

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Dan Rickett	Development of 22 dwellings, associated landscaping and siteworks and construction of new access from existing highway roundabout.  Land To Rear Of 1-6 Smedley Crooke Place, Redditch Road, Hopwood, Worcestershire		21/00873/FUL

**RECOMMENDATION:** That planning permission be **REFUSED**

### Consultations

#### **WRS - Noise**

No objection subject to conditions

Noise mitigation conditions relating to glazing, ventilation and solid boundary fencing,  
Prior to post completion noise testing  
Construction Environmental Management Plan

Noise: The submitted noise assessment appears satisfactory although Extrium Noise maps indicate higher road noise levels than those presented in the assessment. The recommended noise mitigation measures relating to within Section 8 of the assessment, should be implemented. Additionally, I would recommend that post completion noise testing is carried out to demonstrate that both internal and external noise levels will meet the recommendation of BS8233:2014 as predicted by the assessment. Prior to post completion noise testing the applicant should submit a post completion noise testing methodology for comment and approval.

Construction Phase Nuisance: In order to ensure that nearby sensitive receptors are not adversely impacted by noise, vibration and dust emissions during the construction phase the applicant should submit a (CEMP) for comment and approval.

#### **North Worcestershire Water Management**

No objection subject to proposed drainage scheme condition .

#### **Housing Strategy**

No objection, Rentplus product as a proposal to replace the intermediate affordable housing provision at a proportion of 3 units for RentPlus and 4 units for social rent.

#### **Worcestershire Archive and Archaeological Service**

No archaeological condition required.

#### **Highways England**

No objection subject to construction management condition

## **Highways - Bromsgrove**

No objection subject to conditions and Planning Obligations

Approved Plans  
Construction Management Plan  
Residential Welcome Pack  
Travel Plan  
Cycle Parking  
EVCP

A financial contribution of £350,000.00 for Public Transport improvements.  
A financial contribution of £16,100.00 for necessary School Transport Services.  
A financial contribution £6,800.00 for necessary Community Transport Services

## **Bromsgrove Strategic Planning and Conservation**

Object as the application represents development that is:

- Contrary to key NPPF considerations (presumption in favour of sustainable development and Green Belt),
- Contrary to BDP policy,
- Contrary to Alvechurch Neighbourhood Plan policy.

## **WRS - Contaminated Land**

No objection subject to conditions

- Import of soil and soil forming materials
- Reporting of Unexpected Contamination

## **Trees**

No objections to the scheme following amendments, subject to conditions

- Tree Protection measures in place prior to commencement
- An Arboricultural method statement and protection plan
- A full landscape plan and specification should be submitted.

## **Education Department at Worcestershire**

In response to the planning application it is calculated that a contribution will be required towards First, Middle and High School phases of education. The S106 contribution required is outlined below in line with the Worcestershire County Council Policy on S106 Education Contributions.

There are 7 dwellings proposed on this application that would be exempt from an education contribution.

First School Contribution required: £72,248

To provide additional education facilities at Crown Meadow First School

Middle School Contribution required: £66,344

To provide additional education facilities at Alvechurch C of E Middle School

High School Contribution required: £74,889

To provide additional education facilities at South and North Bromsgrove High Schools.

Total education infrastructure contribution required: £249,605

### **NHS/Medical Infrastructure Consultations**

A developer contribution will be required to mitigate the impacts of this proposal. Herefordshire and Worcestershire CCG calculates the level of contribution required in this instance directly relating to the number of dwellings to be £ £8,350.

### **NHS Acute Hospitals Worcestershire**

As its evidence demonstrates, the Trust is currently operating at full capacity in the provision of acute and planned healthcare. The contribution is being sought not to support a public body but rather to enable that body (i.e. the Trust) to provide services needed by the occupants of the new homes. The development directly affects the Trust's ability to provide the health services to those who live in the development and the community at large. Without contributions to maintain the delivery of health care services at the required quality standard, and to secure adequate health care for the locality, the proposed development will strain services, putting people at significant risk of receiving substandard care, leading to poorer health outcomes and prolonged health problems. A developer contribution of £8,231.58 is required.

### **Alvechurch Parish Council**

Alvechurch Parish Council object to the aforementioned application on the following grounds:

- The proposed development is outside of the Village Envelope, on Green Belt land and does not therefore conform to APC's NDP/relevant, statutory policies contained therein and there is no justifiable exceptional circumstances.
- Highways Lack of infrastructure/; concern over site access/proximity to RAB/visibility splay.
- Sustainability Lack of amenities; no local shops, no school/GP/Dentist spaces locally, not on a bus route.
- Flooding area is subject to localised flooding; any build will increase flood risk (SUDs).
- Site contamination It is reported that the land has been used for land-fill purposes and possibly therefore contaminated with all manner of material, including 'white goods' - concern over the redevelopment of this site and the requirement to remove from site contamination.

### **Objection following reconsultation**

Alvechurch Parish Council 'stand on' and wish to once again reiterate its objection to the aforementioned Application on the following grounds:

- The proposed development is outside of the Village Envelope, on Green Belt land and does not therefore conform to APC's NDP/relevant, statutory policies contained therein and there is no justifiable exceptional circumstances.
- Highways ' Lack of infrastructure/ concern over site access/proximity to RAB/visibility splay.
- Sustainability - Lack of amenities; no local shops, no school/GP/Dentist spaces locally, not on a bus route.
- Flooding ' area is subject to localised flooding; any build will increase flood risk (SUDs).
- Site contamination ' It is reported that the land has been used for land-fill purposes and possibly therefore contaminated with all manner of material, including 'white goods' -

concern over the redevelopment of this site and the requirement to remove site contamination.

