

Herefordshire Council

STATEMENT OF CASE

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

By

D2 Planning Limited on behalf of Crest Nicholson South West against the decision of the County of Herefordshire District Council - Refusal of Planning Permission for Residential development comprising of 29 dwellings, with associated access, carparking, landscaping and open space at Land north east of Attwood Lane, Holmer, Hereford, HR1 1LJ.

Grid Reference:	351203, 242459
Planning Inspectorate Reference:	APP/W1850/A/A/12/2185069
Local Planning Authority Reference:	S112612/F
Date of Hearing:	26th March 2013
Date of Statement of Case:	10th January 2013

1. Description & Proposal

- 1.1 The appeal proposal is for the construction of 29 dwellings, 35% of which (10 units) will be affordable housing consisting of a mixture of social rent and intermediate tenure. The dwellings are sited in the southern part of the site with the northern third to be soft landscaped and used as an area of informal public open space. Access is proposed via Roman Road through the permitted 300 house development south east of the appeal site.
- 1.2 The scheme was amended during the course of the planning application including the deletion of two dwellings, changes to the alignment of the access road and changes to the layout and house designs.

2. The Site & its Location

- 2.1 The site comprises of 1.8 hectares of undeveloped agricultural land located 50 metres north east of Attwood Lane within the countryside adjacent the northern fringes of the city. More specifically, the site is broadly rectangular in shape and borders Public Right of Way H08A to the south and east, a former builder's yard employment site known as Pomona Works to the west and an existing small stream to the north. South east of the site is the 300 dwelling housing development currently under construction, south west is Holmer Court Residential Care Home, beyond which is Wentworth Park residential estate. The site is largely enclosed by native hedgerow interspersed with semi mature trees. Levels fall northwards by around 6 metres within the site towards the stream corridor.
- 2.2 The site is identified as being of high/medium sensitivity in the Council's Urban Fringe Sensitivity Analysis report and the lower part of the site adjoining the watercourse is also identified as being liable to flood and has flooded in the recent flood events.

3. Planning Policies

- 3.1 The Regional Spatial Strategy for the West Midlands remains part of the development plan. This was adopted in 2008 with the phase 2 revised draft RSS reaching the panel report stage before the governments announcement of the proposed revocation. Aside from County housing delivery targets, there are no specific RSS policies that directly influence this appeal as agreed in the statement of common ground.
- 3.2 The National Planning Policy Framework is the primary national policy to determine the appeal against. Several sections are relevant and are referred to later in this statement. In terms of the weight to be given to the adopted development plan, at the time of writing this appeal, paragraph 214 of the

NPPF remains relevant but paragraph 215 may apply by the time of the hearing.

- 3.3 The Herefordshire Unitary Development Plan (UDP) was adopted in March 2007 for the period up to March 2011. All policies referred to in the decision notice were confirmed as saved on 24th March 2010, copies of which have already been forwarded to the Inspectorate with the appeal questionnaire.
- 3.4 The Council is in the process of finalising the Core Strategy and consultations have taken place over the last three years on various elements of the Core Strategy. A final full draft plan consultation is due to commence in early March 2013 with a pre-submission publication in summer 2013, examination in public towards the end of the year and adoption in Spring 2014. Consultation on the Council's Community Infrastructure Levy charging schedule will run in tandem with the Core Strategy timescales detailed above with a view to being considered at the same Inquiry.
- 3.5 The Core Strategy proposes 16500 new homes across the County over the period 2011 to 2031. Of these, 6500 are identified for Hereford predominantly in 4 strategic greenfield and brownfield developments within and on the fringes of the city. Work is being advanced on bringing forward planning applications on some of these sites this year which if approved, are likely to fulfill the Councils housing land requirements required by the NPPF.
- 3.6 It is accepted that due to the stage of preparation that the Core Strategy is at, only limited weight can be given to the draft Core Strategy at the time of writing this statement.
- 3.7 Also of relevance are the following
- The Council's adopted Supplementary Planning Document on Planning Obligations.
 - Landscape Character adopted Supplementary Planning Document
 - Hereford and the Market Towns Urban Fringe Sensitivity Analysis
 - Strategic Housing Land Availability Assessment
- 3.8 Relevant extracts from the above documents are referenced and appended where relevant within the commentary on refusal reasons.

