

# BREINTON PARISH COUNCIL

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Dear Mr Lewis

## **P222769/F Land to the south-west of Breinton Lee, Swainshill, Herefordshire HR40SW – Proposed 45 dwellings (including affordable houses), garages, access, landscape and associated works.**

Breinton Parish Council considered this application at a meeting on the 19<sup>th</sup> October 2022 following a public meeting on 12<sup>th</sup> October attended by nineteen residents.

If approved this application would be the single largest housing development in the Parish for many decades, at a scale and form that has not been seen since Yew Tree Gardens or Four Acres were developed many years ago. It is considerably denser than other recent developments in the parish. At a single stroke this proposal would take Breinton well beyond the minimum number of homes that the 2015 Herefordshire Local Plan/Core Strategy indicated as a local target nine years ahead of schedule in 2031. This application provides many more affordable houses than the local housing needs survey indicated were necessary for the Parish. [2012 = 2 x one bed, 3 x two bed, 3 x three bed and 1 x four bed]. This means that once local connections are exhausted the new homes will be made available to residents of Hereford City and ultimately residents of Herefordshire.

Such a development requires careful planning and, above all the right location. The site off Breinton Lee is not the right place despite the applicant's Planning Statement attempts to demonstrate its suitability.

The Parish Council has **three main areas of objections**, many of which are shared by local residents.

### **Highways and Transportation**

Fundamentally the Parish Council categorically disagrees that this development is in a sustainable location in transport terms if the word sustainable were to be used in any meaningful way. Changes in the percentages by which various modes might be used in the future tabled in the Residential Travel Plan hide the fact that overall numbers of trips will significantly increase, particularly by car because there is no other safe option. In our view, the RTP will not direct the travel behaviour of future

residents in any significant way unless active, rather than passive measures, like a new cycleway are introduced.

On this basis the application is not in accordance with the NPPF which states that applications for development should:

*'give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas'* (Para 110a).

The NPPF says new development should be well located to employment sites, to minimise travel by car and yet no employment sites are referenced in the travel plans. Whilst schools such as Stretton Sugwas and Whitecross are mentioned in the travel plan there is currently insufficient capacity in these schools to take local children, with children having to be taken either by special bus or taxi to schools in Weobley (8 miles away) or across the other side of the City.

Paragraph 4.4.1 of Manual for Streets (MfS) states that walkable neighbourhood are typically characterised as having a range of facilities within 10 minutes walking distance (around 800m). However, it states that this is not an upper limit, and that walking offers the greatest potential to replace short car trips, particularly those under 2km. The majority of the facilities required to support residents living in this development lie well beyond 2km. On this basis the development does not accord with the Manual and is not a sustainable development in terms of transport.

The current proposal puts movement by motorised vehicles as a priority above other, more vulnerable road users. The development does not comply with the Dept for Transport LTN 1/20 as Cycle Infrastructure Design is not referenced in the Travel Plan, despite the applicant claiming this is suitable as sustainable development for walking and cycling.

LTN 1/20 Para 14.3.12 *"Cycling facilities should be regarded as an essential component of the site access and any off-site highway improvements that may be necessary. Developments that do not adequately make provision for cycling in their transport proposals should not be approved".*

*This national design guidance is more recent than the Herefordshire Council Highway Design 2006 and yet is not referenced.*

Para 2.11 of the Residential Travel Plan says that *"The site has good existing walking, cycling and public transport links, the provision and use of which will be further enhanced by the development of this RTP."* The Parish Council strongly disputes this statement. While the far distant Hereford / Abergavenny national cycle route 46 is mentioned there is no reference to the conditions that cyclists face immediately on the A438 Kings Acre Road or the lack of cycle infrastructure. The Parish Council has campaigned for a protected cycleway along this 40mph road linked into other parts of Hereford's fragmented cycle (non) network for over 20 years. There is categorically no cycling network across Hereford that will get you to the railway station some 5km away. The applicants ignore this lack of facilities immediately by their site nor is the development intending to provide any funding for such a scheme according to the draft S106 agreement.

