1 bed flats in Kington so is questionable as to whether this type of accommodation is the most suitable.
- Road is narrow with residents parking on the road. There are blind corners on the surrounding roads. A traffic survey should be undertaken. The developer should provide sums for the provision of road improvements such as pedestrian crossings and traffic calming measures.
- Removal of the Horse Chestnut tree to allow development of the site is strongly objected too. Other trees are too close to buildings and will suffer.
- Maintenance of open areas, landscaping and trees not detailed in application.
- Infrastructure in town cannot support potential numbers of residents (school places, dental, medical).
- Provision of water and sewerage facilities to site causes concern.
- Ecology survey undertaken in poor weather and further details needed as specified in their report.

5.2 There have been 21 letters of representation submitted. The issues raised are as follow:

- Impact of increase traffic on Llewelin Road and Green Field Drive which are narrow and difficult to pass other cars. Poor visibility to junctions.
- Increase in traffic would cause danger and conflict. Road infrastructure is inadequate for this level of traffic.
- Insufficient number of car parking spaces to accommodate needs of the development. Should be two per dwelling.
- Pedestrian safety especially for school children and elderly who live around site.
- Number of dwellings proposed is too many. High density. Numbers of houses should be cut.
- Design of dwellings do not meet best practice and are small and claustrophobic.
- The block of flats and three storey dwelling would be obtrusive and conspicuous.
- Overlooking and loss of privacy from three storey houses.
- Impact of noise and disturbance from development to nearby residents.
- Acknowledge the 25,000 contribution to develop the Crooked Well site. But note that the overall cost to re-route the power cables is a further 35,000.
- Trees around site should be retained / preserved at all costs.
- Not enough space at either the primary or secondary schools.
- Lack of facilities for increase in people in Kington. Already stretched to capacity (medical, dental, educational).
- Not enough jobs to provide for the increase in people.
- Noise and disturbance to horses kept at nearby property.
- Close proximity of construction with Boundary to Morgans Orchard. Future Maintenance questioned.
- Robust boundary fence required adjoining unsecured car parking areas for protection and safeguard residents of Morgans Orchard.
- Windows to gable ends overlooking Morgans orchard should be obscure glazed and Fixed Shut.

5.3 A letter has also been received from the Campaign for the Protection of Rural England which make the following points:

- Traffic to and from the site will cause increasing problems in the surrounding areas. The single access to the site would suggest overcrowding

- The appearance of block F is disturbing in its bulk and fenestration compared to the general scheme. There is no provision for waste bins and no proper entrance hallways.
- The design of the houses generally show a lack of utility space, with minimal kitchens and dining areas, and third bedrooms are less than minimal. There is a shortage of storage space, with hallways (if any) unsuitable for prams etc. Little provision is made for waste and recycling bins which could lead to clutter in the small back gardens.
- Block F and the enclave surroundings extremely depressing both in its grim appearance and high density. Their parking spaces are the only outside space from the flat dwellers and the lack of storage is acute. Suggest a reduction in the number of flats and a more socially friendly design.

5.4 The Ramblers Association make the following comments:

- Despite some changes to the original application, I note that the problem of safe access has still not been properly addressed.
- The number of dwelling implies that there will be a significant number of cars using the access to the site. We wish to be reassured that there will be safe access for pedestrians.
- We also note that there is no provision for cycle routes. It is to be expected that some of the children who live on the site will use bicycles for travelling to school and for pleasure. We consider that it may well not be safe for them to do so.

The RA feels that any new developments should take into consideration access for pedestrians and cyclists.

5.5 The full text of these letters can be inspected at Northern Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

6.1 The issues for consideration in the appraisal of this application are:

- a) Principle of residential Development
- b) Highways and Access
- c) Parking
- d) Density
- e) Conservation, Design and Layout
- f) Affordable Housing
- g) Landscaping
- h) Play Space
- i) Ecology
- j) Archaeology
- k) Drainage
- l) Section 106 Agreement

Principle of Residential Development

6.2 The application site lies within an area designated in the Leominster District Local Plan as being a Primarily Residential Area. Policy A52 (Primarily Residential Areas) states that residential development will be permitted within these areas on small vacant or undeveloped sites not specifically identified for housing where proposal comply with the criteria of policy A1. The site is also considered to be previously developed land, the use

of which concurs with guidance contained within PPG3 – Housing. These designations are not altered by the emerging Unitary Development Plan. As such the principle of the residential development of this site is accepted. Furthermore the Regional Spatial Strategy, which is part of the statutory development plan, sets out the key role for Market Towns like Kington in Policy RR3. The policy states:

“Market Towns have a key role in helping to regenerate rural areas as a focus for sustainable economic and housing development and by providing services and other facilities to their rural hinterlands. In fulfilling these roles it is important that the distinctiveness and character of each town is maintained and where possible enhanced”.