4. Explanatory Comments

- 4.1 The development was refused for four reasons. The council has confirmed the withdrawal of refusal reason 3 by e-mail to the appellants on 19th December 2012 which is appended to the statement of common ground. A Unilateral Undertaking (UU) is also in the process of being finalised which largely deals with refusal reason 4; a working draft is appended to the appellant's statement. Explanation and justification is provided in respect of each of the provisions of the UU under the heading of refusal reason 4.

- 4.2 The scheme plans were amended several times during the course of the application and a list of plans that were considered at Planning Committee and relevant to this appeal are confirmed in the statement of common ground. In the event the appeal is allowed, a list of conditions agreed with the appellant is also appended to the statement of common ground.

Refusal Reason 1

- 4.3 The appeal site falls outside of the settlement boundary for Hereford as defined in the UDP and therefore falls within open countryside in planning policy terms. As the requirements of policies H1 and H7 are not satisfied, the development is therefore contrary to these policies in respect of its location.
- 4.4 The current policy framework for consideration of this appeal is primarily the Herefordshire Unitary Development Plan and National Planning Policy Framework. As confirmed in the statement of common ground, the council accepts that it currently cannot demonstrate a deliverable 5 year supply of housing land including a 5% buffer as required by paragraph 47 of the NPPF. Consequently, it is accepted that in line with paragraph 49 of the NPPF, the relevant housing supply policies of the UDP cannot be regarded as up to date.
- 4.5 In accordance with paragraph 14 of the NPPF, the consideration is therefore whether any adverse impacts of approving the appeal development would significantly and demonstrably outweigh the benefits when assessed against the relevant UDP policies and NPPF. In this regard, the Council considers the adverse landscape impact and cumulative traffic impacts of the development are sufficient to outweigh any benefits that may arise from allowing the appeal.
- 4.6 The site is located on the very north edge of Holmer, to the north of Hereford. It is outside of the urban landscape character area and lies within the Landscape Character Type of Principle Settled Farmlands (**Appendix 1**). This shows the transitional nature of the site in this urban fringe area. In the Urban Fringe Sensitivity Analysis (UFSA): Hereford and the Market Towns (Jan 2010) it is designated as having a High-Medium Sensitivity to built development, meaning that key characteristics of landscape are susceptible to change and/or have value as a landscape resource. That document states that Holmer has an intricate, intimate landscape character (**Appendix 2**). The key local characteristic is the setting of the stream valley and the topography that frames this linear feature.
- 4.7 The principle of development on this site, together with the type of proposal, is not acceptable in landscape terms. On this site the intimate, rural character along the stream valley is vulnerable to change and will be reduced as a result of the housing development. The small-scale pastoral fields are a high value landscape resource both locally and when compared to other areas of the city edge where much of the landscape is of larger field patterns being intensively farmed primarily for arable crops.
- 4.8 The site is also not directly linked to the existing road infrastructure, nor does it form part of the established Holmer residential area. It is separated by the

derelict brownfield site and Holmer Court with its associated grounds containing a number of mature trees. The landscape character of the site is clearly linked to the farmlands and valley, rather than residential development. The topography, field pattern and historic boundary hedgerows are shown on map extracts in **Appendix 3**. The photographs in **Appendix 4** illustrate the open character of this transition zone on the edge of the city.