Note: APC recently supplied you with a copy of APC's letter of 5th November 2018 to Mr P Lester Planning & Regeneration Bromsgrove District Council, this correspondence demonstrated that the site has never been previously developed, and arguably has been manipulated through illegal dumping and earth moving procedures to give it a 'brownfield' appearance.

Though granted a Licence of Lawfulness for storage, the site is a field within the Green Belt, clearly outside the Hopwood settlement envelope, and so falls under the constraints of rural exceptions especially those within paragraph 89 of the NPPF. We are aware that statements have been made by authorities regarding the site having a 'PDL' status; however we vigorously contest these and believe such statements were made in error and are now being exploited by the applicant and given far too much credence.

Further references to its alleged 'brownfield' character do not, through repetition in the planning statement, make the case that it is previously developed land. The series of photographs supplied previously, and neighbours accounts of how the land has been treated, support our contention that the site has a manufactured brownfield appearance.

### **Public comments**

61 letters were originally sent to neighbours 16.06.2021 expired 10.07.2021

Press advert 25.06.2021 expired 12.07.2021.

Site notice displayed 25.06.2021 expired 19.07.2021

A further consultation period ended on 01.10.2021

40 objections have been received as a result of both consultations, these comments are summarised as follows:

#### Green Belt

Harm to openness and visual amenity, the site is not brownfield. Previous applications have been refused, no very special circumstances

#### Highway matters

Safety of access/egress onto the site in the context of prevailing traffic speed

Capacity of the existing roundabout to take additional demand

Lack of public transport

Lack of safe pedestrian crossings

#### Other matters

Lack of school/healthcare capacity

Impact on wildlife/biodiversity

Noise, smell, and pollution.

Construction noise

Flooding/Drainage

No regard to climate change

Loss of privacy

Contrary to neighbourhood plan  
Cumulative impact, if this scheme is approved alongside the other nearby Hopwood Scheme, for the construction of 15 affordable (Discounted Market Sales Housing) dwellings on land between the Croft and Hopwood Garden Centre, Ash Lane (21/00872/FUL)

Other issues which are not material planning considerations have been raised but are not reported here as they cannot be considered in the determination of this application.

### **Relevant Policies**

#### **Bromsgrove District Plan**

BDP1 Sustainable Development Principles  
BDP2 Settlement Hierarchy  
BDP4 Green Belt  
BDP7 Housing Mix and Density  
BDP8 Affordable Housing  
BDP16 Sustainable Transport  
BDP19 High Quality Design  
BDP21 Natural Environment

#### **Others**

NPPF National Planning Policy Framework (2021)  
NPPG National Planning Practice Guidance  
ALVNP Alvechurch Neighbourhood Plan  
APDS Alvechurch Parish Design Statement  
High Quality Design SPD

### **Relevant Planning History**

17/01290/OUT	Outline application (matters of access and scale to be considered) for the development of up to 10 two storey dwellings and alterations of existing access	Refused Dismissed at Appeal	05.02.2019 16.12.2019
12/1040	Residential development of 21 dwellings (outline)	Refused Dismissed at Appeal	10.01.2014 14.10.2014
08/1038	Nursing home and associated offices - OUTLINE	Refused	26.08.2011
B/2007/0261	Office development (outline)	Withdrawn	30.11.2007

B/2006/0080	Office development (outline)	Withdrawn	10.05.2006
B/1995/0862	Erection of public house and associated Parking and area for social housing and /or public open space	Refused	15.01.1996
B/1991/0966	Proposed B1 development comprising 2 No. blocks of 15,000sq ft each	Withdrawn	09.12.1991
COU/1/85	Established Use Certificate relating to the storage of plant	Granted	06.02.1995

## **Assessment of Proposal**

### **Site Description**

The application site relates to a 0.8ha parcel of land located to the east side of the A441 Redditch Road adjacent to the roundabout junction with the B4120. The site is predominantly open scrubland although some areas are covered with a thin layer of crushed stone and discarded rubble. The site is bounded by some semi mature tree specimens. The rear gardens of residential dwellings located in Smedley Croke Place back onto the northern site boundary and the Woodpecker Close development (B/2007/0495) adjoins the site to the north east. An existing vehicular access is located to the north-west corner of the site leading off Redditch Road. The site is in the Green Belt as defined in the BDP, is within the Alvechurch Parish Neighbourhood Plan area and is located adjacent to but outside of the defined Village Envelope of Hopwood.

### **Proposal**

The full planning application is for the development of 22 dwellings, associated landscaping and siteworks and construction of a new access (fourth arm) from the A441/B4120 roundabout. The development would close off the existing site access from A441 Birmingham Road and include removal of all materials pertaining to the current use of the site.

The application proposes a range of market and affordable homes, the breakdown of market and affordable dwellings are set out in the tables below.

<b>Market Housing</b>
3 x 3 bed dwellings
12 x 4 bed dwellings
<b>Total 15 dwellings</b>

<b>Affordable Housing (Rentplus and Social Rent)</b>
3 x 2 bed dwellings
4x 3 bed dwellings
<b>Total 7 dwellings</b>

## **Assessment**

The site is situated within the West Midlands Green Belt, outside Hopwood Village boundary as defined in the Bromsgrove District Local Plan.

The main issues are therefore considered to be:

- Housing Land Supply
- Green Belt
- Alvechurch Neighbourhood Plan
- Prematurity
- Existing Use/Fall-Back
- Design
- Residential Amenity
- Provision of affordable housing
- Highways
- Flooding and Drainage
- Ecology
- Tree and landscaping
- Planning Obligations

## **Five Year Housing Land Supply**

Paragraph 74 of the National Planning Policy Framework (NPPF) requires local planning authorities to identify and update a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. In addition, there must be a buffer of between 5% and 20%, depending on the circumstances of the LPA.

