

AGENDA

Planning Committee

Date: **Friday 7 April 2017**

Time: **10.00 am**

Place: **The Council Chamber - The Shire Hall, St. Peter's Square, Hereford, HR1 2HX**

Notes: Please note the time, date and venue of the meeting.

For any further information please contact:

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Agenda for the meeting of the Planning Committee

Membership

Chairman	Councillor PGH Cutter
Vice-Chairman	Councillor J Hardwick
	Councillor BA Baker
	Councillor CR Butler
	Councillor PJ Edwards
	Councillor DW Greenow
	Councillor KS Guthrie
	Councillor EL Holton
	Councillor JA Hyde
	Councillor TM James
	Councillor FM Norman
	Councillor AJW Powers
	Councillor A Seldon
	Councillor WC Skelton
	Councillor D Summers
	Councillor EJ Swinglehurst
	Councillor LC Tawn

AGENDA

		Pages
1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the Minutes of the meeting held on 15 March 2017.</p>	7 - 22
5.	<p>CHAIRMAN'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairman.</p>	
6.	<p>APPEALS</p> <p>To be noted.</p>	23 - 26
7.	<p>163966 - JUNCTION OF THE STRAIGHT MILE AND B4399, ROTHERWAS, HEREFORD, HR2 6JL</p> <p>Change of use to high quality public open space and a landmark public art feature. Application for a skylon tower, a 46m high, vertical, corten steel landmark feature located within the heart of skylon park Hereford Enterprise Zone.</p>	27 - 46
8.	<p>163646 - BROCKINGTON, 35 HAFOD ROAD, HEREFORD, HR1 1TA</p> <p>Demolition of the former office buildings and the redevelopment of the site to provide a 70 bed care home (use class c2).</p>	47 - 68
9.	<p>162601 - LAND ADJACENT TO UPPER WESTON, WESTON UNDER PENYARD, HEREFORDSHIRE</p> <p>Proposed conversion of existing barn to two dwellings and erection of 5 dwellings.</p>	69 - 88
10.	<p>DATE OF NEXT MEETING</p> <p>Date of next site inspection – 25 April 2017</p> <p>Date of next meeting – 26 April 2017</p>	

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Council Chamber - The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Wednesday 15 March 2017 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor J Hardwick (Vice Chairman)

Councillors: BA Baker, PJ Edwards, KS Guthrie, EL Holton, JA Hyde, TM James, FM Norman, GJ Powell, AJW Powers, A Seldon, WC Skelton, D Summers, EJ Swinglehurst and LC Tawn

In attendance: Councillors TL Bowes

112. APOLOGIES FOR ABSENCE

Apologies were received from Councillors CR Butler and DW Greenow.

113. NAMED SUBSTITUTES

Councillor GJ Powell substituted for Councillor CR Butler.

114. DECLARATIONS OF INTEREST

Agenda item 7: 150930 – Land at Hildersley Farm, Hildersley, Ross-on-Wye

Councillors PGH Cutter and JA Hyde declared non-pecuniary interests as members of Ross-on-Wye Town Council.

115. MINUTES

It was noted that Councillor J Hardwick had been incorrectly recorded in the draft minutes as having been present at the meeting.

RESOLVED: That the minutes of the meeting held on 22 February, as amended, be approved as a correct record and signed by the Chairman.

116. CHAIRMAN'S ANNOUNCEMENTS

The Chairman reported that he had received a request in connection with the housing white paper: "Fixing our broken housing market". A Member asked that the views of members of the Planning Committee should be represented in the Council's response to the White Paper. To that end it was requested that a briefing be arranged for, at the least, Planning Committee members, and quite possibly all members.

The Chairman undertook to investigate the options.

117. APPEALS

The Planning Committee noted the report.

118. 150930 - LAND AT HILDERSLEY FARM, HILDERSLEY, ROSS ON WYE

(Proposed development of approximately 212 dwellings including affordable housing, public open space and associated works)

(Councillor J Hardwick Vice-Chairman in the chair.)

The Principal Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

He confirmed in relation to the objection by the Ministry of Defence (MoD) about noise nuisance that the detail would be addressed at the reserved matters stage. As set out in the update, in recommending granting outline planning permission an additional condition was proposed for noise insulation and reduction measures. The site could be developed in accordance with the revised illustrative Masterplan within the 95 db noise contour. The MoD had indicated that it would work with the local authority and the applicant as a good neighbour. Consideration had also been given to whether there were safety issues relating to the proximity of the firing range and it was considered that this aspect could also be satisfactorily addressed.

He also confirmed that following discussion with the highway consultants the proposed bus stops would be relocated.

In accordance with the criteria for public speaking, Mr D Lister, of Ross-on-Wye Town Council spoke in support of the Scheme. Mr P Baldus, a local resident, spoke in objection.

In accordance with the Council's Constitution, the local ward member, Councillor PGH Cutter, spoke on the application.

He made the following principal comments:

- He supported the view of the Town Council in not objecting to the application. In doing so he noted that he was not a member of that council's planning committee. He highlighted that the Town Council did, however, have concerns about the proposed access and traffic movements upon which he accordingly invited the Transportation Manager to comment.
- The proposed provision of affordable housing at a level of 40% was to be welcomed.
- In relation to noise from the firing range, in his 36 years as a councillor he had not received a single complaint about noise from the range. Consideration did, however, need to be given to the concerns expressed about that aspect. Account also had to be taken of the fact that the armed forces needed to train. People who sought to purchase a property would be doing so in the knowledge that the firing range was there.
- The report in its assessment of the application against policy RW2, on which there had been full public consultation, concluded that all the criteria in that policy had been met.
- There was a concern about the pressure the development would place on local infrastructure and services. He would prefer the sum identified in the S106 agreement for medical reasons to be specifically allocated for a health centre on the model farm site. He requested that as local ward member he should be consulted on the agreement.

In the Committee's discussion of the application the following principal points were made:

- The most recent comments of the MoD indicated that they appeared to be less opposed to the application than they had been.
- It was questioned whether the developer should be making a larger financial contribution through the S106 agreement. In reply the Lead Development Manager commented that the S106 agreement had been drafted in accordance with the council's approved supplementary planning document and there was no scope to secure additional sums.
- In terms of highway matters, several members considered that a 30mph speed limit should be extended eastwards to encompass the site access. It was also suggested that access from the A40 via a roundabout would be the better strategic option.

The Transportation Manager commented that the design of the access was acceptable taking account of the volume and speed of traffic. The proposal was to impose a 40mph limit for the access and provide engineering features to reduce speeds. Account had been taken of the potential model farm access. If other developments took place in the locality consideration could be given at that point to a 30mph limit.

The Lead Development Manager commented that gateway features could be provided as a traffic calming measure. A roundabout could not be achieved within the resources that would be secured by the S106 agreement.

- A number of concerns were expressed about the need for infrastructure to be provided to support the development, in particular health care provision.
- It was suggested that the development of the model farm site opposite the application site offered an opportunity to combine housing development and employment opportunities and it appeared that the most was not being made of this. In reply the Principal Planning Officer commented that it was not possible at this stage to say when an application might come forward.
- The robustness of Welsh Water's response was questioned suggesting it was "a standard response", noting also that one of the objectors had stated the ground was part of the aquifer for Ross on Wye. The presence of aquifers had caused a significant difficulty in seeking to develop one of the council's other strategic expansion sites at Three Elms, Hereford. In reply the Lead Development Manager commented that it would be inaccurate to characterise Welsh Water's response in that way.

In conclusion the Lead Development Manager highlighted the benefit the amount of affordable housing in the scheme would provide. He added that it now appeared that an accommodation could be reached with the MoD, making it timely to submit the application to the Committee. He confirmed that a 40 mph limit was being proposed for the location.

It was suggested that the local ward member and the vice-chairman should be consulted on the Section 106 agreement.

The local ward member was given the opportunity to close the debate. He had no additional comment.

RESOLVED: That subject to the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, with the addition of the provision of gateway features, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, after consultation with the local ward member and the vice-

chairman, subject to the conditions below and any other further conditions considered necessary:

- 1. C02 - A02 Time limit for submission of reserved matters (outline permission)**
- 2. C03 - A03 Time limit for commencement (outline permission)**
- 3. C04 - A04 Approval of reserved matters**
- 4. The submission of reserved matters in respect of layout, scale, appearance and landscaping and the implementation of the development shall be carried out in substantial accordance with the revised Illustrative Masterplan – Drawing Number 503 Revision H.**

Reason: To define the terms of the permission and to conform to Herefordshire Local Plan - Core Strategy Policies RW1, LD1, LD2, LD3 and MT1.

- 5. None of the dwellings shall be occupied until the roadworks necessary to provide vehicular access from the A40 have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.**

Reason: To ensure an adequate and acceptable means of access is available before the first dwelling is occupied and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 6. Development shall not begin in relation to the provision of road and highway drainage infrastructure until the engineering details and specification of the proposed roads and highway drains have been submitted to and approved in writing by the Local Planning Authority. No dwelling may be occupied until the road and highway drain serving the dwelling has been completed.**

Reason: To ensure an adequate and acceptable means of access is available before any dwelling is occupied and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 7. No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:**
 - a. Wheel cleaning apparatus which shall be operated and maintained during construction of the development hereby approved.**
 - b. Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**
 - c. A noise management plan including a scheme for the monitoring of construction noise.**
 - d. Details of working hours and hours for deliveries**
 - e. A scheme for the control of dust arising from building and site works**

- f. A scheme for the management of all waste arising from the site
- g. A travel plan for employees.

The agreed details of the CMP shall be implemented throughout the construction period.

Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 8. Prior to the first occupation of any of the dwellings hereby approved a Travel Plan which contains measures and targets to promote alternative sustainable means of transport for residents and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the Local Planning Authority upon reasonable request.

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 9. Prior to the commencement of any development full details of surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details which should address the following:
 - Provision of a detailed drainage drawing, including supporting calculations, showing the proposed surface and foul drainage networks including the location and size of all soakaways;
 - Soil infiltration rates (soil infiltration tests should be undertaken in accordance with BRE365 guidance) and groundwater levels;
 - If infiltration is not feasible on the site, evidence that the Applicant is providing sufficient on-site attenuation storage to ensure no flood risk to the development and no increased flood risk to third parties outside the development between the 1 in 1 year event and up to and including the 1 in 100 year rainfall event, with appropriate increase in rainfall intensity to allow for the effects of future climate change. The Applicant should refer to the latest Environment Agency guidelines for climate change allowances at <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>;
 - Evidence that the Applicant has considered the management of surface water runoff in extreme rainfall events;
 - Demonstration that appropriate pollution control measures are in place prior to discharge;

- Evidence that the Applicant has sought and agreed all necessary permissions to discharge foul water from the site with the relevant authorities;
- Confirmation of the proposals for adoption and maintenance of the surface and foul water drainage strategies.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan Core Strategy.

10. No building shall be occupied until the drainage system for the site has been completed in accordance with the approved details. Thereafter no further surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan Core Strategy.

11. Prior to the first occupation of any of the dwellings hereby approved a scheme for the provision of covered and secure cycle parking within the curtilage of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. The cycle parking shall be installed and made available for use prior to occupation of the dwelling to which it relates and shall be retained for the purpose of cycle parking in perpetuity.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

12. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

- 13. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.**

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

- 14. The Remediation Scheme, as approved pursuant to condition 12 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.**

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.

- 15. The recommendations for species mitigation and enhancements set out in the RPS ecology reports for dormice (2014), badger (2014), reptile (2015) and bat activity (2014) together with additional information and updates of these reports from the Ecology Technical Note dated December 2016 should be followed unless otherwise agreed in writing by the local planning authority. Working method statements for mitigation of the protected species present should be submitted as a single document to the local planning authority in writing. The work shall be implemented as approved.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment). To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

- 16. An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.**

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment). To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3

Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

- 17. An additional 5 year Ecology Management Plan for the existing and newly created habitat should also be required by condition as follows:**

Prior to commencement of development, a five year Ecology Management Plan shall be submitted for approval in writing by the local planning authority. This shall include details of habitat establishment, management and monitoring of species based upon the recommendations of the protected species reports with proposed ecological enhancements. The Plan shall be implemented as approved.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment). To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

- 18 Prior to the commencement of any development written approval must be gained from the Local Planning Authority for a scheme of noise insulation and reduction measures for the proposed housing development. Any such scheme must ensure that sound levels in bedrooms of less than 30dB_LA_{eq} and 45dB_LA_{max}. can be achieved. The development shall be carried out in accordance with the approved details.**

Reason: To protect the residential amenities of the future occupiers of the properties and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. This planning permission is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990.**
- 3. I 09 Private apparatus within the highway**
- 4. I 11 Mud on the highway**
- 5. I 35 Highways Design Guide**
- 6. I 41 Travel Plans**
- 7. I 45 Works within the highway**

8. **All investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission to discharge condition 12**
9. **The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com.**
10. **The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water on 0800 085 3968 to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.**

(The meeting adjourned between 11.23 and 11.32 am)

(Councillor PGH Cutter (Chairman) in the chair.