The policy goes on to explain how Market Towns have an important role beyond just housing provision in that development within them should also help to re-generate services and facilities with which the Market Towns can serve their rural hinterlands. The development of this largely unused previously developed land accords with this strategic policy and will assist positively in delivering its objectives.

Highways and Access

- 6.3 The application site lies within the centre of the town of Kington and has access to well-used and established footpaths that lead into the town centre. The site currently has vehicular access from Duke Street, along a single width lane (Oxford Lane). This would be closed and a new access to the site would be formed from Greenfield Drive and the network of primarily residential estate roads that surround the site. The access road that will be constructed to serve the site itself would be a cul-de-sac and has been designed to comply with highway standards and would be subject to the necessary highway agreements.
- 6.4 The Transportation Manager has taken account of the increase in traffic using the existing road network and has supports the application subject to the developers undertaking improvement and resurfacing works outlined in their consultation response in paragraph 4.2. In order to mitigate against the additional traffic they have also requested a financial contribution of £1,500 per dwelling (total of £81,000) which would be used for schemes and projects such as:
- a) Traffic Calming and improved signing in Llewellyn Road and Greenfield Drive;
 - b) Contribution to improved bus services;
 - c) Contribution to safe Routes to Schools
 - d) Improved cycle parking in town centre, shops and schools
 - e) Improved bus shelters / stops in Kington
 - f) Improve lighting to highway on routes leading to sites.

The roads and pathways around the site will be constructed to an adoptable standard, including improvements to the footpaths where possible to bring them in line with ‘inclusive mobility’ standards.

- 6.5 Residents’ concerns are duly noted and have been fully considered. The road and footpath network around the site would benefit from traffic calming and improvements. The Transportation Manager has fully assessed this potential impact and considers the mitigation outlined above would suffice in relation to additional traffic and pedestrian movements.

- 6.6 Following the previous refusal the applicants have undertaken a Transport Assessment and submitted the resultant report as part of the current application. The Transport Assessment explains why the development would not give rise to traffic safety or congestion difficulties and accords with current national and local policies. The Transportation Manager agrees with its conclusions and supports the planning application subject to the conditions in the recommendation below and the applicant entering into a Section 106 Agreement as explained in paragraph 6.4 above. In these circumstances there is no realistic prospect of sustaining a highways reason for refusal in the event of an appeal.

Parking

- 6.7 The guiding principles in respect of parking provision can be found in PPG 13 – Transport. Policy H16 of the Unitary Development Plan (which takes on board the guidance published by PPG13 in 2001) suggests a maximum of 1.5 car parking spaces for new housing development, but notably states that there should be “no minimum level of provision”. It continues that “.... Off street parking provision should reflect site location, the type of housing to be provided and the types of household likely to occupy the development”.
- 6.8 Parking provision on the site has been provided at a ratio of 1.5 parking spaces per dwelling, providing the maximum car parking spaces to comply with the National guidance and policies contained within the UDP. Parking spaces have been altered in this re-submission to relate more closely to the dwellings they supply. The site also has the benefit of a network of footpaths leading to the town centre, its public services, shops, facilities and public transport links.

Density

- 6.9 The application site has a site area of 1.08 hectares and 54 dwellings are proposed. The site would therefore have and has a density of 50 dwellings per hectare. The guidance relating to density is PPG 3 – Housing, which housing development which makes more efficient use of land (between 30 and 50 dwellings per hectare net) and encourages local authorities to seek greater intensity of development at places with good public transport accessibility such as city, town, district and local centres or around major nodes along good quality public transport corridors.

- 6.10 Policy H15 of the UDP reads :

“New housing developments should make the most effective and efficient use of the site area available, consistency with housing provision policies. In order to secure the efficient use of the land, the following guideline minimum net site densities have been set for sites of one hectare or more.... Town centre and adjacent sites, at least 50 dwelling per hectare.”

This site has clear and good links with Kington Town and the proposed density of housing is not considered unreasonable or an overdevelopment of the site. As such it complies with the national guidance which is reinforced in the UDP policy. Indeed, if the diversity were reduced significantly from its current level of 50 dwellings per hectare then the development would conflict with Herefordshire Council’s own policies for the efficient use of development land.