The Council has identified that (inclusive of the 5% buffer required by the Framework) it can currently demonstrate a housing land supply of 4.6 years. Therefore, despite progress which has been made in identifying sites and granting planning permissions the Council still considers that it cannot demonstrate a five year housing land supply.

Where a Local Planning Authority cannot demonstrate a five year housing supply, Paragraph 11 (d) of the Framework is engaged. Paragraph 11 requires that decisions on planning applications apply a presumption in favour of sustainable development. 11 (d) goes on to state that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for restricting the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

Footnote 8 to the NPPF states that this includes (for applications involving the provision of housing) situations where the LPA cannot demonstrate a five year supply of

deliverable housing sites with the appropriate buffer, as set out in paragraph 74. Footnote 7 states these policies include land designated as Green Belts.

### **Green Belt**

Paragraph 137 of the Framework identifies that the Government attaches great importance to Green Belts. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should be refused planning permission unless very special circumstances can be demonstrated which clearly outweigh this harm. The Framework also emphasises that when considering an application, a Local Planning Authority should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. Paragraphs 149 and 150 of the NPPF allow for some exceptions to inappropriate development, one of which is:

*Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:*

- not have a greater impact on the openness of the Green Belt than the existing development; or*
- not cause substantial harm to the openness of the Green Belt, where the development would reuse previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

The starting point is to consider whether the site constitutes previously developed land, which is defined by the NPPF Annex 2 as: 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.

The operation of the site and whether it is previously developed land has been contentious, in relation to this specific issue the conclusion made by two previous Inspector's decisions on this site are helpful.

12/1040 Appeal Decision – para 12: ... Although the site does not contain any buildings at the moment, the actual land itself displays the characteristics of having being previously developed even if that use did not involve buildings or permanent structures.

17/01290 Appeal Decision – para 10: The definition of PDL is set out in the NPPF's Annex 2 and includes land which is or was occupied by a permanent structure and any associated fixed surface infrastructure. In the present case, the Council considers that the areas of tarmac and crushed stone surfacing within the appeal site are fixed surface infrastructure, within the terms of this definition, and therefore that these parts of the site are PDL... I see no obvious flaw in the way the Council has applied the NPPF's definition in respect of these hard surfaced areas.



Given the above, the Council does not dispute that the site constitutes previously developed land. It therefore needs to be assessed as to whether the proposal complies with either part of paragraph 149 (g).

It is acknowledged that the existing storage of portable cabins and associated paraphernalia does have an impact on the openness of the site. However, there are no permanent structures on the site and any other structure including the portable cabins are moveable and not permanent. By the nature of the use of the site for storage purposes these are transient structures stored at the site for temporary periods only and then moved off. As such they do not have the same level of impact on the openness of the Green Belt as permanent structures.

This view is supported by a legal case of *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466, where it was concluded that there is a difference between permanent and temporary structures and their impact on the Green Belt cannot necessarily be compared.

The applicant acknowledges in its Planning Statement (paragraph 4.1) that the 'contents' on the site are not permanent and indeed can be moved around:

*"4.1 The application site has an established use for the open storage of plant and equipment. This use was confirmed on 6th February 1985 and is unrestricted both in terms of its nature and operating hours. As such it can be used for the open storage of large items, and the movement thereof [my emphasis], on a 24/7 basis."*

The first part of paragraph 149(g) refers to the redevelopment of previously developed land that does not have a greater impact on the openness of the Green Belt than the existing development.

The second part of paragraph 149(g) refers to the redevelopment of previously developed land that does not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. This is a lesser test of harm than under the first part of para. 149(g) accepting that some harm can be caused to the openness of the Green Belt.

This application proposes a level of affordable housing that meets that required by the local plan, proposing 30% affordable housing (7 dwellings in total). The redevelopment of previously developed land, which provides policy compliant affordable housing is appropriate development under paragraph 149(g) if it does not cause substantial harm to the openness of the Green Belt.

As such the proposal needs to be assessed whether it would cause substantial harm to the openness of the Green Belt compared to the existing situation having regard to Para 149(g) of the NPPF.

## **Openness**

The NPPG sets out what characteristics can be considered when assessing the impact of a development upon openness. It sets out that assessing the impact of a proposal on the

openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness;
- and - the degree of activity likely to be generated, such as traffic generation.

The proposal would result in the erection of dwellings across the entire site as well as the associated works such as garages, the introduction of other domestic paraphernalia, new access junction, internal access roads and boundary treatments.

This proposal would result in a permanent volume and floor space across the site. Whilst the site is currently covered by structures these are transient and not permanent.

Following a recent site visit in January 2022, the tallest items being stored is estimated to be in the region of 4 metres in height and no element has been double stacked. Whilst it is noted that the extent of planning control on this site is limited, taking account of health and safety, internal site circulation needs, storage at this height is unlikely to occur across the site. It is considered that there is an inherent self-control for such uses on such sites in terms of the height of storage and not all storage uses are capable of being stored at height, for example plant equipment, vehicles, and machinery. In no location are the existing site coverage, footprints and heights comparable to that of permanent dwellings formed by 22 two storey buildings with pitched roofs and their associated hard elements such as patios, gardens, fencing and parking areas.

Based on the existing development on the site, it is considered that there would clearly be a significant and substantive increase in the number of permanent buildings on the site, together with an increase of the sprawl of buildings across the whole site. Although the site is screened by landscaping across the front of the site, the proposed new access point would open the site up and it is considered it would be substantially more visible.