- 4.9 The recent housing development to the east of Attwood Lane (fronting Roman Road), has altered the northern boundary of the city. The Roman Road development, however, purposely stops built development to the south of the natural valley and it is considered that overall that the approved scheme will integrate well into the surrounding landscape with little impact on the visual quality of the area. The new balancing ponds are the only change that will take place within the valley and although this land will no longer be of agricultural character, the landscape will remain open and free from built development. The development proposed in this application does not readily connect or integrate with the new housing area. It would appear as a completely separate site of isolated housing.
- 4.10 The long access road cutting across the public open space does not have any development fronting it and does not relate well to the landscape. This demonstrates that this proposal is an after thought rather than a positive design feature. The proposed layout does not run with the existing site contours and the northern edge does not address the stream valley - the stream valley runs north-west to south-east, whereas the proposed built edge runs west-east. A considerable cut and fill exercise will therefore be required unnaturally elevating the northern dwelling slab levels above existing natural levels. Further changes in levels will be required to achieve a user friendly kick about area within the sensitive stream corridor which in combination with the raised slab levels will exacerbate the harmful landscape impact of the development.
- 4.11 At 38 dph, the development proposal is a relatively high net density for this edge of city location, not related to any existing housing and not providing any transition between rural and urban. Existing housing north of Atwood Lane consists of large, detached properties set in individual grounds. The brownfield site has a completely different character than the proposal site and there is no proposal to integrate the access or services between these two sites. This lack of integration and intrusion into the valley setting is illustrated in **Appendix 5**.
- 4.12 The key public viewpoints have been assessed in the Landscape and Visual Impact Assessment submitted with the application. As well as the public footpath along the boundaries of the site, view point 5 will undergo the most significant visual impact. The existing small field slopes directly across the valley to this viewpoint and is currently open and rural in appearance. The introduction of development on this site will be highly visible and change the character of the valley.
- 4.13 It is acknowledged that the development will deliver some benefits in terms of the delivery of new housing including affordable housing and new community facilities in the form of on and off site public open space and play provision. It

is also accepted that the development is also considered to be deliverable within the next five years thus bolstering the Council's housing land supply position. However, these benefits are not unique to this site or locality and therefore could equally be delivered by other site opportunities across the city that are available and identified within the Council's Strategic Housing Land Availability Assessment (SHLAA). In particular, several of these sites have a lower degree of landscape sensitivity and are identified in yellow on the plan enclosed at **Appendix 6**. It is also noteworthy that for reasons of adverse landscape impact, the Council has identified the appeal site as having no potential for development within the SHLAA (**Appendix 7**).

- 4.14 Consequently, the development is considered to result in unacceptable adverse change to the landscape character of the area and the loss of part of a valued landscape contrary to UDP policy LA2 and paragraph 109 of the NPPF. This adverse landscape impact significantly outweighs the positive attributes of the development in this instance. Furthermore, as the site is considered unacceptable in landscape terms, notwithstanding the requirements of the NPPF, it is considered that UDP policies H1 and H7 still apply and thus the development is also in conflict with these policies.

Refusal Reason 2

- 4.15 The site is accessed via a new section of road connecting to the existing permitted estate road forming part of the principal development, several phases of which have now been completed. This then connects with the A4103 known as Roman Road via a new three way signalised junction. Roman Road is a strategic part of the city highway network and has been so for centuries, as the name suggests. It is the only direct east west route through the city connecting with Worcester and the M5 to the east, the A49 north south trunk road through the centre of the city and the A438 and A480 to the west providing access to west Herefordshire, and West Wales beyond.
- 4.16 Due to the number of highway connections it provides and the residential and commercial sites it serves in the city and the outlying settlements beyond, it is a heavily trafficked highway. This is particularly clear during peak traffic times when queue lengths at all localised junctions are significant.
- 4.17 The application was supported by a supplementary Transport Assessment (TA) which was essentially an update of the TA submitted in support of the 300 house development. This primarily examined the capacity of the site access and the A49/A4103 Starting Gate roundabout. The original assessment therefore dates back to 2005 and is based on traffic surveys carried out in 2003 albeit factored up to 2010 and forecast to 2020. The Council questions the robustness of this assessment which is based on survey data that is now ten years old. Nevertheless, the trip rates generated by the development as detailed in the TA are accepted by the Council as is the fact the site is accessible by sustainable transport modes.
- 4.18 The TA identifies that the assessed junctions have capacity to accommodate the development. The evidence on the ground does not, however, support this.