The high volume of cars and service vehicles expected to enter the site daily across the pavement will increase severance of the footpath along Kings Acre Road. Should there be any development the junction onto Kings Acre Road should be reprioritised to reinforce the new Highways Code and Dept for Transport rules, giving priority across the site entrance to Breinton Lee to pedestrians, cyclists, and

those using mobility vehicles and the same prioritisation should be given to non-motorised vehicles at the entrance to the proposed development site.

In this connection the Parish Council would like an explanation of what the Highways Authority has in mind for the traffic calming and traffic management measures mentioned in 6.1 of the applicants Planning Statement? Councillors note that there is no mention of cycleway funding while we would remind the Highways Authority that cycleway contributions and local junction improvements are part of Breinton's list of outstanding issues that require S106 funding.

Despite all the technical work in the Transport Assessment that accompanies this application; does anyone really believe that adding 45 new homes with 130+ parking places plus garages, to the 10 new homes with planning permission on the adjacent site to the existing 18 homes using Breinton Lee will not have an effect locally? This is a car-based housing development like so many recently around Hereford and the Parish Council categorically disagrees with the statement in the Planning Statement that there will only be a '*minor increase in trip rates*'

The Planning Authority will be aware that there is already an outstanding permission for 10 other houses on a plot just east of the proposed site. These have not yet been started despite the site being originally in the same ownership as the new proposal, perhaps because the drainage issues on this site have yet to be satisfactorily resolved? Any traffic generated will also use the same unsatisfactory junction with the A438 as a combined effect with those from the proposed development The Residential Travel Plan [RTP] (that ticks a box but is otherwise unimpressive and unenforceable) attached to the application is required by the NPPF because the proposed development is considered to produce significant amounts of movement. This contradicts all the technical work in the applicants Transport Assessment which unsurprisingly finds few if any issues.

As far as public transport is concerned there are no early morning or evening bus services available to local residents and non on Sundays. This makes it virtually impossible to reach or return from anything other than the most local jobs or educational opportunities during a normal working day unless you use a car. Statements that '*there is good access to local retail and employment land uses located close by*' are simply misleading.

The issue is of course access to services and not travel for its own sake. In this context the table of local opportunities only strengthens the Council's concerns. Not many of these can really be deemed 'day to day services' whatever the Planning Statement maintains. There are only two places to eat within 1km of the proposed development and of these the garden centre operates restricted hours. There are no food stores within 1km or 10 minutes walking time of the proposed development and only one (small) food store within 2km. The existing on-road parking necessary to use this makes it a local traffic hazard. At between 19 and 20 minutes on foot this is right at the outer margins of feasible walking trip according to the RTP.

The amenities listed on page 8 of the RTP are not accurate and not possible when considering much of the topography. For examples, 2 different times are given by RB to cycle to the Westfaling St Pharmacy (8 minutes) and to Quay House surgery (12 mins) ck despite being in the same building. The cycle time is based on an average speed of 15km/hour time and so appears to ignore the steep incline up Wordsworth Road. It also makes no allowance that it is a very brave person who would cycle around the Whitecross roundabout to access such facilities. These services would not be readily accessible by

young families or older people except by car and so the development cannot be considered sustainable on transport grounds

As far as road safety locally is concerned, personal Injury collision (PIC) statistics do not reflect the experiences and observations of existing residents over many years. Statistics do not cover the many near misses or unreported accidents. Local people certainly do not agree with the applicants' Transport Assessments (TA) statement that *'there are no highway safety patterns or concerns that need further consideration'*. The proposed exit to the site is directly opposite the Blue Diamond Garden Centre, where traffic frequently has to queue in the centre of the road before turning right across eastbound traffic. The width of the A438 at this point prevents westbound traffic proceeding until the queue has gone. This is not mentioned in the TA

In addition, the Parish Council's view on the possibility of hard paving a stretch of BT2 – Church Walk – is that this would give an unwelcome, unwanted, un-necessary and inappropriate urban intrusion into a rural setting. If approved, it will also create an additional new maintenance liability. There is no record of flooding on the path locally and it has never been, and we would much prefer money to be spent elsewhere. We very much hope that the idea will be dropped by the PROW team who we note do not object to the application. If there really is seen to be a need for a firmer surface – and we do not believe that there is given the likely low usage - then the example of the Herefordshire Wildlife Trust's work along the Green Lane to their nature reserve at Wyevale Wood is a better example of what can be done and is appropriate in the countryside.