The applicant contends there would be an intensification of storage operation were permission to be refused. It may be that anyone with a commercial interest may look to intensify the use of the site. The aerial images since 2008 show that some areas have undergone intensification at certain times but there is a clear transient nature to storage on this site. It fluctuates within the plot as items are hired out and returned or users and their needs change. Overall, I am satisfied the site would remain broadly consistent in terms of its low-key presence and intensity of storage and the likelihood of any significant intensification by comparison with the existing use is not borne out in the evidence.

It is noted that the applicant has made specific reference to the assessment and conclusions made by the Planning Inspector in relation to the consideration of the 2017 proposal. The Inspector concluded in paragraph 19 that:

*“As set out above, the appeal site constitutes PDL, and the appeal scheme would involve no greater impacts on either the GB’s openness or purposes than the existing use. The proposed scheme would therefore not constitute ‘inappropriate development’ in terms of GB policies, under either Policy BDP4.4 or the NPPF. As such, the development would not be in conflict with GB policy”.*

However, this was based upon a scheme for up to 10 dwellings which would provide a large area of the site for open space and landscaping. On this basis the previous planning application is simply not comparable with the current planning application for 22 dwellings. The assessment of the Planning Inspector for the 2012 application for 21 dwellings is more pertinent, in this the Inspector concludes in paragraph 24 that:

*“...I consider that the housing development proposed would have a fundamentally different built character in comparison and this would materially harm the ‘openness’ of the Green Belt. As such, the proposal does not constitute an exceptional case in accordance with paragraph 89 of the Framework but conflicts with it and substantial weight has to be given to this harm”.*

By comparison with the existing site, the proposed development would be markedly taller and comprise of permanent buildings and spread across the whole of the area of the application site. Taking everything together, the application would give rise to an intensely developed site, with a considerably different and greater coverage, footprint, floorspace, height and overall extent of built form compared to the existing situation.

It is considered that based on the submitted information that the redevelopment of this site to provide 22 dwellings would have a greater impact upon the openness of the Green Belt than existing and would result in substantive harm to the openness of the Green Belt.

For these reasons, the proposal would result in substantial harm to the openness of the Green Belt. It would not therefore constitute an exception as specified within Paragraph 149g of the Framework and would be inappropriate development.

### **Purposes of the Green Belt**

Paragraph 138 of the Framework sets out the purposes of the Green Belt. These include (amongst other things) to assist in safeguarding the countryside from encroachment.

The effect of development as encroachment on the countryside may also be in the form of loss of openness or intrusion and through that loss of openness, there can also be an intrusion or encroachment into the countryside.

Given its existing use and brownfield nature, some encroachment of development into the countryside has already taken place at the site. Even so, in introducing permanent built residential development, and impinging more on openness, it is considered that the proposal would not be consistent with the site’s role in assisting in safeguarding the countryside from encroachment.

The site forms part of the countryside and the proposal would result in physical encroachment of development into and onto parts of the site that are currently free from development, other than hardstanding and temporary storage.

It would result in vertical and permanent encroachment of larger built form overall (with some dwellings being approximately 9m in height) and across a large area of the site. Although this would be within the confines of this previously developed site, nevertheless the proposal would have a significantly greater urbanising effect. The current predominance of openness, trees and vegetation with some intervening storage would be replaced by closely spaced permanent built form. In this location the proposal would not safeguard the countryside from encroachment, it is considered that this would cause moderate harm to the Green Belt.

Thus, the proposal would cause substantial harm in terms of loss of openness and modest harm to one of the purposes of including land in the Green Belt. In accordance with the Framework (Paragraph 148) substantial weight is given to this harm to the Green Belt.

### **Alvechurch Neighbourhood Plan**

Policy H2: Housing for Hopwood and Rowney Green of the Alvechurch Parish Neighbourhood Plan (APNP) is relevant in the consideration of this application, Policy H2 supports housing developments, subject to several detailed criteria as to their location. This policy states the following:

New housing developments that are well designed will be supported if they show consideration for the Alvechurch Parish Design Statement, meet the other requirements set out in the APNP and the Bromsgrove DP and where development:

- a) Is limited to small residential infill development and maintains the continuity of existing frontage buildings, or is on brownfield land within the built up area of the village where the site is closely surrounded by existing buildings
- b) Is not considered to be back garden development
- c) Is consistent with the character of the locality as outlined in the Alvechurch Parish Design Statement on its pages 29-32
- d) Provides at least one small home with two or fewer bedrooms for every one large dwelling with three or more bedrooms
- e) Is in suitable locations, on small infill plots giving opportunities for some well-designed self-build homes
- f) Is within the built up area and does not involve the outward extension of the village envelope as shown on the adopted Bromsgrove District Plan policies map.

In relation to criterion (a) as outlined above the site also abuts existing housing on its northern side, at Smedley Crooke Place, and on a short part of its eastern boundary, where it meets one of the houses at Woodpecker Close. To the west, the houses on the opposite side of Redditch Road are separated from the site by the main road and roundabout, plus a service road and a broad verge. To the south of the roundabout there is only sporadic development, and on its two remaining boundaries, the appeal site is adjoined by open land. On the site itself, although the land is in commercial use, there are

no permanent structures. The site is therefore not closely surrounded by existing buildings, and nor does it form part of the existing built-up area, as criterion (a) requires.

In terms of criterion (d), the scheme proposes three 2 bed dwellings compared to 18 3 bed and above dwellings. Therefore, as proposed the application is deficit in relation to 2 bedroom units and is therefore contrary to criterion (d).

