

**Herefordshire Council**

# **STATEMENT OF CASE**

**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL UNDER SECTION 78**

**By**

**Mr John Needham, on behalf of Pallas Ventures Ltd against the decision of the County of Herefordshire District Council - Refusal of Planning Permission for Proposed construction of 5 no dwellings with garages. Formation of new access and private drive and close existing. Demolition of outbuilding, steel framed barn, wind tunnel and greenhouse at Land adjoining Orchard Farm, Eardisland, Herefordshire, .**

<b>Grid Reference:</b>	<b>341731, 258331</b>
<b>Planning Inspectorate Reference:</b>	<b>APP/W1850/A/w/16/3157677</b>
<b>Local Planning Authority Reference:</b>	<b>152779</b>
<b>Date of Statement of Case:</b>	<b>2/12/16</b>

## **1. Description & Proposal**

A description of the site and the proposal is set out in the officer report to the planning committee, dated 3rd August 2016, previously forwarded with the appeal questionnaire.

## **2. The Site & its Location**

The village of Eardisland lies predominantly on land shown on the Environment Agency flood plans to be zone 3, ie that most vulnerable to flooding. The southern section of the site appeal site lies within this zone, as does the access to the site. The revised site layout avoids building dwellings in this area.

## **3. Planning Policies**

Since the determination of the application on 3<sup>rd</sup> August, the Eardisland Neighbourhood Development Plan was made on 6<sup>th</sup> October 2016. This was attached to the appeal questionnaire.

In addition to the list of policies in the committee report, the most relevant policies in the NDP are E1, E9 and E10.

## **4. Explanatory Comments**

The Planning Committee had before it the submissions relating to flooding and drainage issues of both the applicant, the council's own consultant, Welsh Water and the Environment Agency. Additionally it had the comments of the parish council, local residents and the local ward member, all with direct recent experience of the problems associated with flooding. Having given due consideration to information on both sides of the issue it decided that the balance lay in the precautionary approach to the issue.

In terms of the housing mix element of the refusal, the parish already has more than a third of all dwellings at 4 beds or more, compared to the County average of just under a quarter, see sect 5.9 onwards of NDP. They identify a need for smaller dwellings, as discussed at the meeting with the parish council prior to the submission of the application. There is nothing in the application or subsequent appeal submission setting out how the requirements of policy E10 have been addressed.

The appellant correctly points out that reference in the NDP to schemes of up to 5 dwellings being supported as an amendment recommended by the Examiner, no such recommendation was made about policy E10 which remains as proposed.

Policy E10 states

**All proposals for new housing development will have to demonstrate how they contribute to maintaining an appropriate mix of tenures, types and size of dwelling in the parish.**

**Sites including affordable housing should aim to integrate both affordable housing and open market housing within the site.**

The appellant's statement commencing at the final paragraph of page 7 and continuing overleaf acknowledges that this matter has not been addressed. On this basis the proposal is contrary to the policies set out in reason 3 of the decision notice.

## **5. Appellants Grounds of Appeal**

In addition to the comments above the appellant refers to compliance with Policy E1 (a) of the NDP on the basis that is a brown field site. The definition of such sites specifically excludes land and building used for agricultural purposes, which includes nurseries.

NPF definition of previously developed land -

**Previously developed land:** Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.

## **6. Conclusion**

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

Without prejudice

Should the Inspector be minded to allow the appeal it is considered that the conditions previously set out in the report to committee be imposed.