In conclusion, the Parish Council agrees with the applicant's statement that any new residents *'will be required to travel by other modes (i.e., cars) in order to access wider facilities'*. However, the issue is that these wider facilities provide most, if not all, of the necessities for modern life. You would not live in this place if you did not have a car, or cars, at your disposal and every intention to use them frequently.

## **Water Issues**

The Flood Risk Assessment that accompanies the application says *'Despite the medium to high risk of surface water flooding projected (presumably by the Environment Agency?) along the eastern side of the site aligned with the site's topography, the overall risk from this and all other sources is considered to be low. The proposed mitigation measures and drainage strategy will further minimise the projected risks.'*

The critical and too easily overlooked words in this statement are 'projected', 'considered' and 'mitigation'. In the Parish Council's view there is sufficient uncertainty for this development to be refused until much more research is done. Local residents along Kings Acre Road are already experiencing flooding adjacent to this site as are residents of the original Breinton Lee development. It may cause road safety issues on Kings Acre Road. It is not a once in a while historic incident that can be dismissed but a risk to be considered each and every year. Raised finished floor levels as proposed for the new development are of no use to current residents in existing houses.

Incidents locally are increasing in frequency as storms become more severe possibly because of climate change. There is photographic evidence going back a good number of years of this flooding

(caused by run off from fields and not inadequate highway drainage as the applicants contend although this does not help). It was a major objection to the original application to develop the adjacent site on Breinton Lee (for 15 but now 10 houses ref 123592) – sadly dismissed by the Appeal Inspector. Despite this long standing and unresolved problem, the current applicants can only propose mitigation measures, not ones that eliminate any possibility or which guarantee to improve the current situation.

We note that the application form questions relating to floods are all answered negatively – incorrectly in our view - and that their infiltration testing results on site were inconclusive. They were of course conducted during the driest summer on record but counter intuitively water did not drain away as anticipated despite such dry soil conditions. Having failed to make their case the applicants fell back instead on the much earlier test results for the adjacent site (123592). This is totally inappropriate. We have been told by independent, qualified, engineers that the results for the two sets of infiltration tests are not comparable in any way. The boreholes are of different depths, the depths of water used in each hole are different nor is the clay / gravel geology encountered at different depths below ground level the same either. We note that private soakaways will only be provided where space allows not across the site. It is also clear to us that soakaways into clay will act very differently to those into gravels with the latter draining more freely provided that they are not already saturated with ground water. We doubt that the 1.8m depth proposed for soakaways will hit gravel in every case even where they are provided.

The applicants are confident that their mitigation measures will not make matters worse elsewhere. We are not convinced. Building 45 homes will reduce the area of porous surface and ultimately there is only one way any surplus water can exit this site, which is along the eastern ditch, north under No 343 through a silt pit and then under Kings Acre Road in a culvert on into the garden of No 304. As was found during earlier investigations the Highways Authority does not always maintain this culvert. Either way surplus water will either back up onto the development site and neighbouring gardens or flood the gardens of properties north of Kings Acre Road.

The Parish Council has long campaigned for a complete, independent hydrological survey for the entire Yazor Brook catchment south of the Roman Road and east of Credenhill. This strategic study needs to be concluded, understood and the necessary actions taken prior to any more major housing developments (such as this one) are approved to the north-west of Hereford city. We simply do not believe that the proposed development can be guaranteed safety from flood risk or that flood risk elsewhere in the Yazor Brook catchment will not increase as a result of the development.

Other fields and properties south of the Kings Acre Road but closer into Hereford to the east already flood in a similar fashion to those around Breinton Lee. There is a local flood alleviation scheme in existence just inside the Hereford city boundary– funded by the Environment Agency – which has not eliminated the problem and there are strong grounds for suspecting that each and every development south of Kings Acre Road is making the problem worse. Water is moving predominantly north and east through the Yazor catchment over and underground and the implications of disturbing this is not understood. Until it is we would suggest that repeated piecemeal developments such as this will simply leave the ‘last development through the gate’ to bear the entire consequences of the mismanagement of water locally in the past.