In relation to criterion (f), the village envelope as defined in the BDP excludes the application site and therefore fails criterion (f). I accept that the boundary as currently drawn does not reflect some more recent developments, including Woodpecker Close, but that development is largely peripheral to the application site. I also appreciate that both the BDP and APNP anticipate a need for some settlement boundaries to be adjusted, and that this process is now expected to form part of the BDP Review process that is now under way. However, none of these matters changes the factual position, that as things stand, the appeal site is outside the envelope. The appeal site therefore fails criterion (f).

The boundaries of diverse rural settlements such as Hopwood can in many instances be subjective. The applicant has outlined a Court of Appeal decision which it considers relevant. The Court found that the Inspector was required to consider whether, as a matter of fact on the ground, the site appeared to be in the village; further, that he misdirected himself by accepting the Local Plan as being conclusive as to whether or not the site appeared to be in the village (*Julian Wood v. The Secretary of State for Communities and Local Government and Gravesham Borough Council* [2015]). In this case the boundaries of diverse rural settlements such as Hopwood are in many instances subjective.

However, after visiting the site, neighbouring properties and surrounding fields, it is considered that the site does not appear to be in the village envelope.

This conclusion is further reinforced by the Planning Inspector for 2017 appeal, who concluded in paragraph 23 that

“... I do not consider that the appeal site currently lies within the built up area, even if that area were to be based on perception rather than the defined boundaries.”

Policy H6: Providing a Mix of Housing Types and Sizes, outlines that proposal for 10 or more dwellings should seek to achieve the following mix unless viability, market requirements at that time or other material considerations show a robust justification for a different mix:

- a. Overall up to 10% of new dwellings should aim to have 1 bedroom
- b. 40% should aim to have 2 bedrooms with an element of ground floor single level dwellings to meet the needs of the elderly and people with disabilities
- c. 40% should aim to have 3 bedrooms
- d. Up to 10% should aim to have 4 or more bedrooms.

The development mix is as proposed in the table below.

<b>Number of bedrooms</b>	<b>Proposed Number of Dwellings</b>	<b>Percentage</b>	<b>Percentage Required under Policy H6</b>
1 bed	0	0%	10%
2 bed	3	13.6%	40%
3 bed	7	31.8%	40%
4 bed	12	54.5%	10%

It is evident from this table that the mix fails to meet the mix as outlined in Policy H6. No viability report has been submitted to the Council for independent examination. Therefore, it can be concluded that the proposed housing mix is not acceptable.

It is worthwhile to note that Policy H6 is different to Policy BDP 7 Housing mix and density in the Bromsgrove District Plan. That policy requires development proposals to focus on 2 and 3 bedroom dwellings but outlines that on schemes of 10 or more a wider mix of dwelling types may be required. At a split of 45% to 55% between 2/3 bedrooms compared to 4 bedrooms, it would be considered too broadly comply with this policy.

### **Prematurity**

As part of the consultation response from Strategic Planning they have raised the ongoing District Plan Review. Outlining that the Framework (paragraph 15), states that the planning system should be genuinely plan-led. It is acknowledged that the Framework (paragraph 50), goes on to outline that refusal of planning permission on grounds of prematurity will seldom be justified.

Whilst prematurity should not be considered as a primary reason to refuse a planning application, it should be considered alongside other more pertinent matters which are contrary to the NPPF, especially when taken as a whole.

Work is currently underway to review and update the current adopted BDP. The applicant's site has been submitted to the Council as part of the Call for Sites process, which will inform the revised Plan as it emerges.

Site allocations will be identified, informed by an ever increasing and robust evidence base. Evidence currently being collated includes:

A Housing and Economic Development Needs Assessment (HEDNA), which will guide the quantum of development needed and where that need has arisen in order for the Plan to address it. The applicant's Planning Statement (para 7.13) references a particularly acute housing requirement in Hopwood but provides no evidence to support this assumption.

A Housing and Economic Land Availability Assessment (HELAA), which will assess sites submitted through (amongst other things) the Call for Sites process to determine their appropriateness to be allocated for development, based on a robust method of assessment, consistently applied to all submitted sites.

A Green Belt Review, which will comprehensively assess the most appropriate places to make alterations to current Green Belt boundaries. As Policy BDP2 (para 2.3) identifies,

this will also be the mechanism to consider the extent of current village envelope boundaries.

It is noted that this site has been submitted as part of the Call for Site submissions under site reference 87- Land to the east of Redditch Road.

The Preferred Option Plan of which the Green Belt review and call for sites are only one element of and is still due to be published in July 2022, but no formal decision or assessment of this site has been formally published at this time.

### **Existing Use/Fall-Back**

For a fallback position to be a relevant consideration, the basic principle is that it must be a real prospect. It does not have to be probable or likely, as a possibility would suffice<sup>1</sup>. For the prospect to be real, there must be a greater than theoretical possibility that the development might take place.

As indicated in the planning history, there have been planning applications on this site dating back to 2006 (albeit not by this applicant) and most recently an application for 10 dwellings in 2017 and subsequent appeal (by this applicant). Therefore, it is evident that there has been a clear aspiration to redevelop the site through the erection of dwellings or other development for well over 14 years. The applicant has actively sought other uses, including the proposals that have come forward. Therefore, while the intensification of the site is a material consideration, the likelihood of the fall back occurring and to the extent described by the applicant is considered unlikely, and therefore the weight this can be given is low.

### **Design**

Paragraphs 126-136 of the Framework deal with high quality design and in particular states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

BDP19 of the Bromsgrove District Plan sets a series of criteria by which high quality people focussed space will be achieved. The development proposes two storey dwellings, which are detached, semi detached and terraced. The final palette of external materials is to be controlled by conditions.