119. 162891 - 11 HARTLAND CLOSE, BELMONT, HEREFORD, HR2 7SL

((Retrospective) change of use of land to residential curtilage. Retention of garden room, decking, timber stairs and steps.)

The Senior Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

In accordance with the criteria for public speaking, Mr P Smith, the applicant's agent, spoke in support of the application.

In accordance with the Council's Constitution, the local ward member, Councillor TL Bowes, spoke on the application.

She made the following principal comments:

- The applicants regretted the application was retrospective. They had taken legal advice which had proved incorrect. They were willing to compromise.
- A number of adjacent properties had carried out works. However, they now had mature gardens. The scheme under consideration, as a new development, appeared somewhat bare.
- There had been 13 letters in support of the application. The development would blend in. The site had been a wilderness.

- There was a visual impact but it was unclear how many were affected by it and how much that impact would reduce over time.
- A mistake had been made but there was scope for a compromise.

In the Committee's discussion of the application the following principal points were made:

- A similar application on land further along the banks of the River Wye had been refused in 2004 and dismissed at appeal.
- The land alongside the river bank was known for its wildlife and ecological importance. It had been well understood that it could not be developed.
- The application would not have been approved had it been submitted in the normal course of events. Regard had to be had to the special status of the River Wye Special Area of Conservation.
- There were objections from Natural England, the Conservation Manager (landscape) and the Conservation Manager (Ecology).

The Senior Planning Officer confirmed that there were no permitted development rights for the site; it was not part of the garden curtilage.

The local ward member was given the opportunity to close the debate. She had no further comment.

RESOLVED: That planning permission be refused for the following reason:

1. **By virtue of their siting, scale and design, the decking, garden room and associated staircases/steps appear as intrusive, prominent and incongruous structures on the bankside, adversely affecting the character and amenity of the landscape, contrary to policies SS6 and LD1 of the Herefordshire Local Plan – Core Strategy.**

Informative:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal. The applicants have been given the opportunity to address the issues raised where possible. However, the issue of landscape impact is fundamental and it is considered not to be possible to negotiate a satisfactory way forward due to the harm which has been clearly identified within the Committee Report and the reason for the refusal. Approval of the scheme is not possible.**

120. 163322 - LAND AT THE FIELD STUD FARM, POPLANDS LANE, RISBURY, LEOMINSTER, HR6 0NN

(Erection of a housing unit comprising of an independently accessed single storey one bedroom dwelling and a two bedroom dormer style bungalow.)

The Principal Planning Officer gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes.

He added that confidential medical information, alluded to in the report, had been provided by the applicants.

In accordance with the criteria for public speaking, Mr M Hubbard, of Humber, Ford and Stoke Prior Group Parish Council, spoke in support of the Scheme. Mrs S Snead, a relative of the applicant, also spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor BA Baker, spoke on the application.

He made the following principal comments:

- The report referred to a mobile home on the site but this was better described as a permanent park home.
- The applicant's son had severe medical needs and the parents were seeking to continue to provide care for him themselves and facilitate their daughter taking on that role by providing a replacement new building that would allow family members to remain on site.
- Policy RA3 stated that replacement dwellings would be permitted. The proposal would provide replacement accommodation on the site that was not excessive and would be more sustainable.
- The Parish Council supported the application and considered that it was consistent with the adopted Neighbourhood Development Plan (NDP).
- The proposal was also compliant with the National Planning Policy Framework.

In the Committee's discussion of the application the following principal points were made:

- The applicant had withdrawn an initial application that had not met with the Parish Council's approval. The Parish Council did support the current application. Paragraph 10.2.6 of the NDP indicated that some development may be permitted on Poplands Lane even though it was outside the settlement boundary.
- The existing mobile home was coming to the end of its life. The proposal would provide a superior replacement.
- Local residents supported the application.
- The proposal would have no negative visual impact.
- It was important that the Committee should be consistent in applying the council's approved policies, which applied equally to smaller applications as to larger ones.
- The Lead Development Manager clarified that planning permission for the existing park home had lapsed and it was therefore unauthorised development. The application was for two new dwellings in the open countryside: a large 2 bedroom unit with a single storey one bed unit attached to it but not linked.
- The legal adviser added that a mobile home was not classified as a dwelling in planning law. Personal circumstances were not a material planning consideration.

In conclusion the legal adviser reminded members that, as set out at paragraph 6.1 of the report, applications must be determined in accordance with the development plan unless material considerations indicated otherwise.

The Lead Development Manager commented that the Committee was not a social care committee. He reiterated that the application was clearly for two dwellings in the open countryside. It was not an application for the provision of a replacement dwelling. The applicant could have sought to extend their existing property by providing an annex. It was in those circumstances that personal circumstances could be taken into account,

even to the extent of permitting a larger extension than would otherwise have been countenanced.

The local ward member was given the opportunity to close the debate. He considered the personal circumstances to be exceptional and the application to be for a housing unit. He reiterated that the Parish Council supported the application and considered it to be consistent with the NDP. The Committee should support the NDP.

It was proposed that the application should be approved on the grounds that it was sustainable development consistent with the NDP.

RESOLVED: That officers named in the Scheme of Delegation to officers be authorised to grant planning permission subject to conditions considered necessary on the grounds that the proposal was sustainable development consistent with the neighbourhood development plan.

121. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

Appendix 1 - Schedule of Updates

The meeting ended at 12.52 pm

CHAIRMAN

PLANNING COMMITTEE

Date: 15 March 2017

Schedule of Committee Updates/Additional Representations

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

SCHEDULE OF COMMITTEE UPDATES

150930 - PROPOSED DEVELOPMENT OF APPROXIMATELY 212 DWELLINGS INCLUDING AFFORDABLE HOUSING, PUBLIC OPEN SPACE AND ASSOCIATED WORKS AT LAND AT HILDERSLEY FARM, HILDERSLEY, ROSS ON WYE

For: The Owner and/or Occupier per Mrs Kate Gapper, Park House, Greyfriars Road, Cardiff, CF10 3AF

ADDITIONAL REPRESENTATIONS

Further email correspondence has been received from the Defence Infrastructure Organisation (DIO) on behalf of the Ministry of Defence. It reads as follows:

I think what would be very helpful and supportive towards my client (the user of the range) is that the Local Authority condition that through the reserve matters stage of the process, that discussions in relation to the mitigation measures are held between the LA in consultation with the MOD. I would like to work with the LA and of course the applicant, if planning approval is granted, to ensure 1. security of my client use is not compromised in any way and 2. that the noise generated from the range is mitigated as best it can to reduce the impact of the range's use of the new house owners, should planning be granted. We would endeavour to act as a good neighbour and would like to have a dialogue to achieve this.

OFFICER COMMENTS

A reserved matters application to agree the detail of the development will be required should planning permission be granted in outline. The Ministry of Defence would have the opportunity to comment on any subsequent application and your officers would advocate close co-operation with them as part of this process. It is not appropriate to deal with this as a condition, but a note on an outline planning permission to encourage the developer to engage with the MoD at an early stage prior to submission is seen as a reasonable approach.

It has been noted separately that an additional condition is required to require the submission of noise mitigation measures and an appropriately worded condition is recommended below.

CHANGE TO RECOMMENDATION

Additional Condition:-

Prior to the commencement of any development written approval must be gained from the Local Planning Authority for a scheme of noise insulation and reduction measures for the proposed housing development. Any such scheme must ensure that sound levels in bedrooms of less than 30dB_LA_{eq} and 45dB_LA_{max}. can be achieved. The development shall be carried out in accordance with the approved details.

Reason: To protect the residential amenities of the future occupiers of the properties and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

162891 - (RETROSPECTIVE) CHANGE OF USE OF LAND TO RESIDENTIAL CURTILAGE. RETENTION OF GARDEN ROOM, DECKING, TIMBER STAIRS AND STEPS AT 11 HARTLAND CLOSE, BELMONT, HEREFORD, HR2 7SL

For: Mr Woodcock per Mr Paul Smith, First Floor, 41 Bridge Street, Hereford, Herefordshire, HR4 9DG

ADDITIONAL REPRESENTATIONS

OFFICER COMMENTS

Correction to the Committee Report at paragraph 1.3 – the garden room has a dual-pitched roof, not a mono-pitch.

NO CHANGE TO RECOMMENDATION

163322 - ERECTION OF A HOUSING UNIT COMPRISING OF AN INDEPENDENTLY ACCESSED SINGLE STOREY ONE BEDROOM DWELLING AND A TWO BEDROOM DORMER STYLE BUNGALOW AT LAND AT THE FIELD STUD FARM, POPLANDS LANE, RISBURY, LEOMINSTER, HR6 0NN

For: Mr & Mrs Harcombe per Mr & Mrs Dudley & Susan Harcombe, The Field Stud Farm, Risbury, Leominster, Herefordshire HR6 0NN

ADDITIONAL REPRESENTATIONS

The Transportation Manager has no objections

OFFICER COMMENTS

None

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING COMMITTEE
DATE:	7 APRIL 2017
TITLE OF REPORT:	APPEALS

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the progress in respect of the following appeals.

Key Decision

This is not an executive decision.

Recommendation

That the report be noted.

APPEALS DETERMINED

Application 151325

- The appeal was received on 4 October 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr Malcolm Morgan
- The site is located at Land adjacent to Lustonbury, Luston, Leominster, Herefordshire, HR6 0AP
- The development proposed was Proposed erection of three dwellings with associated landscaping and infrastructure.
- The main issues were:
 - The effect of the proposals on the special interest, significance and settings of the listed buildings and on the character, appearance and significance of Luston Conservation Area.
 - The effect on neighbouring occupiers' living conditions, mainly in terms of privacy.
 - Whether or not the appeal site is an appropriate location for the new dwellings in terms of access to the village, facilities and services.

Decision:

- The application was Refused at Planning Committee on 16 March 2016.
- The appeal was Allowed on 6 March 2017

Case Officer: Mr Andrew Prior on 01432 261932

Application 160577

- The appeal was received on 29 November 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr Peter Smith
- The site is located at Land at Dorefield House, Crossways, Peterchurch, Herefordshire
- The development proposed was Erection of one dwelling and garage.
- The main issues were:
 - The effect of the proposal on the character and appearance of the area; and
 - Whether the appeal site is an appropriate location for housing with regard to the access to facilities and services with particular regard to pedestrian safety; and
 - Whether the development of the appeal site would result in greater flood risk for occupiers of Dorefield House.

Decision:

- The application was Refused under Delegated Powers on 9 May 2016
- The appeal was Allowed on 6 March 2017
- An Application for the award of Costs, made by the Appellant against the Council, was Allowed.

Case Officer: Mr Matt Tompkins on 01432 261795

Application 152779

- The appeal was received on 31 October 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Pallas Ventures Ltd
- The site is located at Land adjoining Orchard Farm, Eardisland, Herefordshire
- The development proposed was 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.
- The main issues were:
- From my inspection of the site and surroundings and the representations made I find there are three main issues in the determination of this appeal. These are
 - (i) whether the location of the scheme would give rise to concerns in an emergency flooding incident, particularly concerning safe entrance/exit;
 - (ii) whether surface and foul water drainage and management has been adequately considered in the circumstances within this settlement and
 - (iii) whether the scheme would provide an appropriate range and mix of housing to contribute to the creation of balanced and inclusive communities.

Decision:

- The application was Refused at Planning Committee against Officer Recommendation on 3 August 2016
- The appeal was Dismissed on 21 March 2017
- An Application for the award of Costs, made by the Appellant against the Council, was Dismissed

Case Officer: Mr M Tansley on 01432 261815

Application 153077

- The appeal was received on 15 September 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr Player
- The site is located at Land at Lowlands, Castle Hill, Kington, Herefordshire, HR5 3AH
- The development proposed was Proposed detached dwelling
- The main issue(s) was(were):
 - (i) whether the proposals would preserve or enhance the character or appearance of the Kington Conservation Area;
 - (ii) the effect of the proposals on the setting of the Scheduled Monument; and
 - (iii) whether the proposals provide sufficient information to address the effects of the proposal on non-designated heritage assets.

Decision:

- The application was Refused under Delegated Powers on 8 December 2015
- The appeal was Dismissed on 16 March 2017

Case Officer: Mr Mark Tansley on 01432 383789

Application 160450

- The appeal was received on 14 December 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal was brought by Mr S Watkins & Mr P Bennett
- The site is located at Land to the East of Brook Lane, North of B4220, Bosbury, Hereford
- The development proposed was Proposed residential development for up to 21 dwellings (of which 8 will be affordable)
- The main issue in the appeal is the effect of the proposal on the character and appearance of the area.