Conservation, Design and Layout

- 6.11 The site is immediately adjacent to the boundary of the Kington Conservation Area, which is defined by Prospect Lane and its high rubble stonewall. The historic network of lanes with its varied palette of materials establishes the general grain of development, render, stone, slate and timber framing relate to the more historic areas, whilst the more modern developments are generally defined by their use of red brick. The historic layout of the Conservation Area is difficult to mirror but the more linear form of the dwellings to the south of the site does help to replicate and form a transition between the historic form and newer developments around the site. The use of materials, with a mix of render, stone and brick with slate or tile roofs would provide interest and compliment the surroundings.
- 6.12 The layout has addressed some of the fundamental design ideals contained by placing the parking provision to the rear of the dwellings, creating an attractive street scene and places the needs of people before ease of traffic movement in its design. The use of a central area of open space, fronted by dwellings is also accepted as beneficial. New pedestrian/cycle links have been included onto Prospect Lane to the South giving access to the town and surrounding residential area and promoting a sustainable development.
- 6.13 The design of the dwellings is a mix of two and three storey dwellings / townhouses designed to provide maximum accomodation on the site. The dwellings themselves, by virtue of their orientation, road network and mature landscaping would be prevented from being overbearing or overdominant in their surrounds. Because the site has been free of built up development the residents of the neighbouring properties may perceive that the dwellings would cause a loss of privacy but the orientation, design and siting of these dwellings should prevent this from occurring.
- 6.14 Members of the Northern Area Sub-Committee expressed strong reservations over the design and layout which apart from (in their view) being compromised by the high density was not suitable for this site in Kington. As explained in paragraph 6.2 above the Regional Spatial Strategy acknowledges, in policy RR3, that “the distinctiveness of each town is maintained and where possible enhanced”. This requirement to recognise and work with the vernacular style(s) of architecture is cascaded down through the local plan and the Unitary Development Plan. However, whilst the main shopping street in Kington does have its own distinctive character, this site is not visible from it and does not directly impact upon it. The surrounding sites to the west, north and east of this site (including Morgans Orchard) do not assist in creating a particular local Kington style of either materials or designs. Consequently, it is very difficult to create a design case which would be defensible on appeal that this development in some way damages the distinctiveness of Kington.

Affordable Housing

- 6.15 PPG3 – Housing advises that a community's need for a mix of housing types, including affordable housing, is a material planning consideration. The Kington Housing Needs Survey 2004 identified a need for affordable housing in Kington, in particular it identifies the need for one bed, two bed and four bed (plus) dwellings. There is an overprovision of three bed affordable houses in Kington.
- 6.16 The Councils SPG on Affordable Housing alongside policy H9 of the Unitary Development plan have an indicative target of 35% of the development to be given over to affordable dwellings. The proposal includes 16 affordable units, which

provides a total of 31% of the overall development. This revised application submission has taken on board these requirements and has provided the mix of housing requested, including the three 4-bed dwellings and eight 1- bed flats which are not usually found on development sites as affordable dwellings due to construction costs.

- 6.17 The Strategic Housing Manager has requested a further 2 dwellings to bring this to a target of 35%, however, it is considered that the developer has met the requests of the officers in its provision of the one and four bedroom dwellings on the site. It would be deemed unreasonable to refuse planning permission on these grounds alone. The provision of affordable housing, including the mix and tenure of the dwellings would be secured through a Section 106 agreement.
- 6.18 The overall context for Affordable Housing must also be influenced by the Herefordshire Housing Needs Assessment 2005 (published in August 2005) which underlines the acute shortage of Affordable Houses in Herefordshire. Furthermore, the Annual Monitoring Report (AMR) (which was published in December 2005 and is a statutory part of the new Local Development Framework), states that: "The provision of affordable housing in urban and rural areas of the County is an issue of concern which will need to be subject to continual monitoring." The AMR points out that at the current rate of 91 completions (of affordable housing) per year the County's need for affordable housing will not be met by 2011. Indeed, the Herefordshire Housing Needs Assessment aspires to over 3,000 such dwellings by 2009 alone. Looking at the current planning application on this site the potential delivery of 16 affordable houses is small but non-the-less critical as a contribution to the County's substantial and un-met need for affordable houses.

