

# DELEGATED DECISION REPORT

## APPLICATION NUMBER

**163302**

Land at The Byers, Townsend Farm, Brampton Abbots, Ross-on-Wye,

**CASE OFFICER: Mr C Brace**

**Relevant Development Plan Policies:**

- SS1 – Presumption in favour of Sustainable Development
- SS2 – Delivering new homes
- SS6 – Environmental quality and local distinctiveness
- SS7 – Addressing climate change
- SD1 – Sustainable design and energy efficiency
- RA1 – Rural Housing Strategy
- RA2 – Herefordshire's villages
- LA1 – Landscape and townscape
- LD3 – Green infrastructure
- LD4 – Historic environment and heritage assets
- SD1 – Sustainable Design and Energy Efficiency
- SD2 – Renewable and low carbon energy

**Neighbourhood Plan:** Brampton Abbots and Foy Group are preparing a Neighbourhood Development Plan however it has not reached Regulation 14 stage and as such has no weight.

**Relevant Site History:** 152831/CE – Pre application advice

### CONSULTATIONS

	Consulted	No Response	No objection	Qualified Comment	Object
Parish Council	√				√
Transportation	√				√
Environmental Health	√		√	√	
Newspaper/ Site Notice	√				√ x 8
Other					
Welsh Water	√		√		
Local Member	√				√

### PLANNING OFFICER'S APPRAISAL:

#### Site description and proposal:

The application comprises an area of open space associated with Townsend Farm which is located on the Northern part of Brampton Abbots. Brampton Abbots is designated under policy RA2 of the Core Strategy as a sustainable location for appropriate proportional



residential growth. The village benefits from a Church, village hall and children's' nursery, whilst the Primary School is located on the main road between Ross-on-Wye and the village. Brampton Abbots lies approximately 2.5km from Ross-on-Wye Town Centre. The site, as is the whole of Brampton Abbots and surrounding area (including parts of Ross-on-Wye), within the statutory designated Wye Valley Area of Outstanding Natural Beauty.

The proposal is the erection of four dwellings.

#### Representations:

Brampton Abbots Parish Council objects on the following summarised points –

- The conclusions in the Planning Statement are flawed and based on totally inaccurate information and should be totally disregarded
- The Application fails to respond appropriately to the key issues in the local plan
- Does not provide improved infrastructure
- Does not conserve and enhance valued natural, historic and built environments including areas of Natural Outstanding Beauty.
- Does not Address issues from an aging population
- Does not Achieve sustainable development and reduce the reliance on the private car.
- In the core strategy there is a need for a balanced environmental issues and economic and social needs. in this area the ANOB is the paramount consideration as well as the need to use the private transport

Eight letters of objection from local residents has been received.

The Council's Area Engineer objects and Recommend refusal on the following grounds –

- The impact of development on the existing highway and vehicles has not been reviewed.
- The documents which have been submitted are inaccurate

Without the correct documentation in regards to speed surveys and a review of the implications of the development on the existing highway and any grounds of mitigation the application can not be supported.

The Council's Environmental Health Officer comments with regard to this proposal relate to the potential impact on the amenity of future occupants at the proposal arising from activities in the immediate vicinity.

The proposed dwellings are in close proximity to a number of agricultural barns whose current use is for storage purposes, stabling and a riding school. I am of the opinion that these activities would not impinge on the amenity of the occupants of the proposal. My only concern therefore is that if the use of these barns were to change, especially to the housing of livestock by way of cattle, pigs or chickens or turkeys, then this could present issues of odour, noise and flies to the occupants.

If it were possible therefore my recommendation would be to restrict the neighbouring barns such that their use is restricted to storage, a riding school and stabling. If it is not possible to restrict the activities of the barns, the applicant must be made aware that if the use of these



barns were to change, they may at a subsequent date find that the activities therein may be subject to restriction if found to be a Statutory Nuisance under the Environmental Protection Act 1990.

Welsh Water has no objection requesting conditions if approval is granted.

Local Member updated by email on 17/1/2017, delegated refusal agreed.

Discussed the recommendation with Ward Cllr on 31.1.17 – agreed the impact on AONB and highway safety as appropriate reasons for refusal (Simon Withers)

#### Pre-application discussion:

Under reference 152831/CE – the LPA was not approached after providing detailed advice prior to the application being submitted. The proposal is considered not to have followed the advice provided.