Decision:

- The application was Refused under Delegated Powers on 3 May 2016
- The appeal was Allowed on 23 March 2017
- An Application for the award of costs, made by the Appellant against the Council, was Dismissed

Case Officer: Mr Fernando Barber-Martinez on 01432 383674

Application 152122

- The appeal was received on 30 November 2016
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Non determination
- The appeal was brought by Johnson Brothers & Co Ltd
- The site is located at Land adjacent to Wood House Farm, Edwyn Ralph, Hereford, Herefordshire
- The development proposed was Five dwellings and garages
- The main issues in this case are:
 - Whether or not new housing in this location is acceptable having particular regard to the settlement strategy for the area;
 - The effect upon nearby heritage assets;
 - The effect upon highway safety;
 - The effect upon biodiversity;
 - Whether or not acceptable living conditions would be provided to the occupiers of nearby properties, and

Further information on the subject of this report is available from the relevant case officer

- Whether or not the site can be suitably drained.

Decision:

- The appeal was Dismissed on 24 March 2017

Case Officer: Mr Andrew Prior on 01432 261932

If members wish to see the full text of decision letters copies can be provided.



MEETING:	PLANNING COMMITTEE
DATE:	7 April 2017
TITLE OF REPORT:	<p>163996 - CHANGE OF USE TO HIGH QUALITY PUBLIC OPEN SPACE AND A LANDMARK PUBLIC ART FEATURE. APPLICATION FOR A SKYLON TOWER, A 46M HIGH, VERTICAL, CORTEN STEEL LANDMARK FEATURE LOCATED WITHIN THE HEART OF SKYLON PARK, HEREFORD ENTERPRISE ZONE. AT JUNCTION OF THE STRAIGHT MILE AND B4399, ROTHERWAS, HEREFORD, HR2 6JL</p> <p>For: Mr Pearce per Mr Mark Martin, 5 The Triangle, Wildwood Drive, Worcester, WR5 2QX</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163996&search=163996
Reason Application submitted to Committee – Council Land	

Date Received: 13 December 2016 Ward: Dinedor Hill Grid Ref: 353327,237847

Expiry Date: 20 March 2017

Local Member: Councillor D Summers

1. Site Description and Proposal

- 1.1 Planning permission is sought for the erection of what is described as the Skylon Tower - a 46m high, vertical, corten steel landmark feature located within the heart of Skylon Park, Hereford Enterprise Zone. The design has been inspired by the original Skylon Tower built in 1951 to celebrate and mark the Festival of Britain by Painter Brothers Ltd of Hereford.
- 1.2 The 1951 version was a futuristic-looking, slender, vertical, cigar-shaped steel tensegrity (tension integrity) structure located by the Thames in London, which was designed to give the impression of floating above the ground.
- 1.3 The Design and Access Statement (DAS) describes the main purpose of the Skylon Tower now proposed is to provide a high quality, landmark feature that is visible from the surrounding transportation network and a focal point to enhance legibility within the Hereford Enterprise Zone (HEZ), known as 'Skylon Park'; which is located approximately three kilometres to the south east of Hereford city centre. It lies south of the River Wye SAC/SSSI, adjacent to Rotherwas Industrial Estate and close to Dinedor Hill.

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

- 1.4 The immediate setting to the proposed Skylon Tower will be a high quality public open space that provides a gateway arrival to visitors and occupants.

Application Site

- 1.5 The application site occupies the south-east corner of the road junction between the B4339 and The Straight Mile. It lies at approximately 49m AOD and is in an area identified as land adjacent to Plot C20. The application site is 0.81 acres (0.33 ha).
- 1.6 The planning application is for a gateway public realm feature into Skylon Park Enterprise Zone. The application site is 0.3309 hectares and consists of a tower art feature, reflection pool feature and soft landscape design.
- 1.7 The main feature, the tower, is proposed to be 46 metres high (151 feet) and 3.5 metres (11.5 feet) wide at the mid-point; clad in cor-ten steel and GRP lightweight skin. The design of the tower is intended to be to a contemporary design of the original Skylon.
- 1.8 The proposed design responds to the existing landscape features by retaining the only mature existing tree and enhancing bio-diversity through increased habitats and attenuation ponds.
- 1.9 The tower is set within a circular reflective pool forming the central feature to the public realm space. Radiating out from the pool is a starburst pattern that is reflected in both the paving and ornamental planting. This pattern is an artistic representation of Skylon Park logo.
- 1.10 Figure 1 is an OS extract showing Rotherwas and Skylon Park (Hereford Enterprise Zone) at the south-eastern edge of the city.

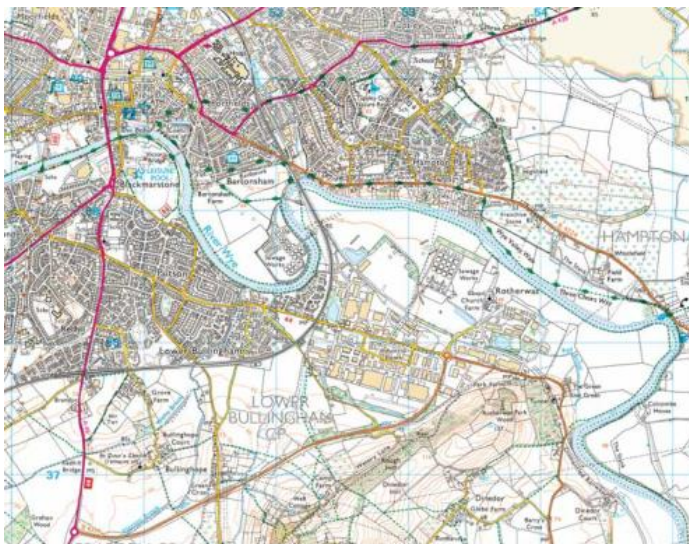


Figure 1 (above): OS extract showing Hereford and the Hereford Enterprise Zone

1.11 The DAS describes the key objectives of the design strategy as:-

- The provision of a gateway entrance and sense of arrival to Skylon Park
- To provide a wayfinding landmark within the Enterprise Zone as well as from Hereford City;
- To provide a high quality environment that presents a professional, attractive and welcoming setting to Skylon Park;
- To provide a destination public realm space in its own right that is educational, informative and represents a part of the sites history;
- To ensure good connectivity into the wider Skylon Park;
- To integrate the proposed landscape scheme into the wider masterplan of Skylon Park through a compatible and complementary palette of paving materials, street furniture and planting;
- To create opportunities for investment and long term revenue funding to make the scheme both viable and sustainable for the long term.

1.12 The site layout play is set out below at Figure 2:-

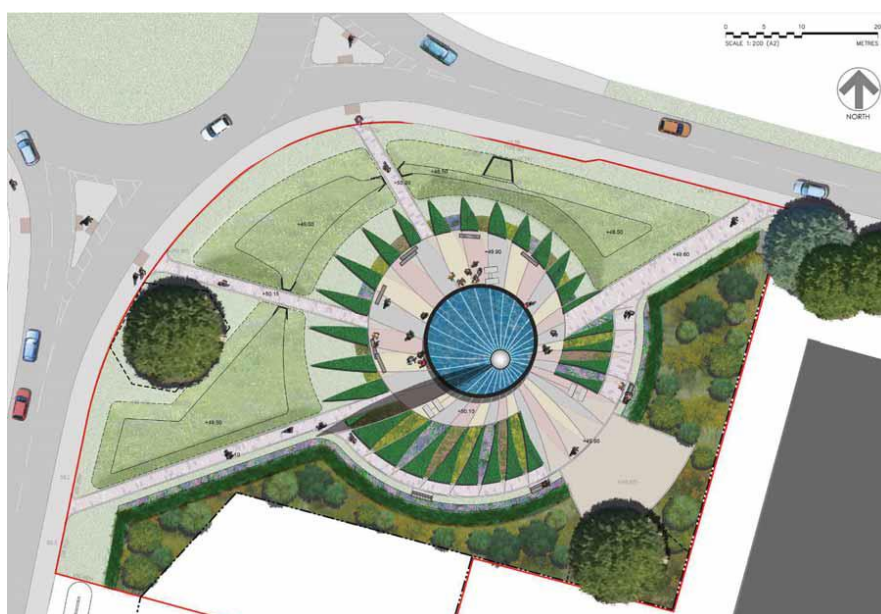


Figure 2: Site layout

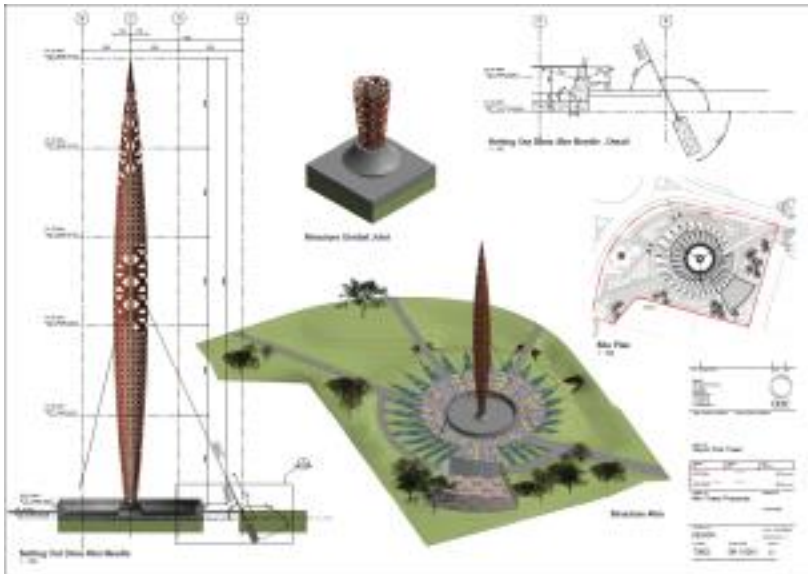
1.13 The original Skylon was 90 metres tall; almost double that now proposed. The DAS confirms the height of the proposed Skylon Tower has been considered with respect to its location and other historic landmarks within Hereford and the surrounding landscape. This height is comparable to Hereford Cathedral which is 50.3 metres tall (165 feet). The proposed tower is to be set lower at 46 metres high in order that it does not conflict with or detract from the Cathedral. At 46m Skylon Tower would be just over a third of the height of the London Eye (135m) and 1/7th of the Eiffel Tower (324m).

1.14 Lightning protection and an aviation warning light will be integrated. The preliminary design has considered a lightweight steel lattice welded panellised structure. The structure would be approximately 3.5m wide at mid-height with 3 number spiral stays fixed at that level. The 3 stays would be located at 1/3 points at 120 degrees and a radius of 11.5m with an angle of approximately 65 degrees to the ground. The preliminary design provides a structural central core frame solution with total steelwork

weight of approx. 5300kg excluding stays, connections and any cladding surface feature. The cladding surface finish material is a combination of patterned cor-ten steel at the base and top third with GRP skin occupying the middle section and top to reduce weight.

Site Constraints

- 1.15 The site itself is not subject to any landscape designation and lies within Flood Zone 2. The site of Rotherwas House (Scheduled Monument) lies 0.51km due north of the application site. Rotherwas Chapel (listed Grade II*) is also 0.51km due north of the application site, immediately adjacent Rotherwas House Scheduled Monument.
- 1.16 Hampton Park Conservation Area lies 1.2km north west of the application site and bounds a stretch of the northern side of the River Wye Special Area of Conservation / Site of Special Scientific Interest.
- 1.17 There are four areas of Ancient Woodland on the slopes of Rotherwas Park Wood, which is also unregistered historic parkland. These lie between 250m and 1km of the application site. There are also two Special Wildlife Sites within 0.7km of the site and several public rights of way within the site's zone of theoretical visual influence.
- 1.18 A number of key visual receptors were agreed with the Council. These have been assessed with a view to measuring in accordance with GLVIA guidance, the magnitude of visual effects associated with the development.
- 1.19 The application is accompanied by a Design and Access Statement, which incorporates a Landscape and Visual Impact Assessment, Flood Risk Assessment and drainage strategy, structural assessment and Phase 1 Ecology Survey.
- 1.20 The public realm design is circular and based upon the Skylon Park logo which is brought into the landscape through the paving design and formal planting layout. A series of circular shapes including a central paving plaza, planting design and potentially a water feature all incorporate elements of the logo pattern that forms a complimentary landscape within which the Skylon Tower sits.
- 1.21 A large, raised shallow water feature is located central to the site and acts as a plinth to Skylon Tower and discourages access to the base of the tower. The pool is made from a dark grey/ black polished concrete surface so that the water will reflect the tower. Wide edges to the water feature provide informal seating.
- 1.22 Figure 3 (below) shows the tower in elevation and relief, with a section through one of the 3 stays.