Locally to the appeal site, the westbound queues on to the A49/A4103 Starting Gate roundabout particularly during the PM peak often stretch back to the site access which is some ¾ km from the roundabout in question. This consequently chokes the remainder of the localised network and junctions from existing residential estates in the area. Recent photographic evidence taken during the PM peak (4:30 to 6:00) on 7th January 2013 and enclosed at **Appendix 8** illustrates of how the local highway network is congested.

4.19 The refusal reason specifically concerns the cumulative traffic impacts of the development. Several developments have either been completed or permitted over the last few years gaining access directly or indirectly on to Roman Road and have contributed to increasing traffic levels. The location of these are shown on the plan enclosed at **Appendix 9** and are detailed below:

- A. The opening of County's new livestock market (7200 sq. M) in 2010 located in the north west of the city gaining access on to Roman Road.
- B. The change of use of an employment building to a drinks canning factory (5000 sq. M) located off Staniers Way, east of the site gaining access on to Roman Road implemented in 2011.
- C. Construction of a BMW car showroom (800 sq. M) off Legion Way, immediately south of the site (currently under construction)
- D. Mixed use re-development of Holmer Trading Estate located off College Rd for 115 residential units, 2235 sq. M of B1, 2537 sq. M of B2 and 2537 sq. M of B8, 700 sq. M A1 and 70 sq. M A3 .

4.20 Additionally, around ninety dwellings on the appellant's principal development are now occupied and therefore only around a third of the full traffic impacts of this development are yet to be realised. Whilst individually these developments may not have triggered highway objections, cumulatively, these recent developments in combination with the appeal development and the remainder of the appellant's larger site have and will increase traffic levels on the local network to an unacceptable degree causing further and unacceptable delay for local residents and business in the area particularly during peak times. Local residents existing experience of this and other background information concerning the historic traffic situation in the area are documented at **Appendix 10**. Consequently, the traffic impacts of the development in combination with other developments in the area is unacceptable and in conflict with UDP policies S6 (criteria 4), DR3 (penultimate paragraph of the policy) and T8 (criteria 1).

Refusal Reason 3

4.21 The Council has now confirmed withdrawal of this reason on 19th December 2012 following receipt of confirmation from Welsh Water on the 18th December 2012 that the localised foul drainage network relevant to the appeal development is now either adopted or subject to a legal adoption agreement. This has occurred following the appellants withdrawal of their appeal to Ofwat against the adoption of the historic foul drainage network in the area on 27th November 2012.

- 4.22 The appellant was advised of this course of action as soon as confirmation of the adoption of the system was received from Welsh Water and the Council was in regular dialogue with the appellant's agent in the proceeding weeks to keep them informed of the likely course of action.

Refusal Reason 4

- 4.23 A draft Unilateral Undertaking (UU) is in the process of being agreed with the appellant. This ensures the delivery of the ten affordable units and identifies the financial contributions required to mitigate the impact of the development. The need for and requirements of the UU are explained further below.

Affordable Housing

- 4.24 Ensuring a balanced housing market is one of the Councils highest priorities and is outlined in the Council's Housing Strategy 2012 -2015 and emerging Core Strategy policies. With respect to the need for affordable housing, this is evidenced in Herefordshire's Local Housing Market Assessment (LHMA) which forms part of the evidence base for the Core Strategy. This identifies an affordable housing requirement in Hereford City of 35% which also mirrors UDP policy H19. The LHMA also identifies a split between 64% social rent and 36% intermediate tenure which is reflected in the affordable requirements in the UU.
- 4.25 Additionally, the latest data from the Councils affordable housing lettings and allocations agency, Home Point, identifies an affordable housing waiting list for 3296 units within Hereford City as of 7th January 2013. A mix of two and three bedroom units of different sizes is proposed which reflects the priority unit size need for the urban area identified in the LHMA (**Appendix 11**). There is therefore strong evidence to support the need for the affordable housing, the tenure split and unit sizes proposed. Additionally, the units will meet lifetime homes and the relevant Design and Quality standards ensuring the accommodation is of the required quality and can be easily adapted to meet differing needs.

Financial Contributions

- 4.26 The need and methodologies for calculating the various financial contributions detailed in the UU are outlined in the councils adopted Supplementary Planning Document enclosed at **Appendix 12**. All contributions apply to the open market units only. In terms of the uses for the money, in some instances, the money is likely to be pooled to achieve the deliverability of the identified schemes, the details of which are now explained further.