#### Constraints:

Impact on the character and appearance of an AONB  
Protected species

#### Appraisal:

The local authority is currently failing to provide a 5 year Housing Land Supply, plus a 20% buffer, which must be met by all local authorities in accordance with paragraph 47 of the NPPF. Paragraph 49 of the NPPF states that *'relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'*.

Where the existence of a five year land supply cannot be demonstrated, there is presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing. Paragraph 14 of the NPPF states that there *"is a presumption in favour of sustainable development and for decision taking this means... where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless 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... or specific policies in this Framework indicate development should be restricted."*

In reaching a decision upon new housing, the housing land supply position will need to be balanced against other factors in the development plan and/or NPPF which could result in the refusal of planning permission. This site is therefore assessed and considered on its suitability as being sustainable in regards its location and material constraints and considerations.



This position has been crystalised following a recent Appeal Court Decision and the implications of this position following the *Suffolk Coastal DC v Hopkins Homes & SSCLG* and *Richborough Estates v Cheshire East BC & SSCLG*[2016] EWCA Civ 168 were described by the Court thus –

*We must emphasize here that the policies in paragraphs 14 and 49 of the NPPF do not make "out-of-date" policies for the supply of housing irrelevant in the determination of a planning application or appeal. Nor do they prescribe how much weight should be given to such policies in the decision. Weight is, as ever, a matter for the decision-maker (as described the speech of Lord Hoffmann in Tesco Stores Ltd. v Secretary of State for the Environment [1995] 1 W.L.R. 759, at p.780F-H).*

*Neither of those paragraphs of the NPPF says that a development plan policy for the supply of housing that is "out-of-date" should be given no weight, or minimal weight, or, indeed, any specific amount of weight. They do not say that such a policy should simply be ignored or disapplied. That idea appears to have found favour in some of the first instance judgments where this question has arisen. It is incorrect.*

#### Legal Assessment

The legal framework for AONBs in England and Wales is provided by the Countryside and Rights of Way Act (CROW) 2000 which reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty, and sets out responsibilities for their management. In particular relevance to the appeal are the following section –

Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty.

Section 84 confirms the powers of local authorities to take appropriate action to conserve and enhance the natural beauty of AONBs.

Section 85 places a duty on all public bodies and statutory undertakers to ‘have regard’ to the ‘purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.’

#### Assessment

The Council would consider that the site is locationally sustainable as it is within or adjacent to the main built core of a settlement identified under Core Strategy RA2 as a suitable location for residential development. The proposal, if approved would not result in the proportionate growth target of Brampton Abbots being exceeded when considered cumulatively with existing commitments and recent permissions. However, sustainability is more than a matter of location. The NPPF states that good design is a key aspect of sustainable development and indivisible from good planning. It is not just a matter of aesthetics. Amongst other things, it says that decisions should aim to ensure that developments function well and add to the overall quality of the area; and optimise the potential of the site to accommodate development. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.



The National Planning Policy Framework (NPPF) has 'sustainable development' central to planning's remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life.

The National Planning Policy Framework is a material consideration in the assessment of this application. The following sections are considered particularly relevant:

- Introduction - Achieving sustainable development
- Section 7 - Requiring good design
- Section 11 - Conserving and enhancing the natural environment

Paragraph 14 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means that where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted.

The NPPF sets out 12 core land-use planning principles in paragraph 17 which should underpin decision taking. These include the principle to '*proactively drive and support sustainable economic development to deliver homes, businesses and industrial units, infrastructure and thriving places that the country needs*'.

Policies specific to protected landscapes (including AONBs) are detailed at paragraphs 115 and 116. Paragraph 115 states –

*Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.* Paragraph 116 relates to major development

If a proposal is considered to represent sustainable development, then the decision taker is required by paragraph 14 of the NPPF and Core Strategy policy SS1 to engage the positive presumption in favour of the proposal. The Government's definition of sustainable development is considered to be the NPPF in its entirety, though a concise list of core planning principles is offered at paragraph 17. In terms of residential development, bullet points 4, 5 and 7 of this paragraph to be most relevant in requiring that planning and also where the application is deficient or does not comply:

4. always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;

5. takes account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;

7. contribute to conserving and enhancing the natural environment and reducing pollution



Section 11 of the NPPF, titled 'Conserving and enhancing the natural environment' in its opening paragraph 109, sets out *The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.*

Core Strategy policy SS6 describes proposals *should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.*

Policy SS6 then states in its list of criteria states –

*Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.*

Core Strategy policy LD1 criteria requires new development must achieve the following:

- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
- conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management

Policy RA2 states that housing proposals will be permitted in settlements such as Brampton Abbots where the following criteria are met:

1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified, such as Aston Ingham, proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned;
2. Their locations make best and full use of suitable brownfield sites wherever possible;
3. They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and
4. They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.