2. Policies

- 2.1 The Development Plan for the area is, in the main, the Herefordshire Local Plan – Core Strategy. The relevant policies are outlined and discussed briefly below:-
- 2.2 The CS pursues three themes and twelve objectives under the headings of Social Progress, Economic Prosperity and Environmental Quality. These are, in my view, equivalent to the three roles of sustainable development described in the National Planning Policy Framework (NPPF). CS Policy SS1 imports a similar decision-making test to that set out at Paragraph 14 of the NPPF. In effect, development that accords with the CS should be approved without delay. Where policies are absent, silent or out-of-date, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in national policy taken as a whole or specific elements of national policy indicate that development should be restricted.
- 2.3 Policy SS4 is the strategic policy concerning movement and transportation. Other than during the construction phase, vehicular access is not intended on any basis other than for purposes of maintenance and SS4 is not considered any further.
- 2.4 Policy SS6 underpins the CS objectives surrounding environmental quality and local distinctiveness. The policy requires development proposals to be shaped through an integrated approach to planning the identified environmental components from the outset. Of relevance to this proposal is townscape and local distinctiveness, historic environment and heritage assets and local amenity. The final paragraph to SS6 refers to the advent of other development plan documents and their role, in time, in defining local distinctiveness. A Hereford Area Plan (HAP) will be produced to complement the CS and add detail at the Hereford City level, but the production of an Issues and Options Paper is yet to occur and the HAP does not attract any weight for decision-making on planning applications.
- 2.5 The 'place-shaping' policies relating to Hereford are not considered relevant in this context.

- 2.6 MT1 is a criteria based policy outlining the aspirations around movement and echoes the objectives expressed in SS4.
- 2.7 Of particular relevance to this proposal are the 'Local distinctiveness' policies LD1 Landscape and townscape, LD2 Biodiversity and geodiversity, LD3 Green infrastructure and LD4 Historic environment and heritage assets. LD1 requires that developments should demonstrate that character of the townscape has positively influenced the design, scale, nature of the proposal and site selection.
- 2.8 LD2 requires that schemes have appropriate regard to habitats and species of significance. LD3 sets out the approach to the protection and enhancement of green infrastructure.
- 2.9 LD4 requires that developments should, where possible, enhance heritage assets and their settings in a manner appropriate to their significance. LD4 and the supporting narrative explain clearly that the policy is intended to apply equally to designated and non-designated heritage assets.
- 2.10 LD4 (2) asks that where opportunities exist, development proposals should contribute to the character and local distinctiveness of the townscape.
- 2.11 SD1 'Sustainable design and energy efficiency' is a criterion based policy covering a range of topics, including the requirement that residential amenity for existing and proposed residents is safeguarded. SD3 the drainage hierarchy and approach to flood risk.
- 2.12 Policy OS1 - Requirement for open space, sports and recreation facilities recognises that the provision of open space will arise in relation to retail and employment proposals where there is need to provide informal areas of amenity green space for the use of employees and visitors.
- 2.13 Policy OS2 – Meeting open space, sports and recreation needs, references the need for such provision to meet all applicable standards of quantity, quality and accessibility.

National Planning Policy Framework

- 2.14 The National Planning Policy Framework (NPPF) was published in March 2012 and supersedes all the previous Planning Policy Guidance Notes and Statements.
- 2.15 The NPPF does not change the statutory status of the Development Plan as the starting point for decision making." Proposals must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF represents a material consideration which should be taken into account in determining applications.
- 2.16 The NPPF states (paragraph 197) that in determining proposals, "...Local Planning Authorities should apply the presumption in favour of sustainable development."
- 2.17 The NPPF is framed as a positive and enabling document, seeking to facilitate sustainable development and growth. There is a clear commitment (paragraphs 18 – 19) to supporting and securing, rather than impeding, sustainable economic growth. The golden thread running through the NPPF is a 'presumption in favour of sustainable development'.
- 2.18 Applications for sustainable development should be approved wherever possible (paragraph 187), consistent with an overarching approach that demands a "presumption in favour" of sustainable development (paragraph 14). It advocates a proactive, creative and solution seeking approach to planning (paragraphs 17 and 187). National Legislation, Planning Policy and Guidance.
- 2.19 There is topic-based guidance covering a range of significant issues.

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

Of relevance to the case in hand are:-

- 2.20 Chapter 7 – Requiring good design. Good design is regarded as indivisible from good planning and should contribute positively to making places better for people. To this extent paragraph 64 confirms that applications for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions should be refused.
- 2.21 Chapter 8 – Paragraph 69 states that planning policies and decisions should aim to achieve places which promote “safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.”
- 2.22 Chapter 10 sets out the Government’s approach to climate change and flooding.
- 2.23 Chapter 11 deals with conservation and enhancement of the natural environment and Chapter 12 the historic environment. This chapter sets out the approach to decision-making where harm to significance is identified. This is important in the context that this substitutes for CS Policy LD4, which does not direct the decision-maker in such cases.

3. Planning history

- 3.1 Rotherwas Access Road – 2002
- 3.2 Hereford Enterprise Zone – the site falls within the boundary of the HEZ / Skylon Park, which was designated on 17th August 2011.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water: No comment
- 4.2 Natural England: No objection

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

- 4.3 Historic England: Qualified comment

Further to our response of 7 February 2017 a Heritage Statement (Nick Joyce Architects, March 2017) has now been submitted in support of the application. Historic England has concerns regarding the Heritage Statement as it does not address all the points raised in our letter of 7 February 2017 nor does it follow published industry standards and guidance.

Historic England believes that the proposed Skylon Tower and associated landscaping will have an adverse impact on the significance of both the site of Rotherwas House Scheduled Ancient Monument (National Heritage List for England UID: 1014880); and Dinedor Camp Scheduled Ancient Monument (NHLE UID: 1001758) through further development within their settings, such that the tests of paragraph 134 of the National Planning Policy Framework should be considered as part of the decision making process.

Recommendation

Historic England has concerns regarding the application on heritage grounds. We recommend that the application should be determined in accordance with national and local policy guidance. Your authority should take these representations into account in determining the application.

4.4 Civil Aviation Authority: No response

4.5 MOD & Defence Estates: No objection

Thank you for consulting Defence Infrastructure Organisation (DIO) on the above proposed development.

This application relates to a site outside of Ministry of Defence safeguarding areas. I can therefore confirm that the Ministry of Defence has no safeguarding objections to this proposal.

4.6 NATS: The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

Internal Council Advice

4.7 Traffic Manager: No objection

Approval In Principle from BBLP will be required for the tower structure and a suitable condition to this effect attached to any permission granted. The cost of such application and the checking procedure to be met by the developer.

Any works within the highway limits will need Section 278 agreement.

I would also suggest conditioning of a Construction Method Statement.

4.8 Conservation Manager (Landscape): No objection

The application is for a sculptural feature of 46 metres in height located within the Skylon Park Hereford Enterprise Zone part of the Rotherwas Industrial Estate.

I have read the submitted Design and Access Statement as well as the LVIA within it. As the conclusion within the report states, clearly there is a balance to be struck between providing a high quality landmark feature within this urban landscape whilst at the same time avoiding the introduction of an incongruous feature which will be discordant with the natural landscape of the wider setting.

I am satisfied that a detailed assessment of the visual effects of the proposal has been carried out as part of the report. Pre-application advice was sought from HC to identify potential visual receptors as well as establishing the scope of the assessment. A helium balloon flown at the two proposed heights of the sculpture also provided a definitive understanding as to the extent of the visual effects of the proposal.

I also note from the D & A that consideration has been given to the height of the proposal in relation to the two historic city landmarks and the height relationship between the proposal and the surrounding open countryside, in particular Dinedor Hill and Rotherwas Park Wood. Having seen the viewpoints within the report as well as walking the surrounding elevated landscape, I agree with the findings that within the immediate urban landscape the effects are likely to be

beneficial. Within the wider open countryside the effects will not be of a level which is substantially adverse, primarily because, as stated within the report, the proposal will only be visible above the horizon for a distance of less than 614m.

In terms of the design of the sculptural feature itself as well as the landscape design at its base, I have a number of queries; some fundamental to the design and some of a more minor nature:

- The D & A states the proposal will be clad in patterned corten steel at the base and the top third of the structure. GRP skin will occupy the middle section and the top. It would be useful to have a better understanding of these materials – in terms of how they relate to each other, how these materials weather and the finished effect both at eye level and from a distance.
- The D & A states that the mast stay blocks can be full or partially buried – given that the purpose of the blocks is purely functional I would recommend the blocks be completely buried.
- I note that within the hard landscaping plans a variety of colours are incorporated into the paved area; I would recommend the use of a subtle colour palette in this instance in order to avoid detracting from the sculptural feature. The report states that the colours have been selected to complement the wider masterplan of the Skylon Park it would therefore be helpful to see a copy of the masterplan to understand how the design relates to the wider park.
- The plans indicate the retention of a field maple on site, the RPA of which would need to be shown on the landscaping plans with measures for its protection during the construction phase.

4.9 Conservation Manager (Ecology): No objection subject to conditions

Thank you for providing the additional survey evaluation requested. I have read the report on potential aerial impacts of the Skylon on bats and birds and I concur with its findings. In particular I welcome the measures proposed for avoidance and mitigation of these potential impacts together with enhancement measures for the site. With suggestions for boundary habitat creation for bat foraging and with the best available lighting for the tower it affords some mitigation for the species affected. Together with the guy markers, this provides a bespoke mitigation framework for the development which I believe would work. I am content that, at this stage, any approval can be conditioned with works pending receipt of a mitigation and habitat enhancement plan. The mitigation proposals encapsulate the expected impacts but I believe there should be a period of monitoring during which the success or otherwise of the mitigation can be assessed.

Consequently, I would suggest the following two non-standard conditions be added to any approval given:

The recommendations set out in the ecologist's reports from Midland Ecology dated November 2016 and March 2017 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a species mitigation schedule and habitat enhancement scheme should be submitted to, and be approved in writing by, the local planning authority, and the scheme shall be implemented as approved.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

In addition to this I also recommend that a non-standard compliance* condition requiring a period of monitoring after construction is also attached to any approval as follows:

A period of at least one year of ecological monitoring should be established unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. On completion of the monitoring, confirmation of the success or otherwise of the mitigation measures should be made to the local planning authority in writing together with any photographic evidence of the measures implemented.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

*A compliance condition allows works related to the condition to commence and then to be discharged on completion.

4.10 Conservation Manager (Archaeology): No objection

The location of the proposed development was evaluated a decade ago and was demonstrated to be of low potential for below-ground archaeological remains. Also (the representation of Historic England notwithstanding), I am of the view that in this significantly industrial context, there would be few concerns regarding any harm to the settings of heritage assets in the wider environs. The considerable size of the proposed structure is noted, but I do regard it as appropriate for its location as regards the historic environment.

4.11 Conservation Manager (Historic Buildings): Support

- In summary the proposals would create a high quality way-marking point in a landscape of modern industrial units set amongst the remnants of a former Ordnance Factory. The scale of the proposals mean that the primary impact would be in the immediate area. The proposals would have limited inter-visibility with other heritage assets, however it is felt that any minor harm to the interpretation of the setting of nearby assets has in part already been compromised by the industrial development and the proposals are for an item which would improve the visual appearance of the area, outweighing any residual harm. Policies 137 , 134 and 131 of the NPPF apply.
- The amended Heritage Statement complies with the requirements of NPPF Section 128

- We would recommend that conditions are imposed to ensure the execution of the proposals is of the necessary high quality so that the potential enhancement mitigating any minor harm takes place.
- Of most interest in terms of heritage assets are:
 - Rotherwas Chapel.
 - The former Ordnance Factory. Not only are the individual buildings of value, but the interpretation of the layout and use of the site. Whilst such sites are of limited aesthetic beauty the impact of a large influx of workers to Hereford and the involvement of the site in the events of WW1 and its aftermath cannot be underestimated.
- Whilst the Skylon would be a change to the immediate environment it is not necessarily a negative one. Whilst it may cause very minor harm to the interpretation of the setting of Rotherwas Chapel, it is not an object which is a detractor in the way perhaps an industrial chimney might. It is an iconic design which strong associative imagery of the hopefulness of the post war years in the face of austerity.
- It should be noted that the immediate context of the proposals is a rather bleak industrial landscape.
- These comments only relate to historic buildings and areas. We would recommend that the Council's Planning Archaeologist, Julian Cotton is contacted for advice regarding scheduled monuments and buried archaeology.

4.12 Economic Development Manager: Support

From an economic development perspective I have the following comments to make on the above application.

The proposed structure attempts to reflect the original Skylon Tower which was an integral feature of the 1951 Festival of Britain. The original Skylon was made in Hereford by Painter Brothers and represented a significant engineering and design challenge.

The use of the Skylon name for the Hereford Enterprise Zone represents the linkage between Hereford's engineering and entrepreneurial history and the intent for the Enterprise Zone to support the development and growth of a new cadre of these types of businesses.

The structure itself has the potential to act as a significant piece of public art that will gain national and perhaps international attention and assist in the branding and marketing of the enterprise zone. It will help build the story of Hereford's engineering and manufacturing expertise and will have a beneficial impact from an inward investment perspective.

Additionally the structure and its setting will provide a high-quality public open space for existing and future employees based within the enterprise zone and wider Rotherwas area and will complement the landscaping works to be conducted along the straight mile and elsewhere within the estate.

As a consequence, and from an economic development perspective, I recommend support of the application.