Finally, we have been told on a number of occasions that residents at a number of locations on Kings Acre Road ‘downstream’ from the proposed site already experience sewerage capacity issues on a

recurring basis. This concerns us and we await with interest Welsh Water's comments on the ability of their infrastructure to take effluent from a further 45 houses without more investment.

Fresh water supplies along Kings Acre Road suffer from decreasing water pressure, and the addition of these homes, will exacerbate this further without a significant upgrade of water supplies across the Kings Acre Road area and beyond.

### **Natural environment**

We note that the answers given to the biological and geological diversity questions on the application form are negative in all cases. We do not believe that this is correct. There are or were badgers – a protected species – on the adjacent site to the east which was one other fundamental reason why that application (123592) caused so much concern locally. Indeed, special provision was made on that site to provide some measure of protection as condition of planning approval. That site was in the same ownership as the site currently being considered and we are somewhat surprised that this information has not been given more prominence in the applicants Preliminary Environmental Appraisal.

Notwithstanding the lack of evidence for badgers in the applicant's Preliminary Ecological Appraisal should the current site proceed the only remaining exit from the area specifically set aside for them on 123592 into open space is extremely limited. This protected species is known to forage far and wide but will only be able to exit south towards Wyevale Wood, a Herefordshire Wildlife Trust site if they are to avoid new housing. Our estimate is that this remaining open boundary <10% of the original field circumference. Any future development beyond what is currently being proposed would block this off completely. In our view it is wrong to treat the ecology of development sites in isolation from each other and that this is no way in which to treat protected species. Local residents can testify to badgers being active in the locality over a long period and recently. The current proposal completely dismisses any possibility of this. We note the objection to this development by the Council's own ecology officer which supports our concerns much more eloquently and gives practical planning reasons why this application should be refused.

At the Parish Council meeting on 19<sup>th</sup> October the agents for the developers stated that street lighting will be required across the development in order for it to be classed as a safe environment and adopted by the Council. However, the application makes no mention of street lighting or the impact such light pollution into the open countryside will have on the nocturnal wildlife, which includes bats, owls and badgers which are all regularly seen by local residents. It also extends street lighting from an urban setting into open countryside, taking lighting up the incline and above the current ground levels, increasing the spread of the light pollution. This is another factor confirming that development of this site is not in accordance with the NPPF para 174 (See below).

The applicant's Arboricultural Survey initially recognises that the silver lime tree by the turning circle on Breinton Lee (which is the proposed access to the housing development) is of good quality. It goes on to say that the designation as an ancient/veteran tree provides some measure of protection and its existence is thus relevant to the site. Further into the survey the quality is downgraded to fair, and the RAVEN methodology is used to re-categorise the tree as, simply, notable. If this is designation is

accepted by the Planning Authority, it would conveniently remove any formal protection for the tree making this proposed development easier. Furthermore, the Parish Council has seen independent, qualified advice that disputes the conclusions about the tree's status and questions the appropriateness of the RAVEN methodology. Some of this may be reflected in other representations received by Herefordshire Council.

It is not the Parish Council's role to arbitrate between professionals; however, the lime tree is most certainly a significant feature of the local street scene and could not be replaced with anything similar should it be harmed by this development. The Council's concern is for the local bio-diversity and, treescape and green infrastructure, We do fear that compaction, contamination and possible severance of the tree's root system is a strong possibility if road works are necessary at the site entrance and that there could be impact damage by high sided vehicles entering and leaving the site – as well as the adjacent site should this be built out at the same time or in sequence. We disagree with the conclusion that there is unlikely to be any effect on the lime, we think this is a real possibility. We do however agree that the tree is a category A specimen, is of high quality, value and its retention and ongoing good health is highly desirable. We are concerned that some parts of the tree might be pruned / removed. If this is really considered necessary, it should be conditioned so that only suitably qualified operatives do it and the minimum is done to guarantee the trees health (and not simply for site access). Furthermore, the Planning Authority should regard the tree as ancient/veteran and ensure it has the statutory protections this status provides.