This layout and the overall quantum of development is appropriate for the site, resulting in plot sizes and spacing which reflects and sits comfortably within the quite varied pattern and grain of development in the village and surrounding area. The development will result in a density of approximately 27.5 dwellings per hectare.

Taken together, it is considered that the scheme in terms of its layout, plots sizes and spacing is such that the development would not appear cramped and would have spaciousness appropriate to this location.

In terms of scale and height, the proposed dwellings would be two storeys of varying heights. The scale, massing and form of the proposed dwellings are considered to

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<sup>1</sup> Mansell v Tonbridge and Malling BC & others [2017]EWCA Civ 1314

respond appropriately to that of nearby properties, creating a coherent street scene. They would provide a mixture of terraced, semi-detached pairs and detached dwellings which is acceptable and reflective of the character of the area.

The design of the individual house-types is in line with Alvechurch Parish Design Statement and subject to securing suitable materials, it is considered the proposals would have sufficient regard to the character of the area.

Overall, it is concluded that the proposals, both in terms of layout, scale, and appearance, would – subject to the recommended conditions - achieve a development appropriate to the character of the area and the transitional edge of settlement location of the site. The proposal is therefore considered to comply with policies BDP19 and the provisions of “good design” in the Framework.

### **Residential Amenity**

The proposed dwellings are positioned in an arrangement that would create ample space for external landscaping and private amenity space. The properties are situated such that they would not be overbearing upon one another, nor cause significant losses of daylight or sunlight.

Objections have been received from neighbours based on loss of privacy. It is considered important to distinguish between overlooking (and a consequential loss of privacy) and merely being able to see towards another property.

Policy BDP1: Sustainable Development Principles requires that in considering new development, regard will be had to:

“e) Compatibility with adjoining uses and the impact on residential amenity”

The proposed location of the development on the site is considered to ensure that effects on residential amenity are minimised, taking into consideration separation distance between existing properties and the proposed housing.

The proposed development would not have an overbearing or visually intimidating impact upon nearby properties. It is considered that daylight to existing habitable rooms would not be prejudiced and that no loss of privacy would occur.

In relation to noise, the submitted noise assessment has been reviewed by WRS and appears satisfactory. The recommended noise mitigation measures relating to glazing, ventilation, and solid boundary fencing, within Section 8 of the Noise assessment, should be implemented. WRS have also recommended that post completion noise testing is carried out to demonstrate that both internal and external noise levels will meet the required standards.

It is noted that several objectors are concerned with any construction phase of development, it is considered that this could be adequately controlled by a construction management condition.



## **Affordable Housing**

Policy BDP8 relates to affordable housing and requires 30% affordable housing provision on brownfield sites over a threshold of 11 dwellings. The Framework states at paragraph 63 that:

“Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).”

It is considered that the affordable housing threshold given in Policy BDP8 is no longer consistent with national planning policy towards affordable housing both in terms of the Local Plan policy threshold being 11 or more homes (as opposed to the Framework threshold of 10 or more), and in its inclusion of a 1,000 sqm housing floorspace threshold (as opposed to a site area threshold of 0.5 hectares in the Framework).

As outlined in the Green Belt section of this report, the application site is a previously developed/brownfield site and therefore a 30% affordable housing provision would be required to comply with the policy. The requirement for affordable housing calculated as 30% of 22 dwellings would equate to 7 dwellings. The application proposes 7 of the 22 dwellings to be affordable. Therefore, the number of units proposed is considered to meet this policy requirement of BDP8.

In terms of the affordable units, 3 units have been identified for rent to buy and 4 units for social rent. This split is supported by Housing Strategy. Rent to buy falls under Other affordable routes to home ownership identified in the Framework.

Given the NPPF priority to significantly boost the supply of housing, the additional dwellings to be provided must carry significant weight in this balance. In April 2016, 10.5% of the dwellings in the District were affordable housing stock. This is lower than both the affordable housing provision in Worcestershire (15%) and England (17.3%).

The affordable dwellings have all been designed to have the same style and materials as the market housing.

## **Highways**

The A441 Redditch Road is a single carriageway, principal distributor route which provides frontage access to residential properties and businesses. To the south, the A441 Redditch Road links with the M42 Junction 2.

The A441 Redditch Road joins the B4120 Redditch Road at a roundabout from which the Applicant proposes to provide access to the proposed site. Both the A441 and B4120 are subject to a 40mph speed limit. All three existing arms on the A441/ B4120 roundabout have two entry and exit lanes, separated by a splitter island.

The applicant proposes to gain vehicle access to the development site via the creation of a fourth arm from the A441/ B4120 roundabout as shown on 210456-01 Rev D. Site Access Arrangements Sheet 1 of 14. A supporting GG104 Safety Risk Assessment has been produced by the Applicant which considered the appropriate design standards for

the roundabout and the approach roads. Access arrangements have also been subject to a Road Safety Audit (RSA) Stage 1.

County Highways has assessed this element and conclude that in terms of the form, scale, operation efficiency and footprint of the junction, the roundabout satisfies the requirement of the NPPF to ensure safe and suitable access.

The following enhancements are proposed to the local highway network:

- Uncontrolled pedestrian crossing with dropped kerbs and tactile paving along the Smedley Crooke Place junction with Redditch Road;
- Where the existing T-junction is to cease use, the dropped kerbs will be lifted and footway resurfaced;
- Uncontrolled pedestrian crossing with dropped kerbs and tactile paving across the roundabout's splitter island; and
- Footway provision from the internal layout will tie in with sufficient, existing provision for disabled road users.