4.13 Land Drainage: No objection subject to conditions.

4.14 Environmental Health Manager (Contamination): Recommends conditions

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

5. Representations

- 5.1 Dinedor Parish Council: No objection
- 5.2 Lower Bullingham Parish Council (adjoining): Objection. The Skylon is totally out of character for the area, doesn't reflect the local industrial heritage of Rotherwas and loss of visual amenity.
- 5.3 Hampton Bishop Parish Council (adjoining): No response
- 5.4 Hereford and Worcester Garden Trust: No response
- 5.5 Shobdon Airfield: No response
- 5.6 Six letters of support have been received. The content is summarised as follows:-
- This feature would visually enhance and benefit the Rotherwas Estate as well as supporting the concept of three dimensional artwork in a public space;
 - The scheme is directly relevant to the manufacturing history of the area and links back to the original 1951 Festival of Britain Skylon, built by Painter Bros.
 - The scheme will enhance the area, give the Enterprise Zone the branding and profile it needs. It will be an engaging and exciting addition to a fairly anonymous industrial environment.
 - The scheme will provide high-quality public open space that would benefit existing and future employees.
 - There is a case for the structure to be taller, but the design has clearly had regard to the constraints.
- 5.7 The consultation responses can be viewed on the Council's website by using the following link:-
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163646&search=163996

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

- 6.1 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

- 6.2 In this instance the Development Plan for the area comprises the Herefordshire Local Plan - Core Strategy (CS). A range of CS policies, referred to at section 2, are relevant. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms that proposals that accord with the policies of the CS (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise. SS1 also imports an equivalent of the NPPF paragraph 14 'test' where relevant policies are out-of-date, stating that permission will be granted unless material considerations indicate otherwise – taking into account whether "any adverse impacts of granting permission

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

would *significantly* and *demonstrably* outweigh the benefits when assessed against the policies in national policy taken as a whole or specific elements of national policy indicate that development should be restricted.

- 6.3 SS6, supported by LD1 and LD4 – discussed above, requires that proposals should be shaped through an integrated approach to planning relevant environmental components from the outset, and based on sufficient information to determine the effect upon each. In this case, the relevant environmental components are the landscape within which the proposal would be seen and appreciated and within this landscape, the impact of the proposal upon specific elements of importance or interest; including the local listed buildings, scheduled monuments and public rights of way.
- 6.4 Having regard to the policies described above, I consider the **main issue** to involve an assessment of the proposal's impact on the character and appearance of the area.
- 6.5 The application site falls within an area long-since designated for employment use. The CS predecessor (Herefordshire Unitary Development Plan 2007), safeguarded the wider area for employment-related use. The CS does likewise and the designation of the Hereford Enterprise Zone (HEZ) underscores the strategic approach to the promotion of Rotherwas and the Enterprise Zone as the focus for employment development in the county.
- 6.6 Recent HEZ related-development is apparent in the area surrounding the application site alongside more established industrial premises. The site is also bounded on two sides by highways; the Rotherwas Access Road and Straight Mile (Holme Lacy Road). There is also significant mature landscaping along highway corridors and the steep slopes to Rotherwas Park Wood and Dinedor Hill provide an elevated backdrop to the site in views from the north.
- 6.7 The application is accompanied by a Landscape and Visual Impact Assessment, the scope of which was agreed with the Council's Landscape Officer in advance. This included the identification of 13 representative viewpoints as set out below:-



Figure 7.3 Key Visual Receptors

Assessment of Visual Impacts

- 6.8 One of the key purposes of the installation is a function as waymarker within Skylon Park. In order to fulfil this objective the tower is necessarily tall and the height chosen was informed by

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the stationing of a balloon at 46 metres, with a marker at 26m on the tether to provide an alternative height for reference.

- 6.9 Reference to local distinctiveness is largely academic with a proposal such as this. This is on the basis the project is designed with the intent that it is visible; albeit the design is also intended to be aesthetically pleasing and appropriate within the context. To this extent, the visual impact of the proposal has been assessed at the viewpoints shown on the image above above; these being agreed with the Council in advance. They include assessment from the city; (Key Visual Receptor (KVR) 1 is the top deck of the multi-storey car park on the Old Livestock Market development). From this location views of the proposal are considered unlikely to be achieved and the magnitude of effect is none.
- 6.10 KVR 2 is from Green Crize Road at the bridge crossing of the Rotherwas Access Road (B4399). The magnitude of visual effect from this viewpoint is predicted as minor on the basis the proposal would result in a small change to a wide-ranging view from this point.
- 6.11 KVR3 is a view east along Holme Lacy Road to the west of the railway bridge. This is one of the principal approaches to the Enterprise Zone. From this viewpoint the LVIA describes the magnitude of change as negligible and the nature of visual effects are considered neutral.
- 6.12 KVR4 is again along Holme Lacy Road, next to the entrance to the Thorn Offices. From here the upper section of the tower would be partially visible above the mature tree line. The magnitude of change is accepted as being minor (as per the LVIA); the visual effects slightly beneficial.
- 6.13 KVR5 is another view from within the Enterprise Zone, on Vincent Carey Road. From this point the size, scale and change would cause a significant change to a small proportion of this near distance view, but that even in this case the visual effects would be slight beneficial. This is on the basis that the proposal would represent a high quality vertical element that will enhance the character of the Enterprise Zone.
- 6.14 KVR6 is a representative viewpoint of a road user on the Rotherwas Access Road (B4399) 0.5km from the site. The magnitude of change from this viewpoint is regarded as minor and the effects as slight beneficial.
- 6.15 KVR7 is a representative viewpoint from the approach to the Grade II* listed Rotherwas Chapel. The sensitivity of this receptor is very high. The magnitude of change, due largely to the existing visual detractors in the foreground (existing industrial units) is minor and the predicted visual effects slight adverse.
- 6.16 KVR8 is on Chapel Road where the National Cycle Route 44 emerges. The sensitivity is medium, the magnitude of change moderate and the predicted visual effect slight adverse. This is due principally to the semi-rural backdrop and overriding character at this particular location within the Enterprise Zone.
- 6.17 KVR9 is a viewpoint on Straight Mile Road from the east and is representative of the view of road users. The proposal would represent a moderate magnitude of change from this viewpoint, with predicted effects that are slight beneficial. The upper section of the tower would be visible beyond the mature trees, but not uncomplimentary of the character of the area.
- 6.18 KVR10 is from the Sustrans footbridge over the R. Wye SAC/SSSI. The sensitivity of the receptor is considered high. From here the tower will be partially visible, albeit seen against the backdrop of Rotherwas Park Wood. The magnitude of change is predicted as negligible and the predicted visual effects are negligible adverse, in that the development would introduce a barely perceptible additional urbanising element into this semi-rural view.

- 6.19 KVR11 is a view from the rear of residential properties on Hampton Park Road in the conservation area. The sensitivity of the receptor is categorised as very high. From this viewpoint the magnitude of change is predicted as moderate and that the predicted visual effects are moderate adverse. Whilst the tower will not break the skyline from this perspective, it will introduce an urbanising element into the semi-rural view of Dinedor Hill/Rotherwas Park Wood.
- 6.20 KVR12 is a representative viewpoint from PRow HB1; which forms part of the Wye Valley Walk leading onto the Three Choirs Way. The viewpoint is adjacent the River Wye. This is regarded as a viewpoint of very high sensitivity. From this viewpoint the LVIA records that the tower will not be visible and the effect is thus neutral.
- 6.21 Finally, KVR13 is a representative viewpoint from public footpath HER 16; also on the Three Choirs Way. This is adjacent the River Wye at a distance of just under 1km from the site. Again, there is no view from this viewpoint and the visual effects are considered neutral.
- 6.22 The landscape officer has visited the site and walked the surrounding elevated landscape and agrees with the findings that within the immediate urban landscape the effects are likely to be beneficial. Within the wider open countryside the effects will not be of a level which is substantially adverse, primarily because its height notwithstanding, the tower will not be visible above the horizon over a substantial distance.
- 6.23 The queries raised by the landscape officer in her comments at 4.8 are addressed via planning conditions. These include the requirement to submit samples of the construction materials for the tower itself and paving. The agent has commented that in selecting materials for the Skylon Tower it was felt that cor-ten steel would be more relevant and appropriate in representing the look and feel of the industrial past of the Hereford site than potential equivalents e.g. stainless steel which has a more polished and reflective quality. Visitors to the site will experience this metal cor-ten finish from the base to approximately the first ten to fifteen metres. At that point the material will change to GRP which is a light weight but similarly strong and low maintenance material. The GRP is non-reflective and its texture can be matched to that of the cor-ten.
- 6.24 Subject to these conditions, officers are of the opinion that the proposal does not conflict with relevant landscaping policies, but is indeed representative of good, locally distinctive design that will create a high-quality public open space at the heart of the Enterprise Zone in accordance with LD1, SD1 and OS2.

Heritage Matters

- 6.25 Historic England originally recorded concern at the absence of a heritage assessment, in the absence of which they considered there was insufficient information on which to base an informed opinion as to heritage impacts.
- 6.26 The applicants subsequently submitted an assessment which has been considered by Historic England and the Council's Principal Conservation Officer. Historic England retains concerns in respect of the Scheduled Ancient Monuments Rotherwas House and Dinedor Camp. These are designated heritage assets of the highest significance.
- 6.27 Nonetheless, Historic England confirms that the degree of harm to significance falls within the purview of paragraph 134 of the NPPF i.e. less than substantial. The subsequent specialist advice of the Council's Conservation Officer confirms that the proposal would result in very minor harm to or loss of significance of Rotherwas Chapel, but this is in the context of existing industrial development. He comments as follows:-

"Whilst the Skylon would be a change to the immediate environment it is not necessarily a negative one. Whilst it may cause very minor harm to the interpretation of the setting of

Rotherwas Chapel, it is not an object which is a detractor in the way perhaps an industrial chimney might. It is an iconic design which strong associative imagery of the hopefulness of the post war years in the face of austerity.

It should be noted that the immediate context of the proposals is a rather bleak industrial landscape.”

- 6.28 The Conservation Officer thus places the harm to the significance of above-ground heritage assets as very minor, which can reasonably be interpreted as placing the harm at the lower end of the less than substantial spectrum.
- 6.29 In respect of the site of the respective Scheduled Ancient Monuments, the Council’s Archaeological Advisor has no objection and whilst noting the considerable size of the proposed structure, regards the tower as appropriate for its location as regards the historic environment.
- 6.30 On this basis only very minor heritage harm is identified and this goes into the unweighted planning balance at NPPF 134, which states that less than substantial harm should be weighed against the public benefits of the proposal. The planning balance is returned to below.

Other Matters

- 6.31 The potential for the tower to adversely affect flight lines of migratory birds has been assessed and assessed as minimal. The Council’s Ecologist has had regard to the collision assessment report and concludes that the mitigation, provided it is secured by condition, is acceptable. The scheme is thus held to accord with CS Policy LD2.
- 6.32 Subject to conditions the Land Drainage consultants have no objection and there are no objections from the MOD or Civil Aviation Authority.
- 6.33 The comments of the Transportation Manager in respect of obtaining ‘Approval in Principle’ from the Council’s Highways Contractor are noted, but cannot be subject to a condition of any forthcoming planning permission. This is something the applicant will have to address separately.
- 6.34 Hereford Civic Society has written to support the proposal in principle, but have asked why the tower could not be located upon the adjacent roundabout. In response the applicant has confirmed that the roundabout was considered as a potential location, but discounted on the basis it would likely be objectionable to the highway authority for reasons of distraction. Moreover, and equally significantly, is the fact that a location upon the roundabout would not then support the wider aspiration that is the delivery of high-quality publicly accessible open space. Moreover, relatively little is lost in terms of the tower’s function as waymarker by being slightly off-set from the roundabout.

7. Conclusions

- 7.1 The assessment above concludes that the proposal will not result in significant adverse visual effects or adverse impacts on landscape character. Rather, within the context of the site and its environs, officers consider the proposal has the potential to fulfil its stated objectives i.e. delivery of a high-quality piece of public art with associated open space for visitors and employees working within the HEZ. In this respect the scheme is held to accord with CS Policies OS1 and OS2.
- 7.2 It is concluded that the proposal does not conflict with the relevant CS policies or national guidance. In fact, the scheme is held to accord with LD1 and an assessment of the heritage impacts concludes that the proposal would lead overall to very minor harm to the significance of the identified relevant heritage assets. Accordingly this harm must be factored into the planning

balance as described by NPPF 134 i.e. an unweighted balance between harm to significance versus the public benefits.