Education Contribution (SPD Section 3.5)

- 4.27 This is assessed based upon the availability of places in each year group within the affected schools and capacity within the other categories of education provision. The level of contributions as stated in the SPD are based on an assessment of the numbers of children of particular ages resident in different housing types taken from the UK Census data and a building cost multiplier identified by the Government for Herefordshire.

- 4.28 Each school has a designated catchment area and an affected school is considered to be the school into which the children from the development would be expected to attend i.e. the development would reside within the catchment area of the school. The schools affected by this development are Broadlands Primary, St Francis Xavier's RC Primary and Aylestone High Schools. The numbers of children on roll at Aylestone High and Broadlands Primary School are such that there is spare capacity in all year groups and therefore no contributions are being sought for these schools. St Francis Xavier's primary school, however, is currently at or in excess of capacity in three of the four year groups and therefore a contribution is being sought for this school.
- 4.29 Contributions are also requested for Early Years, Youth and SEN and are calculated in the same way as for primary and secondary provision. Capacity exists with the post 16 city colleges and therefore no contribution is sought for this category. The Childcare Sufficiency Assessment highlights that within the North Hereford City area, 8% of parents are unable to take a better job due to childcare issues with a particular requirement for early morning, weekend and shift hours care. The childminders facilities in the locality of the appeal site are all at capacity and there are very few childminders located in the rural areas surrounding the city.
- 4.30 The youth sector is served by one facility in the city at Close House and they are looking to expand and improve the facilities they provide to enable the provision of more specialised work with the youth communities that require it the most. 1% of the contribution is also allocated to special education needs which within the city is served by Blackmarston primary and Barrs Court secondary special schools. Planning permission exists to expand Blackmarston primary school but there is presently funding gap to deliver the scheme and Barr's Court school is at capacity and a feasibility study is to be commissioned to examine opportunities to increase capacity.
- 4.31 The Council has a statutory duty to ensure there are sufficient school places for the Counties children and therefore have to ensure that the catchment schools and wider city facilities can accommodate the children generated by this and other developments.
- 4.32 The contributions identified within the UU are therefore to be used to assist in funding the following projects:
- Early Years –Contribute towards the expansion of childcare facilities at Holmer school and/or conversion of Springfield children's centre to create additional pre-school places
 - Primary – Contribute towards an extension of a classroom at St Francis Xavier's RC Primary School to enable the school to accommodate additional children from this and other developments.
 - Youth –The provision of additional youth facilities at Close House
 - SEN – The provision of additional classrooms at Blackmarston and Barr's Court Special Schools.

Sustainable Transport contribution (SPD Section 3.1)

- 4.33 This is based on the average trip rate data for different size properties obtained from TRICS database with an accessibility factor applied. The appeal site falls within a high accessibility area and therefore the lower contributions apply as detailed in Figure 2 of the SPD. This contribution is to enhance the accessibility by sustainable travel modes and linkages with local community facilities. The contribution will be used to deliver one or more of the following:
- 4.34 Re-configuration of the Venns Lane, College Road, Old School Lane junction to a fully signalised junction.
Old School Lane will provide a pedestrian route to the primary school in Venns Lane and onward to the colleges and also a vehicular route from the development to the east side of the city. Presently, limited pedestrian facilities exist at the junction, and the Old School Lane arm is not individually signalised and relies on traffic merging with the College Road traffic when that approach is on green. That reduces the desirability of the route and is more likely to encourage traffic to cut through the adjacent residential development to avoid the junction.
- 4.35 Pedestrian crossing of the A49
There is presently no safe crossing of the A49 north of the roundabout to provide access to the nearest convenience store, church and community hall to the site.
- 4.36 Improvements to the localised PROW network
The Councils PROW Improvement plan includes proposals to improve the usability and accessibility of the public right of way network. The site is well linked to the network and some improvements have already been carried out by the developer. However, the section of footpath immediately south of the site and the section running northwards towards the Rose and Crown Public House are in poor condition being muddy and waterlogged at times of heavy rainfall. These improvements will complement enhancements that are being delivered by Crest associated with the main development and will fund the hard surfacing of the footpaths, widening where necessary and new signage.