Existing public transport services within the limited local area (this is noted in the supporting Transport Assessment and Addendum Report). The Highway Authority advised, in the previous observations, that there is scope to enhance the public transport services. On this basis, to enhance the peak time services and provide a link to the high frequency rail network offering the new residents a genuine choice of travel mode, a contribution of £350,000.00 is advised and will be secured within a s106.

The application has been evaluated by the Highway Authority. The Highway Authority determines that residual cumulative impacts would not be severe based on the evidence supplied, and hence has no objection subject to conditions and requirements, in accordance with paragraph 111 of the Framework.

### **Flooding and Drainage**

The site is located within the River Arrow catchment, Environment Agency fluvial mapping indicates that the site is located within Flood Zone 1 and it is not considered that there is any significant fluvial flood risk to the site. Based on the surface water flood maps there is also minimal surface water pooling to the site even at the 1 in 1000 year return period.

NWWM have raised no objection subject to a drainage condition.

### **Ecology**

The application includes a Preliminary Ecological Appraisal Report prepared by Seed. This concluded that there are no protected species constraints including negligible bat roosting opportunities but identified opportunities to increase biodiversity.

### **Trees and landscaping**

The site is presently dominated by built form and hardstanding with relatively little arboricultural interest or landscaping within the site. The tree officer considers the revised

layout removed any conflict with existing hedges and tree lines around the perimeter of the site.

Full details of the landscaping and planting proposals will be secured through condition. Accordingly subject to conditions, the proposal would not have an undue impact on existing trees and would secure enhancements to the landscape character and visual amenity of the site.

### **Planning Obligations**

In accordance with Paragraph 56 of the Framework and Section 122 of the CIL regulations, planning obligations have been sought to mitigate the impact of this major development if the application were to be approved.

The obligation in this case would cover:

- The provision of 7 affordable dwellings on the site
- A financial contribution of £350,000.00 for Public Transport improvements.
- A financial contribution of £16,100.00 for necessary School Transport Services.
- A financial contribution £6,800.00 for necessary Community Transport Services
- Education Contribution of £249,605
- A financial contribution of £5,681 towards Herefordshire and Worcestershire CCG
- A financial contribution of towards £8,231.58 NHS Worcestershire Acute Hospitals Trust
- £52.24 contribution for refuse and re-cycling bins per dwelling
- A section 106 monitoring fee

### **Applicants Case**

The applicant has submitted a planning statement, a response to Policy comments, a further appeal decision and recent as a recent High Court case as justification of the proposal. Their case can be summarised as follows.

The Council cannot identify a 5 year supply of deliverable housing land it is clear that housing policies in the Bromsgrove Local Plan are out of date and, therefore, that Para 11(d) of the NPPF is engaged.

The Green Belt conclusion from 2017 Inspector indicates that the proposal has no greater impacts on either the Green Belt openness or purposes than the existing use. The proposed scheme would therefore not constitute 'inappropriate development' in terms of GB policies, under either Policy BDP4.4 or the NPPF.

The Council has accepted that such land outside a defined settlement boundary complies to the principle of redevelopment set out in (what is now) paragraph 149(g) of the NPPF. One such example is Kiln Court (PA Ref: 16/1190).

Extinguishment of the existing unsatisfactory access and its replacement with a new and preferable access together with additional pedestrian safety improvements that are a benefit for existing and new residents;

The Highways Authority has found the site to be sustainable in principle and overall acceptable subject to contributions and conditions.

The existing use is unconstrained in terms of hours of operation etc and, as such, its extinguishment would be of direct and real benefit to adjoining residential uses;

The site's redevelopment presents the opportunity for major visual enhancement which must be afforded 'substantial positive weight'

There is at present a woeful deficiency in terms of the supply of deliverable housing sites. This site will make a meaningful contribution to the supply of housing, including affordable housing. The accepted shortfall is now less than the previous Inspector found to be sufficient for the delivery of housing to 'add significant weight' in favour of residential redevelopment;

This site will secure the redevelopment of PDL as opposed to greenfield sites which the Council is increasingly having to rely upon. The redevelopment of PDL must be afforded substantial weight.

The site is of a scale that renders it easily deliverable – indeed the application is based upon the specific requirements of the housebuilder which will build out the scheme;

The scale of the proposed development accords with paragraph 60 and 69 of the NPPF in that it will deliver a small/medium sized site which is critical to assisting Small and Medium Enterprise (SME) housebuilders. Such sites are specifically identified as making an important contribution to meeting the housing requirement of an area and have the benefit of being built out quickly (paragraph 69) – both factors are key to the Council's requirements under the Housing Delivery Test (HDT).

In addition, the proposed development will remove an inappropriate development from a residential area, it will deliver housing of a scale, form and mix appropriate to the area and will bring with it economic benefits through construction, the use of brownfield land and council tax/s106 monies.

## **Planning Balance**

In terms of the weight to the housing land supply situation, the greater the shortfall the greater the weight<sup>2</sup>. Bromsgrove District Council can only demonstrate a 4.6 year supply. and in such a context, mindful that the Framework seeks to significantly boost the supply of housing land, for this number of dwellings I afford significant weight to the contribution to housing land supply. The proposed affordable housing units is a public benefit that attracts significant weight in favour.

Economic benefits arising primarily relate to direct and indirect jobs, and the longer-term boost to local spending power. This could arise from any similar development but that does not detract from the fact that this development would offer such benefits, some of which would be temporary and short term, but others would be longer lasting and permanent.