- 7.3 In your officer's opinion, the heritage harm attracts, in the context of this industrial allocation, very modest weight in the overall balance and is outweighed by the public benefits of the scheme.
- 7.4 The scheme does not affect a valued landscape, would not exacerbate flooding or drainage-related issues and with mitigation will not adversely affect migratory birds or other ecological interests.
- 7.5 With regard to the decision-making approach to decision-making set out at SS1 and NPPF 14, it is concluded that the very minor heritage harm is outweighed by the public benefits of the proposal and that this test is passed. There are no other adverse impacts to put into the preweighted balance such that when the limb 1 test is applied, this is also passed.
- 7.6 This leads officers to the overall conclusion that the scheme is representative of sustainable development and in accordance with the provision of the adopted Development Plan and other material considerations. It is thus recommended that planning permission should be granted subject to conditions.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. **C01 - Time limit for commencement (full permission)**
2. **C06 - Development in accordance with the approved plans**
3. **C13 - Samples of external materials**
4. **C96 - Landscaping scheme**
5. **C97 - Landscaping scheme - implementation**
6. **Construction Method Statement**
7. **The recommendations set out in the ecologist's reports from Midland Ecology dated November 2016 and March 2017 should be followed unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a species mitigation schedule and habitat enhancement scheme should be submitted to, and be approved in writing by, the local planning authority, and the scheme shall be implemented as approved.**

Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

To comply with Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

8. A period of at least one year of ecological monitoring should be established unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. On completion of the monitoring, confirmation of the success or otherwise of the mitigation measures should be made to the local planning authority in writing together with any photographic evidence of the measures implemented.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

Reason: To comply with Policies LD2 and LD3 of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

9. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors
c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment so as to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy.

10. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment so as to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy.

- 11. **The Remediation Scheme, as approved pursuant to condition no. 10 above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.**

Reason: In the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment so as to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy.

INFORMATIVES:

- 1. **Statement of positive and proactive working**
- 2. **I09 Private apparatus within highway**
- 3. **I51 Works adjoining highway**

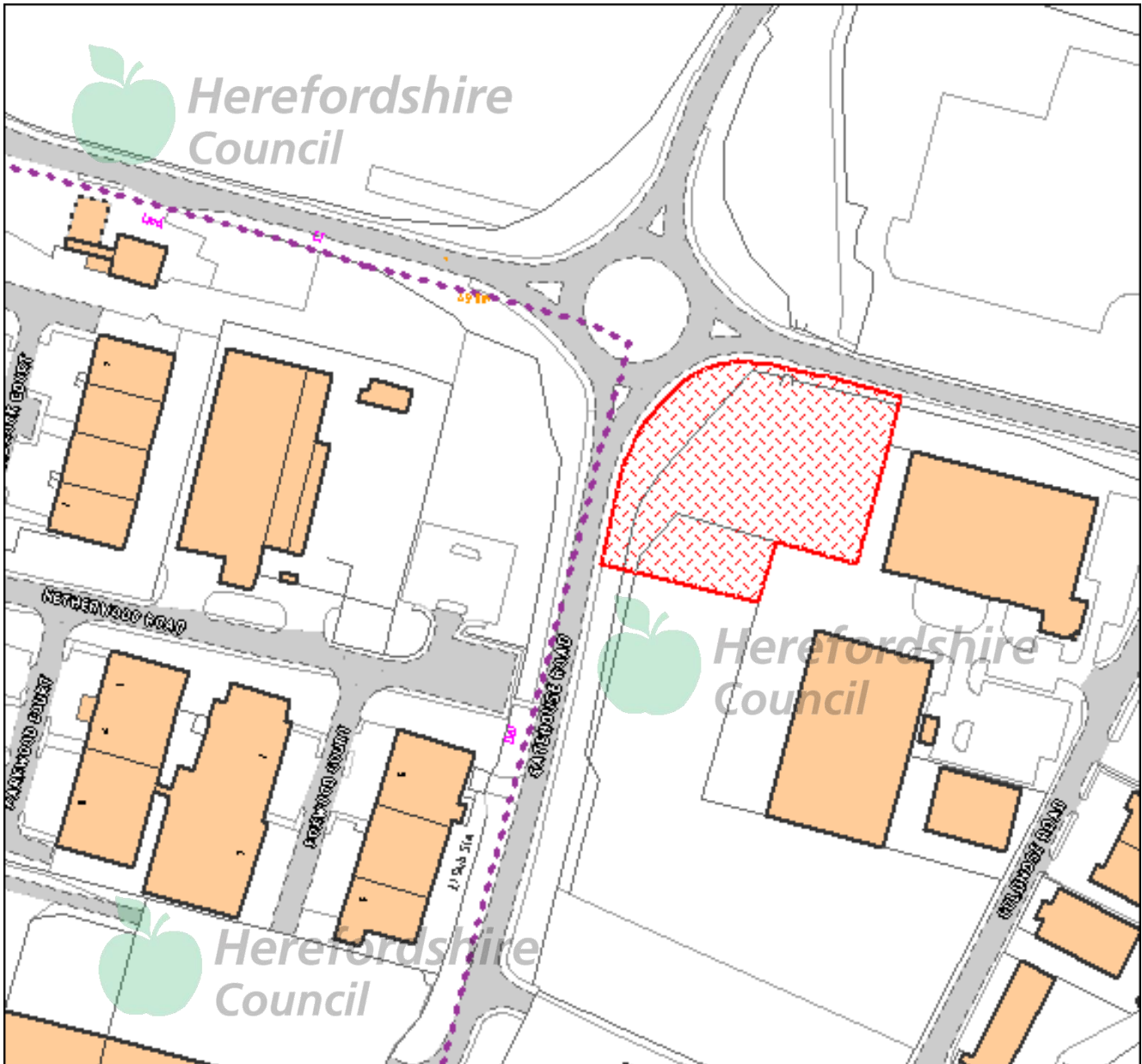
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 163996

SITE ADDRESS : JUNCTION OF THE STRAIGHT MILE AND B4399, ROTHERWAS, HEREFORD, HR2 6JL

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Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479



MEETING:	PLANNING COMMITTEE
DATE:	7 April 2017
TITLE OF REPORT:	163646 - DEMOLITION OF THE FORMER OFFICE BUILDINGS AND THE REDEVELOPMENT OF THE SITE TO PROVIDE A 70 BED CARE HOME (USE CLASS C2) AT BROCKINGTON, 35 HAFOD ROAD, HEREFORD, HR1 1TA For: Prime Care Home Developments 2 Limited/Hereford Care Home Limited per Mr Bob Smaylen, 5 The Triangle, Wildwood Drive, Worcester, WR5 2QX
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163646&search=163646
Reason Application submitted to Committee – Council Land	

Date Received: 15 November 2016 **Ward: Eign Hill** **Grid Ref: 352487,239650**
Expiry Date: 21 February 2017
 Local Members: Councillor CA North

1. Site Description and Proposal

- 1.1 Detailed planning permission is sought for the demolition of the existing buildings and erection of a 70-bed 2 ½ storey care home (use class C2) at Brockington, 35 Hafod Road, Hereford. The application site encompasses the former Council occupied offices and the majority of its grounds, but excludes the over-spill car park to the south-east; which has the benefit of planning permission for a residential scheme approved at Committee on 2 November 2016 – reference 162264. The redevelopment involves the demolition of Brockington House.
- 1.2 The site is thus served by the northernmost of the two former points of vehicular access from Hafod Road and extends to include the majority of the surrounding landscaped grounds. The south-eastern site boundary runs perpendicularly from Hafod Road in a straight line passing just beyond the end elevation of the existing building, which when in use housed the Committee Chamber; before terminating at the boundary with the rear gardens of the mid-C20th dwellings on Brockington Drive. The site extends to 1.16 hectares in total.
- 1.3 There is a ‘finger’ of land in the northern part of the site beyond the original Brockington House which separates Brockington Drive from dwellings on Hafod Road. Off-site to the immediate north-west is the period property No.21 Hafod Road and two later dwellings that appear to have been constructed in the latter half of the C20th; these are No.25 and No.27 – both of which share a boundary with the application site.
- 1.4 The site is within the Hafod Road Conservation Area, designated in February 1992. Hafod Road is located to the east of the city centre, linking Ledbury Road to Old Eign Hill. The northern boundary of the Conservation Area is contiguous with the southern boundary of the

Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

Bodenham Road Conservation Area on Ledbury Road. It is made up of predominantly late Victorian development with around two thirds of the properties being constructed between 1887 and 1904. During the period 1904-1929 a further eight properties were constructed including Brockington House and Lodge.

- 1.5 Hafod Road rises quite steeply from its northern end to its peak near the grounds of Brockington. In this half of the Conservation Area the building line is close to the carriageway and as a result the properties form a prominent feature within the street scene.
- 1.6 The southern section of the Conservation Area is characterised by larger houses set further back from the carriageway than those described above. There is a strong presence of large mature trees which combined with grassed banking to the east side of the road and some tall stone boundary walls to the west give this area a peaceful and secluded character.
- 1.7 Brockington and its grounds form a substantial part of this half of the Conservation Area. About a third of the original grounds have been developed for housing, and the building itself has undergone several extensions. Large areas of car parking have been provided leaving only the grounds to the north east relatively intact.
- 1.8 The application site is covered by a number of individual and group Tree Preservation Orders, reflected in the arboricultural impact appraisal and working method statement accompanying the application.

The Proposal

- 1.9 The proposal involves the demolition of all structures on site, including the original Brockington House (1909) and replacement with a purpose-built residential care facility comprising 70 single-occupancy en-suite rooms and incidental facilities. Bedrooms are located on ground and first-floor, with the majority of staff facilities and service accommodation located in the roof space.
- 1.10 The materials proposed are red brick, with a lighter brick detail for contrast under a slate roof. It is intended that render be deployed as a means of breaking up the façade, but on a basis that reflects the function of the internal area.
- 1.11 The scheme has been amended during the course of the application in response to input from the Conservation Manager. The amendments comprise the remodelling of the main entrance point at the fulcrum of the two wings, and the addition of dormer windows into certain of the roof-slopes to break up the massing and add a domestic scale to the architecture.
- 1.12 Surrounding land uses are exclusively residential. Post-war two-storey dwellings are found on Brockington Drive and Quarry Road to the north-east. The rear gardens of these dwellings form the common boundary with the development site referred to at 1.1 above, to the immediate south-east. Hafod Road runs along the south-west boundary, with the above-described gardens to Nos. 25 and 27 at the north-west. Figure 1 below denotes the existing footprint (shaded grey and edged in red), and the proposed footprint in black.

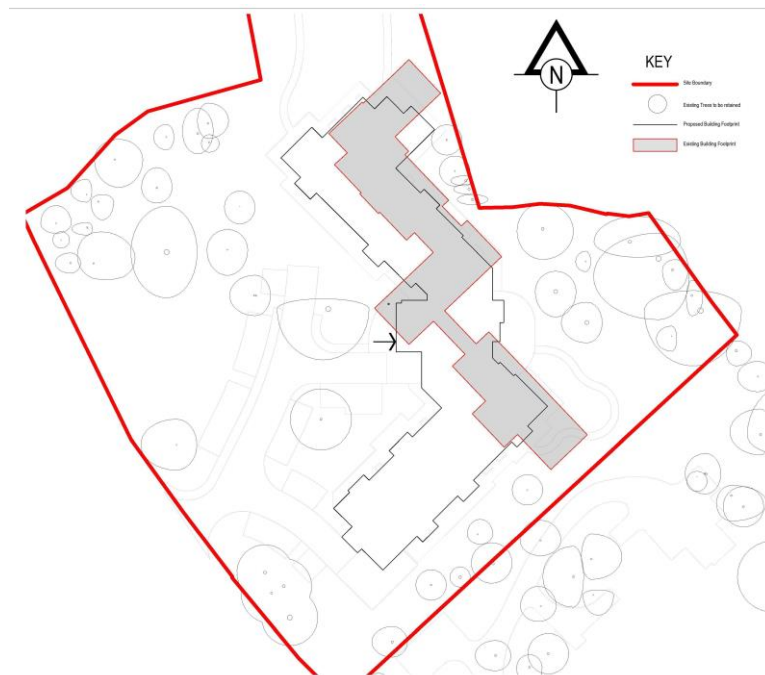


Figure 1: Existing and Proposed footprint comparison

- 1.13 It can be seen from Figure 1 that insofar as the relationship with Brockington Drive properties is concerned the distance from the boundary is relatively similar. The marked distinction is the projection towards Hafod Road parallel to the south-eastern boundary.
- 1.14 Parking is laid out in front of the building, with the existing access utilised and 28 parking spaces denoted, with 3 overspill spaces. The arrow on Figure 1 denotes the main entrance, with the communal area here acting as a fulcrum or pivot for the two wings. This drawing also gives an indication of the root protection areas of the numerous trees on site.
- 1.15 Figure 2 below is a comparison of the proposed elevations and gives an indication of building heights as existing and proposed. It can be seen that in general terms the proposed building has a ridge height that is commensurate with or lower than the existing.



- 1.16 The site is within flood zone 1 and yet as a consequence of the site area extending to >1ha a flood risk assessment is submitted. Other technical studies accompanying the submission include:-
- Planning Statement
 - Heritage Assessment
 - Arboricultural Impact Assessment, working method statement and tree constraints plan
 - Design and Access Statement
 - Transport Statement
 - Statement of community involvement – this relays the public exhibition and associated advertising held prior to the submission of the application
 - Ecology report &
 - Framework travel plan
- 1.17 The Planning Statement to a degree but the Heritage Assessment in particular, provides an analysis of Brockington and its history, describing its erection in 1909 as one of the more significant Edwardian villas erected at the time; noteworthy because of its prominent position and large, landscaped grounds. Both documents conclude that the contribution the *building* makes to the character of the conservation area is much reduced as a consequence of its later public ownership and periodic extension and alteration. Heritage matters and the approach to decision-making are explored more fully in the following sections.
- 1.18 The Council has adopted a Screening Opinion that concludes the development is not EIA development.