Landscaping

- 6.19 The application site can be characterised by its mature landscaped boundaries and copses of trees. These have been incorporated into the scheme alongside additional planting and provision of an area of open space. The existing trees and landscaping can be protected and retained by way of a suitable condition. Likewise the provision of additional landscaping for the development as a whole can be controlled by condition. The provision of the area of open space would also be controlled by condition and adopted by Herefordshire Council by way of the Section 106 Agreement once the land was at adoptable standard.

Play Space

- 6.20 The new development needs to provide play space in order to comply with Policy H19 of the UDP. It is considered appropriate to provide an equipped play space in or near the development, however, the Parks and Countryside Officer has suggested that if the developer were willing to provide a £25,000 contribution and upgrade the short length of footpath linking this site to the public open space known as Crooked Well Meadow Herefordshire Council could provide a play area that would meet the needs of this development whilst also benefiting the community at large. There is an active playground committee in the community, who, with some help from Herefordshire Council, should be able to double the money through grants, which would allow us/them to provide an excellent facility for all. The developer has agreed to this and this will be obtained through the Section 106 Agreement.

Ecology

- 6.21 The site has been identified as having a range of protected species. A brief ecological report has been received and the Councils Ecologist has confirmed that further studies will be required over the summer months and as such a non-standard condition is proposed to ensure that mitigation can be undertaken and that the protected species are not harmed. The developer will need to undertake any of the works suggested by the ecologist and the local planning authority, in conjunction with the Councils ecologist will have to be satisfied by the proposed mitigation strategy prior to the commencement of the development.

Archaeology

- 6.22 An archaeological investigation has been undertaken and report submitted. There are no remains of archaeological significance and the Councils Archaeologist is satisfied that no further work is required.

Drainage

- 6.23 Welsh Water has raised no objection to the proposed development. Further storm / surface water drainage details would be required prior to determination and the recommendation that follows reflect this.

Section 106 Agreement

- 6.24 The Section 106 Agreement will facilitate the financial contributions required for education, playspace and highways improvements and projects. It will also ensure the provision of the affordable housing, including the specification of the housing and the way in which the occupation of the houses is managed. A draft Heads of Terms is attached which provides a brief outline of the requirements of the Section 106 Agreement.

Conclusions

- 6.25 The proposed residential development, inclusive of the affordable housing, is acceptable in principle and accords with the local plan policies. The net density of the development at 50 dwellings per hectare conforms with national guidelines and UDP policies. The concerns relating to the intensified use of the road network can be overcome through mitigation provided through the financial contribution. Existing landscaping will be protected and further planting provided to enhance the site and provide screening to the development. A financial contribution towards off site playspace will be secured that will benefit the whole community and not just the residents of the development. Prior to the granting of the planning permission the outstanding ecology details will be required. This revised scheme has successfully addressed and overcome the reasons for refusal of the previous application. In addition to this a Section 106 will be prepared in accordance with the Heads of Terms attached.
- 6.26 A refusal of permission on highways grounds will not be defensible on appeal, and a refusal on design grounds will be very difficult to sustain given the variety of house types and styles in the vicinity of the site. By comparison an approval would deliver key policy gains especially in terms of re use of previously developed land, affordable housing and housing policies generally, and would contribute to the role of Kington as

a market town in accordance with Herefordshire Council's own policies and the supporting network of national, regional and local policies.

RECOMMENDATION

That subject to the receipt of a satisfactory ecological report which includes mitigation methods and that permission be granted subject to:

- 1. The Legal Practice Manager be authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 to (set out heads of agreement) and any additional matters and terms as he considers appropriate.**
- 2. 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 the following conditions:**
 - 1 - A01 (Time limit for commencement (full permission))**
Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
 - 2 - B01 (Samples of external materials)**
Reason: To ensure that the materials harmonise with the surroundings.
 - 3 - F16 (Restriction of hours during construction)**
Reason: To protect the amenity of local residents.
 - 4 - No materials or substances shall be incinerated within the application site during the construction phase.**
Reason: To protect the residential amenities of the neighbouring properties.
 - 5 - H17 (Junction improvement/off site works)**
Reason: To ensure the safe and free flow of traffic on the highway.
 - 6 - H18 (On site roads - submission of details)**
Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied.
 - 7 - H19 (On site roads - phasing)**
Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied.
 - 8 - H26 (Access location)**
Reason: In the interests of highway safety.

9 - H27 (Parking for site operatives)

Reason: To prevent indiscriminate parking in the interests of highway safety.

10 - H29 (Secure cycle parking provision)

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.