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<sup>2</sup> Langton Homes Ltd v Secretary of State for Communities and Local Government [2014] EWHC 487 (Admin)

While several planning obligations have been agreed, these are mitigation for the impacts of the development. The absence of harm in terms of other normal development management matters weighs neutrally in the planning balance.

The appellant put a further benefit that the extinguishment of the uncontrolled use would be of direct benefit of adjoining neighbours. In relation to this matter if implemented, the unregulated use and its user(s) are likely to be forced to relocate elsewhere. There is nothing substantive to indicate there are more suitable sites for such uses that would allow for planning controls to better mitigate their effects. It has already been concluded that it is not the bad neighbour and further non-planning controls are also available albeit they have never had to be used on this site. Therefore, this consideration carries little weight.

In relation to environmental benefits, this site has been in operation for several years, with very few complaints. Moreover, while there is significant level of local interest in relation to this site, there is no support for it to be redeveloped which could have been reasonably expected if the site was indeed a bad neighbour. Although this is a further benefit of the proposal, I have seen nothing to demonstrate what problems the existing site is causing in terms of this matter. I am mindful that any such risks to health could be controlled via other legislation.

The proposal would utilise brownfield land, which itself could help to protect other greenfield sites and this is a benefit which counts in its favour. Paragraph 117 of the Framework advises that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses. It also states that strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or brownfield land.

However, footnote 47 clarifies that this is except where this would conflict with other policies in the Framework. In this case, it has been found that the proposal would conflict with the Green Belt policies.

The site itself is of negligible ecological value and some enhancement measures could occur through some limited enhanced connectivity with other wildlife and ecology resources. However, given the site's density and likely layout, I see no reason why some small biodiversity enhancement measures could not be secured to which I give a small amount of weight.

## **Conclusion**

The Framework and Policy BDP4, is clear that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In considering such a proposal, the Framework is clear that substantial weight should be given to any harm to the Green Belt.

The proposal would be inappropriate development in the Green Belt, causing substantial harm to openness. I have also identified harm to one of the purposes of the Green Belt

and non-Green Belt harm in terms of the scheme being contrary to the Alvechurch Neighbourhood plan which add further weight against the proposal.

In this case there are clearly considerations that push and pull in both directions. In this case there are considerations that weigh heavily in favour of this proposal in terms of the Government's objective of 'significantly' boosting the supply of housing and providing affordable housing and there would also be other less significant economic and environmental benefits as set out above. Set against this, the Government also attaches great importance to Green Belt and the Framework requires substantial weight to be given to any Green Belt harm.

However, for very special circumstances to exist, the other considerations would need to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness, openness, and purposes of the Green Belt, along with the other very limited harm to character and appearance. In other words, for the application to succeed, the overall balance would have to favour the applicant's case, not just marginally, but decisively.

Overall, it is judged that the other considerations do not clearly outweigh the totality and permanence of harm to the Green Belt, by reason of inappropriateness, through its substantial harm to openness, conflict with 1 of the 5 purposes of including land in the Green Belt and non-Green Belt harm. Consequently, the very special circumstances necessary to justify the development do not exist.

As the Council cannot demonstrate a 5 year housing land supply, Paragraph 11 (d) of the Framework indicates that permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. The application of Green Belt policy provides that to be the case here. As such, the proposal would not be the sustainable development for which Paragraph 11 of the Framework indicates a presumption in favour.

In summary therefore, in this case the other material considerations, including the identified benefits to the supply of housing in the area and the provision of affordable housing as part of the scheme and the other benefits raised do not justify allowing the application given the harm that has been identified and the resulting conflict with the development plan when taken as a whole.

Having considered all other matters raised, I therefore conclude that the application should be refused.

**RECOMMENDATION:** That planning permission be **Refused**

### **Reasons for Refusal**

1. The site is located outside a defined village envelope within an area identified within the Development Plan as falling within the Green Belt where there is a presumption against inappropriate development. In such an area, development is limited to that which is not inappropriate to a Green Belt and which would preserve its openness. The proposal does not meet any of the policy criteria specified at Policy BDP4 of the Bromsgrove District Plan (BDP) or at Paragraph 149 of the National Planning Policy Framework 2021 (NPPF) and as such the proposal would amount to inappropriate

development, which by definition, is harmful to the Green Belt. The proposal would also result in a detrimental impact on openness of the Green Belt due to its scale and location and conflict with the Green Belt's purposes, as identified in FRAMEWORK paragraph 138. No very special circumstances exist or have been put forward to clearly outweigh the significant harm caused to the Green Belt. As such the proposal is contrary to Policy BDP4 of the Bromsgrove District Plan and the provisions of the Alvechurch Neighbourhood Plan and the National Planning Policy Framework.

2. The proposed development is neither in the built up area of the village of Hopwood where it is closely surrounded by existing buildings and is outside the current settlement limit boundaries of the village of Hopwood. A development in this location of the size proposed would therefore be contrary to Alvechurch Neighbourhood Plan Policy H2 criteria a and f.
3. The proposed would fail to provide an appropriate mix of dwellings sizes within the development. It would not comply with the requirements of Policy H2 criteria d and Policy H6 of Alvechurch Neighbourhood Plan and would be contrary to Paragraph 8 and 130 of the National Planning Policy Framework.
4. The lack of a formal agreement to contribute towards the various financial contributions required to mitigate the impacts of the development is contrary to the requirements of Policies BDP6 of the Bromsgrove District Plan. The proposed development would result in an increase in the demand on local facilities with no compensation or enhancement of existing facilities, thus resulting in harm to the wider community around the site. Contrary to Paragraph 57 of the National Planning Policy Framework the applicant has failed to enter into a S106 agreement to mitigate these impacts.

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