2. Policies

2.1 Herefordshire Local Plan

- 2.2 The Development Plan for the area is the Herefordshire Local Plan which comprises, for the purposes of this application, the Core Strategy
- 2.3 The CS pursues three themes and twelve objectives under the headings of Social Progress, Economic Prosperity and Environmental Quality. These are, in my view, equivalent to the three roles of sustainable development described in the National Planning Policy Framework (NPPF). CS Policy SS1 imports a similar decision-making test to that set out at Paragraph 14 of the NPPF. In effect, development that accords with the CS should be approved without delay.
- 2.4 Where policies are absent, silent or out-of-date, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in national policy taken as a whole or specific elements of national policy indicate that development should be restricted.
- 2.5 Policy SS4 is the strategic policy concerning movement and transportation, with developments designed and located to minimise the impacts on the transport network; ensuring that journey times and safe operation of the network are not detrimentally impacted. Where practicable, development should be accessible by and facilitate a genuine choice of modes of travel.
- 2.6 Policy SS6 underpins the CS objectives surrounding environmental quality and local distinctiveness. The policy requires development proposals to be shaped through an integrated approach to planning the identified environmental components from the outset. Of relevance to this proposal is townscape and local distinctiveness, historic environment and heritage assets and local amenity. The final paragraph to SS6 refers to the advent of other development plan documents and their role, in time, in defining local distinctiveness. A Hereford Area Plan (HAP) will be produced to complement the CS and add detail at the Hereford City level, but the production of an Issues and Options Paper whilst imminent is yet to take place and the HAP will

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not be in position to attract any weight for decision-making on planning applications for the foreseeable future.

- 2.7 Policy SS7 outlines the measures that development proposals will be expected to take in helping address climate change.
- 2.8 Underpinning these policies are the 'place-shaping' policies relating to Hereford. HD1 underscores the apportionment of housing via strategic allocations, existing commitments and windfall opportunities. HD2 refers to Hereford city centre, which is defined by the 'saved' Unitary Development Plan map found in the CS Appendices (Appendix 1, P.8). HD3 'Hereford movement' identifies measures to secure reduced reliance on the private motor-car.
- 2.9 MT1 is a criteria based policy outlining the aspirations around movement and echoes the objectives expressed in SS4 and HD3.
- 2.10 Of particular relevance to this proposal are the 'Local distinctiveness' policies LD1 Landscape and townscape, LD2 Biodiversity and geodiversity, LD3 Green infrastructure and LD4 Historic environment and heritage assets.
- 2.11 LD1 requires that developments should demonstrate that character of the townscape has positively influenced the design, scale, nature of the proposal and site selection, protection and enhancement of the setting of settlements and designated areas. Emphasis is also placed on the conservation and enhancement of the natural, historic and scenic beauty of important landscapes and conservation areas; through the protection of the area's character and by enabling appropriate uses, design and management. New landscaping schemes should ensure development integrates appropriately into its surroundings. Tree cover should be maintained and extended where important to amenity, with replacement of trees lost through development and new planting to support green infrastructure.
- 2.12 LD2 requires the conservation, restoration and enhancement of biodiversity and geodiversity assets and likewise requires the retention and enhancement of existing biodiversity features on site and creation of new wildlife habitats.
- 2.13 Of relevance to this proposal is the requirement in LD3 that valued landscape and trees should be protected.
- 2.14 LD4 requires that developments should, where possible, enhance heritage assets and their settings in a manner appropriate to their significance. LD4 and the supporting narrative explain clearly that the policy is intended to apply equally to designated and non-designated heritage assets. Development should contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas. Development schemes should emphasise the original form and function of any asset and, where appropriate, improve the understanding of and public access to them.
- 2.15 SD1 'Sustainable design and energy efficiency' is a criterion based policy covering a range of topics, including the requirement that residential amenity for existing and proposed residents is safeguarded.
- 2.16 SD3 outlines water conservation measures, with specific water-consumption standards prescribed. SD4 deals with wastewater treatment and river water quality.

National Planning Policy Framework

- 2.17 The NPPF contains guidance on a number of issues. Relevant in this case is the approach to decision-making where the complete demolition of a non-designated heritage asset is proposed, the implications of this for the designated heritage asset (Hafod Road Conservation Area) and how any harm arising should be factored into the planning balance.
- 2.18 Chapter 12 of the NPPF is entitled “Conserving and enhancing the historic environment.” The Chapter discusses heritage assets, which are defined in the glossary as:-
- “A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes, designated heritage assets and assets identified by the local planning authority (including local listing).”*
- 2.19 Paragraph 126 requires LPAs to set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other risks. In doing so LPAs should recognise that heritage assets are “an irreplaceable resource” and should conserve them in a manner appropriate to their significance.
- 2.20 Paragraph 129 requires the LPA to identify and assess the particular significance of any heritage asset that may be affected taking account of the available evidence and expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.
- 2.21 Paragraph 131 defines 3 aspects that a local planning authority should take into account when determining planning applications:-
- *The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
 - *The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; &*
 - *The desirability of new development making a positive contribution to local character and distinctiveness.*
- 2.22 Paragraphs 132-135 then deal with the approach to decision-making according to the significance of the heritage asset(s) and the degree of harm arising as a consequence of development. Paragraph 132 confirms that great weight should be given to the conservation of designated heritage assets. Paragraph 133 directs refusal, and is so a restrictive policy, where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. This is unless such harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or where 4 exceptions criteria apply.
- 2.23 Paragraph 134 explains the approach to decision-making where less than substantial harm to the significance of a designated heritage asset would arise. It states that such harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. 134 is thus also a restrictive policy i.e. the harm is considered in an unweighted balance as per the second part of the limb 2 test at NPPF paragraph 14.

2.24 Paragraph 135 sets out the approach where a non-designated heritage asset is affected. It states as follows:-

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

2.25 It can thus be seen, and as is recorded in the CS, that the impact of development proposals on non-designated heritage assets is a material consideration in the determination of planning applications. An important distinction arises, however, between designated and non-designated assets; it being the case that harm to designated assets should be considered in an unweighted balancing exercise via the limb 2 test at paragraph 14 i.e. it is not necessary to consider whether the harm or loss *significantly and demonstrably* outweighs the benefits.

2.26 Paragraph 135 directs, however, that a balanced judgement will be required. In such cases harm or loss will be a material consideration, but presumably not of such weight (in most cases) in the planning balance as compared to where a designated heritage asset is involved. Scale of harm and the significance of the asset are the two critical factors.

2.27 Paragraphs 137 and 138 refer explicitly to decision-making within Conservation Areas. Local planning authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance. *“Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.”*

2.28 Paragraph 138 confirms that not all elements of a Conservation Area will necessarily contribute to its significance, but equally that the loss of a building which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm (under paragraph 133) or less than substantial harm (under paragraph 134), taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area as a whole.

2.29 The relevance of the foregoing is twofold. Firstly, that CS Policy LD4, whilst attracting full weight, does not direct the decision-maker as to the ‘next steps’ when harm to an asset is identified. As recorded by Inspector Wildsmith in the Bartestree appeal (3051153) at paragraph 303 of his decision, it is necessary to refer to the NPPF for this guidance. This draw-back apart, the Inspector held that LD4 should attract full weight.

2.30 Secondly, decision-makers in this instance are considering the heritage impacts arising in relation to not only the non-designated heritage asset that is Brockington House, but also the impact on the designated heritage asset that is the Hafod Road Conservation Area. This calls for assessment against NPPF paragraphs 134 (in respect of the Conservation Area) and 135 (in respect of Brockington).

2.31 National Planning Practice Guidance

2.32 The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council’s website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/core-strategy/adopted-core-strategy>

3. Planning History

- 3.1 162264 - Erection of 2 no. 4-bed and 2 no. 3-bed dwellings with garages and one 3-storey apartment block of 4 no. 2-bed apartments and a top floor penthouse suite: Approved with conditions 2nd November 2016.
- 3.2 910118 – Provision of overspill car park. Allowed on appeal
- 3.3 It is understood that the extensions to Brockington House were constructed in approximately 1977 and 1990.

4. Consultation Summary

Statutory Consultations

- 4.1 Welsh Water: No objection subject to the imposition of a condition requiring the submission and agreement in writing of a comprehensive drainage scheme to address foul, surface and land water.
- 4.2 Historic England: No objection

Thank you for your letter of 23 November 2016 notifying Historic England of the scheme for planning permission relating to the above site. Our specialist staff have considered the information received and we do not wish to offer any comments on this occasion.

Recommendation

The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

Internal Council Consultations

- 4.3 Conservation Manager (Historic Buildings): No objection

The Hafod Road Conservation Area consists of large detached or semi-detached Victorian Villas set in reasonably-sized gardens with well-established planting. Brockington House was the most significant of the dwellings constructed here and occupied a very large plot. The character of this part of the Conservation Area is derived from the open aspect of the site, and its mature trees and planting. Brockington House is set well back into the site and cannot be seen from the road edge so does not in its own right contribute to the street scene.

The house was an elegant, classically proportioned substantial villa but its architectural character has been compromised by unsympathetic alterations to the house and from the extensive office development which spreads south, off the southern elevation of the house. The extensions have no architectural or historic interest.

In considering the proposals, I have taken into account advice given in the Planning (Listed Buildings and Conservation Areas) Act 1991 – Section 66, the NPPF Paragraphs 131, 132, 134, 135, 137 and 138 and Core Strategy Policy LD4.

It is my view that there is no realistic possibility that Brockington House would be viably restored to use as a private dwelling consistent with its conservation. The contribution to the character of this conservation area derives not from the house, but the site itself and that there is potential

with this new development to rationalise the rather ad hoc and piecemeal modern development of the site, thereby enhancing the character of the area.

The original dwelling as described has been unsympathetically altered and extended and though it still retains its original recognisable form and some internal features of interest it is not a building which could be protected by listing as a building of national importance and I consider that its demolition could not be regarded as causing substantial harm to the character of the Conservation Area.

Furthermore, the proposed development which also sits to the rear (east of the site), secures the open aspect to the street frontage and is a means by which the local character and distinctiveness of the Conservation Area will be maintained.

In conclusion, therefore, it is considered that the impact of the proposal on the heritage asset would cause less than substantial harm. This is measured against the existing context, lack of the direct relationship of the house to the conservation area and its distance from other existing buildings and unsympathetic alterations and extensions to the house itself. There is also a public benefit to be gained by a comprehensive and considered re-development of the site, removing structures which are of poor architectural quality which intrude into the setting of the area. Considered against the guidance given therefore I can see no reason to refuse the application on such grounds.

I would recommend that a full drawn, photographic and written description of the dwelling is made and submitted to the Historic Environment Record prior to development. This should be carried out in accordance with a recording brief to be prepared by the HER. As suggested in my earlier notes if elements such as fire surrounds could be incorporated into the new build in some way it would at least maintain a physical link with the original dwelling.

4.4 Conservation Manager (Archaeological Advisor): No objection

The existing buildings/site (as indeed is indicated in the submitted heritage statement), might reasonably be regarded as a heritage asset of local interest [only]. I would have no objection to the loss of this, subject to suitable recording as mitigation.

This recording may need to include the possible remains of a former 'cold war bunker' rumoured to be present somewhere on/near the site. I say rumoured because – perhaps unsurprisingly - no clear information seems to exist about this supposed lost structure, assuming it ever existed. Given that the home office owned the site in the period in question, the presence of such a feature is certainly possible, although there may have been an element of normal secrecy about the matter at the time.

I would suggest standard condition E02.

4.5 Housing Development Officer: Support

The local authority welcomes this application for a new nursing care home to be built in Hereford City. It is very difficult to estimate need but Herefordshire has an aging population with increasing complex needs including dementia which is increasing and is currently under diagnosed.

Both Herefordshire Council and CCG joint commissioning placement would welcome a care home that delivered high quality care at an affordable rate not only for Adult Social Care and CCG commissioning but as well as self funders. However, I would advise that the Local Authority would not be able to guarantee referrals and any referrals that are made would be based on client choice and subject to the local authority's published rates.

4.6 Traffic Manager: No objection subject to conditions

Visibility Splays

To the north of the access, no more than paring back is necessary, with the removal of a length of 25m of the existing ivy/holly hedge and paring back of some beyond. A grass bank with no replacement hedge as suggested would be acceptable from my point of view, and remove the risk of future encroachment due to growth. Any railings would obviously be to the rear.