Agricultural Land quality. The site is classified as Grade 2 agricultural land which the NPPF defines as Best Most Versatile land. Para 174 of the NPPF *“Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;”*

The Government has recently reiterated the high-grade soil protection in the NPPF, which says that lower grade land, particularly Brownfield sites, such as those on Grandstand Road/Widemarsh Common, should be developed ahead of higher grade land, especially with increasing concerns over food security. Once lost high grade soils are gone forever.

### **Conditions should this application be approved**

In the event that the current application is approved, the Parish Council considers that the following conditions are appropriate in addition to any with the Planning Authority considers necessary

The proposed new estate is adjacent to the southern settlement boundary of Kings Acre Road but not within the current settlement. The boundary itself was required by Herefordshire Council if they were to accept the Breinton Neighbourhood Development Plan conformed to their 2015 Core Strategy. The boundary was the subject of much local debate at the time. We fear that this development will simply

be used as a starting point for further development of the site labelled as Cre 09 in the 2015 HEELA. Some of which is neither within nor adjacent to the settlement boundary and would certainly not conform to planning policy if future development were proposed there. As such the Parish Council requires an absolute and categorical assurance that the southern boundary of the proposed new estate – the established building line - will form the new and final southern boundary of housing off Kings Acre Road in the area.

We note that the proposed new estate has been designed so that it does not extend further than the existing southern boundary of Breinton Lee, although the play area / public open space and landscaping does. There is considerable local concern about hard boundaries being created between new buildings and the open countryside that characterises most of Breinton parish. The southern boundary of the nearby Breinton Leyse development off Breinton Lane shows what can go wrong. At this point, there is now a highly visible and dominant urban edge formed by the recent housing despite the retention of the original hedgerow. The Parish Council therefore requests that, should this application be approved, further consideration is given to increasing its southern landscaping and that this is made deeper and potentially higher. This will considerably soften and improve the view of the development north from Wyevale Wood and as you approach from the south down Church Walk.

The area of porous surfaces on the site should be maximised.

The street names should not be anything to do with Breinton Lee/Leyse or similar.

Speed limit should be lowered to 30mph on the A438 westward beyond Breinton Lee and enforced. The Parish Councils' list of projects requiring S106 funds includes lay byes/hard standing for speed cameras in accord with the Road Safety Partnership specification. A 30mph speed limit should improve the safety of all road users. This is particularly important in the vicinity of the Breinton Lee junction with KAR where in a 2-year period there were 3 PSI accidents. Under LTN1/20 junction priority at Breinton Lee should be given to pedestrians and cyclists, and with potentially an extra 130 vehicles crossing the footpath at a poorly visible junction it will be important to reduce the risk of the more vulnerable road users by reducing the speed of vehicles leaving and entering the development.

That S106 funds should be used so that the Breinton Lee junction onto KAR can be reprioritised in accordance with the NPPF and LTN 1/20 and avoid further severance of the footpath and cycleway required along KAR. This cycleway has been a key element of tackling increased car use in the area, and will be needed to reduce travel by car, and promote safety of cyclists, particularly children seeking to cycle to primary school at Stretton Sugwas or secondary school at Whitecross.

That payments should be made for a full topographical /hydro-geological survey to confirm that any future development within the area will not contribute to the increased flooding occurring both from climate change and increased surface water runoff.

To enhance the biodiversity and habitat, to attempt to reduce flooding and enable green corridors, instead of erecting wooden fence boarding between all the properties, a variety of hedging plants be used to define boundaries. The hedging is not to be replaced by boarding subsequently and the hedging is to be maintained over the first 5 -10 years of planting, so that any dead or dying plants are to be replaced at the developer's expense.



The silver lime tree adjacent to the proposed site entrance should be subject of a Tree Preservation Order immediately as it is now at risk. Any work to it should be conducted by suitably qualified arboriculture experts and approved in advance by appropriately qualified Herefordshire Council staff

That the management of the open spaces should be adopted by the council and funding put in place to deliver this. The same developer has already created a development and the management of the green spaces which has not yet been transferred to the new homeowners. We do not believe that the land management by residents will be suitable for such a large development.

Your sincerely

Emily Godsall  
**Clerk, Breinton Parish Council**