The Wye Valley AONB Management Plan is a material consideration in the assessment of this application. The Wye Valley AONB Management Plan 2015 – 2020 sets out activities and pressures in the AONB, including those in relation to housing and the built environment. Pressures on the AONB include development located in places that are dependent on car



use and unsympathetic and standardised designs of much modern housing. Positive impacts that new development has on the AONB are places for people to live and work in or near the spectacular landscapes of the AONB, facilitating appreciation of special qualities of the AONB. Negative impacts that development has on the AONB are poor design of buildings and curtilages that can detract from landscape character, e.g. urbanising rural areas. The following policies are particularly applicable to this assessment –

WV-D2 – Encourage and support high standards of design, materials, energy efficiency, drainage and landscaping in all developments, including Permitted Development, to ensure greater sustainability and that they complement and enhance the local landscape character and distinctiveness including scale and setting and minimise the impact on the natural environment. *[see also WV-L3, WV-D4, WV-U1, WV-U3, WV-T2, WV-S4 and WV-P5]*

WV-D3 – Resist inappropriate development which will create a persistent and dominant feature out of keeping with the landscape of the AONB and/or if it damages Special Qualities in the AONB, including through high levels of noise and/or light pollution or any SAC, SPA or Ramsar site or other sites designated as environmentally important. *[see also WV-L3, WV-F3, WV-U1, WV-U3, WV-T2 and WV-S4]*

The proposal is for what can only be described as an urban or suburban form and designed development that does not reflect or enhance its rural location. The layout is characterised by a significant expanse of hard surfaced area with dwellings of no great design merit and do not respond to or enhance the AONB location. Each dwelling offers neither high quality contemporary design or architecture reflecting the local vernacular hereabouts. Whilst the NPPF states LPA's should not impose design styles, it does expect a sufficient quality of design and appropriate response of consideration of context. Neither is achieved here. This lack of appreciation and response to context results in harm and no enhancement to the character and appearance of the area, one which is an AONB. The proposal is quite clearly conflicting with the design requirements detailed above. On this basis the proposal is unacceptable and refusal recommended.

As described by the Area Engineer, the proposal has not adequately assessed highway safety and as such it represents a risk to highway safety and free flow of traffic, contrary to policies SS5 and MT1.

It is noted supporting Planning Statement contains numerous inaccuracies regarding Brampton Abbots. There is no shop or public house, the Church is not open for Worship.

#### Summary

The harm described above is considered to outweigh the recognised benefits the proposal would bring regarding housing delivery and development supporting Brampton Abbots and as such the refusal of planning permission is recommended

**RECOMMENDATION:**    **PERMIT** ☐            **REFUSE** ☒

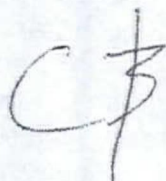
#### REASONS FOR REFUSAL:



1. The proposal by virtue of its design, layout and form results in a development that lacks sufficient design quality and is out of keeping with, and harmful to its rural location and the character and appearance of the locality. Furthermore, the proposal is harmful to the character and appearance of the Wye Valley Area of Outstanding Natural Beauty (AONB) and contrary to Herefordshire Core Strategy policies SS1, SS6, RA2, RA3, LD1 and SD1, Wye Valley AONB Management Plan and the relevant aims and objectives of the National Planning Policy Framework.
2. The impact of development on the existing highway and vehicles has not been adequately assessed in terms of speed surveys and a review of the implications of the development on the existing highway. As such a precautionary approach must be taken regarding highway safety and the proposal is contrary to Herefordshire Core Strategy policies SS5 and MT1.

### Informatives

#### 1. Refused with a way forward



Signed:

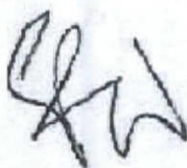
Dated: 31/1/2017

#### TEAM LEADER'S COMMENTS:

DECISION:

PERMIT ☐

REFUSE ☒



Signed:

..... Dated: 31 January 2017 .....