Play and Sport contribution (SPD Section 3.9 and UDP policies H19 and RST4)

- 4.37 In line with the requirements of UDP policies H19 and RST3, the appropriate level of public open space (applying NPFA standards) is being provided on site but no on site formal play provision is being provided as required by policy H19. The contribution is therefore to be used to deliver additional play equipment on the appellants adjoining development to make up for the deficit in provision on this site. This is likely to take the form of a play trail on land adjoining the balancing pond immediately north of the permitted housing on this site. This would be safely accessible from the proposed development site, enable the development of a larger "neighbourhood" play facility (reducing costs for maintenance and improving play value) and encourage children to play in a more natural environment.
- 4.38 Of the requested contribution of £53,353, £38,687 relates to off site play provision and is broken down into £18,183 development costs and £20,504

maintenance costs calculated in line with Section 3.9 of the SPD. The first bedroom of each unit is deducted from the tariffs summarised in figure 10 of the SPD.

- 4.39 The other element to the contribution amounting to £14,666 is for formal community indoor and outdoor sports in accordance with paragraph 3.9.4 of the SPD and is calculated using Sport England's Sports Facilities Calculator which is accessible on Sport England's website, the link for which is below.

http://www.sportengland.org/facilities_planning/planning_tools_and_guidance/sports_facility_calculator.aspx

- 4.40 The Council generally pools this contribution to secure facilities identified within the Councils Leisure Facilities Plan 2010 and Playing Pitch Assessment 2012. A need for new outdoor sports facilities including an artificial turf pitch at Aylestone Park, around 1.2km south east of the site has been identified and the contribution would be used to assist in delivering these facilities.

Libraries Contribution (SPD Section 3.4)

- 4.41 The city is served by one central community library which is need of modernisation to improve its capacity. An improvement plan is currently being finalised which will include a conservation management plan as the building is a listed building. These will then be used to secure funds to undertake essential maintenance such as new roof and heating system whilst S106 contributions including from this development will be used assist in enhancing the capacity and experience for users. The principal works are to reconfigure the internal layout of the library to increase the capacity for books and create a new IT area.

Waste and Recycling

- 4.42 The Council's waste management strategy is to minimise waste at source and encourage recycling. The strategy now includes the provision of home composting and recycling storage facilities to new properties funded through S106 contributions. Additionally, the Council waste strategy includes targets to reduce household residual waste (waste not re-used, recycled or composted) of 35% by 2015 and 45% by 2020, based on 2000 levels through implementing waste prevention initiatives and the S106 contribution will be for these purposes.
- 4.43 In summary, therefore, the requirements of the UU are considered to be directly related to the development and fairly and reasonably related in scale and kind to the development in accordance with the statutory requirements, UDP policy DR5 and adopted Planning Obligations SPD. The development would not be acceptable in planning terms without the UU and all of its requirements.

5. Conclusion

5.1 The Inspector is therefore respectfully requested to support the Council's decision to refuse consent and, for the above reasons to **DISMISS** this appeal.

APPENDICES:

- 1. Extract from the Councils adopted Landscape Character Assessment SPD in relation to the appeal site location**
- 2. Extract from the Urban Fringe Sensitivity Analysis in relation to the appeal site location**
- 3. Historic map extracts for the appeal site location**
- 4. Photographs of the site and surroundings**
- 5. Photographs of the site and surroundings.**
- 6. Hereford City map extract from Strategic Housing Land Availability Assessment**
- 7. SHLAA assessment of the appeal site**
- 8. Photographs of queuing traffic in the area**
- 9. Plan identifying the location of recent developments and commitments impacting upon local traffic conditions**
- 10. Letters and background info from local residents and the parish council regarding traffic congestion in the area**
- 11. Extract from the Local Housing Market Assessment concerning affordable housing need**
- 12. Supplementary Planning Document on Planning Obligations**