11 - G01 (Details of boundary treatments)

Reason: In the interests of visual amenity and to ensure dwellings have satisfactory privacy.

12 - G02 (Landscaping scheme (housing development))

Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment.

13 - G03 (Landscaping scheme (housing development) - implementation)

Reason: To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment.

14 - G09 (Retention of trees/hedgerows)

Reason: To safeguard the amenity of the area.

15 - G18 (Protection of trees)

16 - E16 (Removal of permitted development rights)

Reason: To protect the character of the area and ensure any further development of the site is controlled by the local planning authority.

17 - Prior to the commencement of development a full ecological survey, including mitigation strategy shall be submitted to and agreed in writing by the local planning authority. Works shall be carried out strictly in accordance with the agreed strategies.

Reason: To ensure that the nature conservation interest of the site is protected.

18 - 1. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

a) a 'desk study' report including previous site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice.

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors.

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is development. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. Any variation to the scheme shall be agreed in writing with the local planning authority in advance of works being undertaken. On completion of the remediation scheme the developer shall provide written confirmation that all works were completed in accordance with the agreed details.

INFORMATIVES:

- 1 - N03 - Adjoining property rights
- 2 - N14 - Party Wall Act 1996
- 3 - HN01 - Mud on highway
- 4 - HN04 - Private apparatus within highway
- 5 - HN05 - Works within the highway
- 6 - HN07 - Section 278 Agreement
- 7 - HN08 - Section 38 Agreement details
- 8 - HN09 - Drainage details for Section 38
- 9 - HN10 - No drainage to discharge to highway
- 10 - HN16 - Sky glow
- 11 - HN17 - Design of street lighting for Section 278
- 12 - HN22 - Works adjoining highway
- 13 - N15 - Reason(s) for the Grant of PP/LBC/CAC

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

DRAFT HEADS OF TERMS
Proposed Planning Obligation Agreement
Section 106 Town and Country Planning Act 1990

Planning Application – DCNW2005/3082/F
Residential development for 54 dwellings, 88 car parking spaces, new access road and
landscaping
At Maesydari Site, Kington, Herefordshire

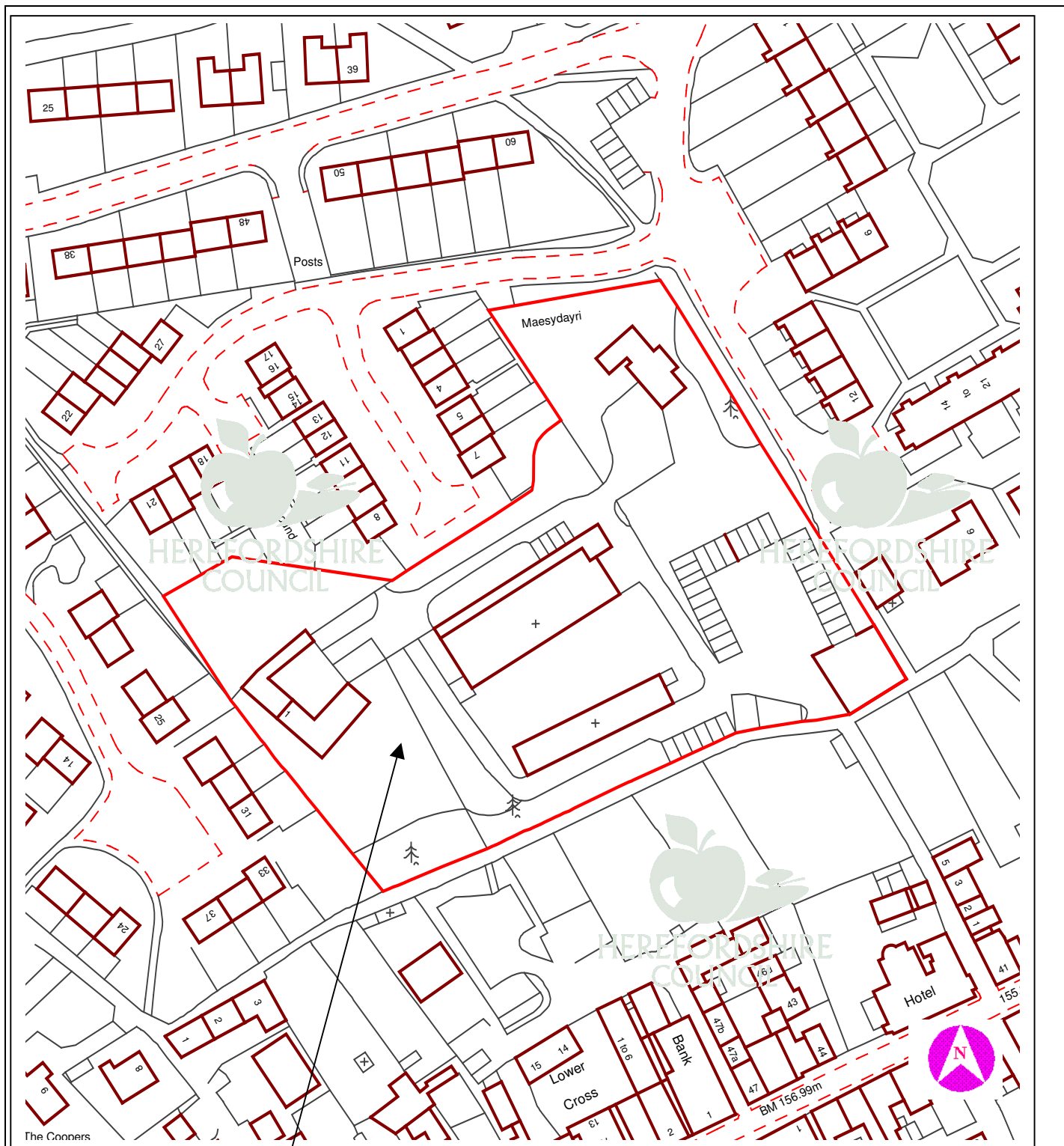
1. The developer covenants with Herefordshire Council, in lieu of the provision of open space on the land to serve the development to pay Herefordshire Council the sum of £25,000 which sum shall be paid on or before the commencement of development.
2. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
 - (i) Upgrade of footpath linking site to Crooked Well Meadow
 - (ii) Provision of play area at Crooked well Meadow
3. In the event that Herefordshire Council does not for any reason use the said sum of Clause 1 for the purposes specified in the agreement in Clause 2 within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof which has not been used by Herefordshire Council.
4. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of £54,000 to provide education facilities and improvements at Kington Primary School and Lady Hawkins High School, Kington which sum shall be paid on or before the commencement of development.
5. In the event that Herefordshire Council does not for any reason use the said sum of Clause 4 for the purposes specified in the Agreement within 10 years of the date of this Agreement, the Council shall repay to the developer the said sum or such part thereof which has not been used by Herefordshire Council.
6. The developer covenants with Herefordshire Council, to pay Herefordshire Council the sum of £81,000 to provide transportation facilities to serve the development which sum shall be paid on or before the commencement of development.
7. The monies shall be used by Herefordshire Council at its option for any or all of the following purposes:
 - a) Traffic calming and improved signing in Llewellyn Road and Greenfield Drive
 - b) Contribution to improved bus service
 - c) Contribution to Safe Routes for Schools
 - d) Improved cycle parking in town centre, shops and schools
 - e) Improved bus shelters/stops in Kington
 - f) Improve lighting to highway on routes leading to site
8. In the event that Herefordshire Council does not for any reason use the said sum of Clause 6 for the purposes specified in the agreement within 10 years of the date of this agreement, the Council shall repay to the developer the said sum or such part thereof which has not been used by Herefordshire Council.

9. The Developer shall provide 18 “Affordable Housing” units which meet the criteria set out in Section 5.5 of the Unitary Development Plan for Herefordshire (Revised Deposit Draft) and related policy H9 or any statutory replacement of those criteria and that policy. None of the Affordable Housing shall be occupied unless the Herefordshire Council has given its written agreement to the means of securing the status and use of these units as Affordable Housing. These 18 units shall be on plots [to be defined by reference to a site layout plan] unless otherwise agreed in writing by the Herefordshire Council. All the affordable housing units shall be completed and made available for occupation prior to the occupation of more than 50% of the other residential units on the development.

10. The developer shall pay to the Council on or before the completion of the Agreement, the reasonable legal costs incurred by Herefordshire Council in connection with the preparation and completion of the Agreement.

11. The developer shall complete the Agreement by 1st May 2006 otherwise the application will be registered as deemed refused

K.Gibbons, P.J.Yates 11th November 2005



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APPLICATION NO: DCNW2006/0298/F

SCALE : 1 : 1250

SITE ADDRESS : Maesydayri site, Kington, Herefordshire, HR5 3FA

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