To the south, the laurel root was beyond the splay line so could be cut back severely on the road side to encourage growth to the rear. The initial length of hedge (approx 5m-8m) will probably require removal, beyond this the hedge distances more from the road. Beyond this and the laurel the growth then is mainly on the road side with the root approximately 3m back from edge of road (at top of existing bank) and the hedge has been cut to the root line on the property side. Cutting back on the road side should then achieve the splay and again a grassed bank for the removed length would be acceptable.

I confirm that this would address the concerns regarding visibility splays raised in the first paragraph of my consultation response to the application (dated 14th December 2016).

Comments from first response (14th December 2016):-

It is noted that the care home is proposed to have 31 parking spaces (28 (including 2 disabled) plus 3 overflow) for the 70 beds which exceeds our standards for C2 use. The Transport Statement in paragraph 5.4.3 assesses the parking provision in respect of class C3 (sheltered accommodation) rather than C2 class as stated in the application form. However as spaces are mentioned in Paragraph 5.4.1 as being available to residents and so to avoid any potential car parking on Hafod Road and any other neighbouring streets the provision of 31 spaces would be more appropriate. However it is also noted that the anticipated number of equivalent full time employees stated in the application form is 60, therefore even with multiple shifts a heavy staff usage of available spaces could result from these staff levels. A Framework Travel Plan has been submitted with the application, but in the absence of any staff travel patterns does not address this aspect, purely identifying possible measures to reduce car travel.

Refuse vehicle tracking is indicated and considered acceptable, and would provide turning for service vehicles.

Section 106 Obligations

No Section 106 contributions would be required, as the proposal does not result in intensification of use of the site from the previous office use.

4.7 Conservation Manager (Trees): Qualified comment

A number of young - early mature trees will have to be removed, but the more substantial and better quality trees will be incorporated in to the scheme (T27, T41, T42, T60 and T63).

I have reviewed the arboricultural impact assessment, method statement and tree protection plan and I am satisfied that if recommendations are adhered to, impacts to these important trees could be managed.

The tree loss from the development could be mitigated by additional planting which could be incorporated in to the extensive grounds or landscape scheme.

Although approximately 30 linear metres of hedgerow will have to be removed to allow the splays to be achieved, these hedges are considered as low quality with limited species diversity.

Although the removal will have an initial impact, there is a good mix of varying age tree species within the site that will lessen this impact. I don't consider that it would be appropriate to replant to the north but as discussed maybe install estate fencing, but to the south there is space to realign any new planting at the top of the bank to ensure the continuation of the existing hedgerow.

I do not consider that moving the existing hedgerow would be viable due to the extent of excavations required in close proximity to existing trees and the damage it would cause to their root systems.

It's also worth noting that there would have to be some minimal canopy lifting to some of the retained standard trees, especially to the north of the entrance – this is considered as routine and will have a minimal impact on the overall health of these trees.

4.8 Land Drainage: No objection subject to conditions.

Should the Council be minded to grant planning permission, we recommend that the Applicant submits detailed proposals for the management of surface water and foul water drainage for approval by the Council as part of suitably worded planning conditions. The proposals should include:

- A detailed surface water drainage strategy with supporting calculations that demonstrates consideration of updated climate change guidelines.
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of.
- Evidence that the Applicant has sought and agreed permissions to discharge surface water and foul water from the site with the relevant authorities.
- Demonstration of the management of surface water during events that overwhelm the surface water drainage system and/or occur as a result of blockage.
- Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed drainage systems.

4.9 Conservation Manager (Ecology): No objection

Thank you for consulting me on the above application. I have read the ecological reports in particular the bat survey which finds no evidence that the building supports a bat roost. Hence, I have no objection to the demolition of the property.

5. Representations

5.1 Hereford City Council: No objection provided a condition is imposed requiring a comprehensive tree report as was done for the neighbouring residential development.

5.2 Seven letters of representation have been received. The content is summarised as follows:-

- Brockington House (the original element) could be retained and re-used as part of the redevelopment proposal. It is an important feature in the conservation area and should be retained;
- It was built for William Bowers, one of the principal building contractors of the period by perhaps the pre-eminent Herefordian architect of the time – Edward Bettington;
- Brockington is a significant Edwardian Villa in the Hafod Road conservation area. There is evidence that substantial resource was lavished on it;
- The Conservation Area will be seriously compromised, especially when viewed in conjunction with ribbons of car parking proposed along the entrance drives;
- The Heritage Report on Brockington House painstakingly records its steady degradation during its years in public ownership, but fails to make a convincing case for the convenient demolition of a building that still retains considerable architectural merit It should be integrated into the proposed development.
- It seems inevitable that in the absence of waiting restrictions on Hafod Road, staff and visitors will park on the highway, causing further obstruction to the flow of traffic and making it difficult for residents to access and egress their property;
- Before consent is given, double yellow lines should be placed on the approach to the roundabout and also at the bottom of Vineyard Road so that traffic going down the hill is not forced onto the wrong side of the road to face oncoming vehicles turning off the roundabout or Hampton Park Road.
- There is concern at the treatment of trees on the boundary with Brockington Drive and the effects on privacy.

5.3 The consultation responses can be viewed on the Council’s website by using the following link:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=163646&search=163646

Internet access is available at the Council’s Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer’s Appraisal

6.1 S38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

6.2 Having regard to the Development Plan and other relevant material considerations I am of the view that the main issues in the determination of this application are as follows:-

- a) The effect of the proposed development on the non-designated heritage asset;
- b) The effect of the proposed development upon the character and appearance of the Hafod Road Conservation Area;
- c) Other matters raised by consultees and interested persons, including the effect of the proposed development on the safety and convenience of users of the nearby highways, trees and its effect on the living conditions of nearby residents;
- d) How the planning balance, involving the benefits and dis-benefits of the proposed development, should be assessed in an overall assessment of the scheme’s claim to sustainable development.

6.3 The structure of this appraisal is such that the loss of Brockington will be considered first; it being the common factor in heritage terms and consistent with the ‘heritage hierarchy’ set out in the NPPF. This loss, together with the effects of the development proposal in a wider sense, will then be considered in relation to the Conservation Area in terms of NPPF paragraph 134. Given the conservation area is a designated heritage asset it is necessary to consider the scheme in an unweighted balancing exercise weighing harm to significance against public

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benefits, as per paragraph 134. Only if this 'test' is passed is it then necessary to consider the full range of adverse impacts and benefits in the wider planning balance which is described at NPPF paragraph 14.

The effect of the proposed development on the non-designated heritage asset; Brockington House

- 6.4 The report, at section 4.3, sets out the responses received from the Conservation Manager and section 5 records the response of the objectors, including the Woolhope Club, in summary form. As described above the application is supported by a Heritage Assessment which records the origin and evolution of Brockington House, which has passed from private to public ownership with various related changes in use, extensions and alterations; both to the fabric of the building and the landscaped grounds.
- 6.5 It is clear and accepted that the impact of a development proposal on a non-designated heritage asset such as the existing building is a material planning consideration. LD4 and NPPF 135 are expressed in such terms.
- 6.6 To assess potential harm to the non-designated heritage asset, the NPPF, at paragraphs 128 & 129, requires the decision-maker to first have a clear and objective understanding of the significance of the asset involved. In considering significance, regard must be had for the building's status i.e. its listing or non-listing, the importance of the building to the locality and the degree of heritage value which survives today.
- 6.7 The building is not listed. Rather, it is considered to be of local importance given its social and historical connections and evident architectural interest when first built. However, in terms of 'heritage status' it should be recognised that a non-designated heritage asset is the lowest ranking heritage asset in the hierarchy prescribed by the NPPF.
- 6.8 Further, the original building, which in any event occupies a position on site that is not prominent in public vantage points, has suffered a series of unsympathetic alterations, which manifest themselves externally. Original windows and rainwater goods have been removed and replaced with plastic equivalents and other embellishments that otherwise mark this building out are removed from the building's interior. It would be inaccurate to say, however, that all interest from the building's interior has been removed; this is not the case. It is true to say, however, that no statutory protection exists in relation to these internal features.
- 6.9 Beyond the original building's footprint and more evident from the public realm are the significant extensions, in two phases, to the south. These extensions have caused clear harm to the significance of Brockington House as a non-designated heritage asset. This results from the obvious disruption to the original plan form, the overall massing and appearance and unsympathetic changes to historic fabric that have been necessary to facilitate the extensions. Officers are of the opinion that the mere presence of these extensions is a factor that affects the significance that one can reasonably attribute the building overall. This is said in recognition that the correct approach to the appraisal of significance bases itself on what is found on site in the present day; not what the site may have exhibited in its original form.
- 6.10 Thus, in the context of NPPF paragraph 135, whilst the scale of loss is absolute, the significance of the non-designated heritage asset is considered to be low overall; this a reflection of the manifestly unsympathetic changes that have occurred over time and are reflective of the building's use once its ownership had passed into public hands.
- 6.11 As above, it is acknowledged fully that the hierarchical approach set out in LD4 and NPPF indicates that designation is a factor influencing significance and I agree. In this case the subject building is non-designated. Further, it has been much altered, both in terms of fabric

and context to the extent that its significance, which must be determined as the building stands today, is considered to be very limited in the scale of all heritage assets. This analysis leads to the conclusion that the total loss of Brockington should be attributed only **modest weight** in the planning balance as an adverse impact.

The effect of the proposed development upon the character and appearance of the Hafod Road Conservation Area

- 6.12 The proposal also needs to be assessed in the context of the impact on the designated heritage asset that is Hafod Road Conservation Area. This assessment factors in the loss of Brockington; a non-designated heritage asset, as described above.
- 6.13 The Hafod Road Conservation Area was designated in February 1992. Hafod Road is located to the east of the city centre, linking Ledbury Road to Old Eign Hill. It is made up of predominantly late Victorian development with around two thirds of the properties being constructed between 1887 and 1904. During the period 1904-1929 a further eight properties were constructed including Brockington House and Lodge. Hafod Road rises quite steeply from its northern end to its peak near the grounds of Brockington. This section of the Conservation Area has a different character to the remaining section between Brockington and Old Eign Hill in which the road makes a more shallow descent.
- 6.14 The southern section of the Conservation Area is characterised by larger houses set further back from the carriageway than those described above. Brockington and its grounds form a substantial part of this half of the Conservation Area. A significant proportion of the original grounds have been developed for housing, and the building itself has undergone several extensions. Large areas of car parking have been provided leaving only the grounds to the north relatively unscathed.
- 6.15 Hafod Road Conservation Area contains examples of residential development from the late Victorian/Edwardian period to the present day. Much of this development makes a positive contribution to the area's character. It is well planted with a variety of trees ranging from small ones which are important to the immediate street scene through to massive pines, cedars, and poplars which can be seen from other parts of the City. All of the above features are enhanced by the topography of the area which gives citywide prominence to many of the trees and some of the properties and adds character to the road itself.
- 6.16 Taking the impact of the demolition of Brockington on the Conservation Area first, the statement in the submitted Heritage Assessment at 4.26 that Brockington is out of character with the conservation area owing to its location relative to Hafod Road is, to my mind, somewhat misplaced. The position of Brockington as originally conceived was likely a deliberate response to the opportunities presented at the time and driven, perhaps, by the owners desire to be set apart from earlier villas.
- 6.17 It is common ground between the applicants and Council officers however that in its original 1909 form, the house would have made a positive contribution to the character and appearance of the conservation area, not least as another and different example of work attributed to one of the pre-eminent local architects at the time – Edward Bettington.
- 6.18 However, and this analysis inevitably derives from that given above under the first main issue, in its current guise as a much extended and altered form, the current building is not considered to make a positive contribution to the character or appearance of the conservation area. Elements of it, namely the 1909 remnants, are still in keeping with the area but the significance of this contribution in the context of the conservation area as a whole and in its current condition is considered to be negligible.

6.19 At 4.3 above, the Conservation Manager comments that:

“The contribution to the character of this conservation area derives not from the house, but the site itself and that there is potential with this new development to rationalise the rather ad hoc and piecemeal modern development of the site, thereby enhancing the character of the area.

The original dwelling as described has been unsympathetically altered and extended and though it still retains its original recognisable form and some internal features of interest it is not a building which could be protected by listing as a building of national importance and I consider that its demolition could not be regarded as causing substantial harm to the character of the conservation area.

Furthermore, the proposed development which also sits to the rear (east of the site), secures the open aspect to the street frontage and is a means by which the local character and distinctiveness of the Conservation Area will be maintained.”

6.20 Overall, therefore, it is my opinion that a number of factors combine to reduce the significance of Brockington in the context of the conservation area (as a designated heritage asset) overall.

6.21 The appraisal thus far has concluded under the first main issue that whilst the loss of Brockington House is absolute, the significance of the asset is towards the lower end of the non-designated spectrum and should attract modest weight as a material consideration in NPPF 135 terms. Moreover, the assessment of harm to significance arising from the loss of the non-designated heritage asset within the conservation area is considered to be at the lower end of the “less than substantial harm” spectrum; this time in the context of paragraph 134. This addresses, to an extent, the Council’s heritage duties in relation to the loss of Brockington but does not consider the impacts arising in conservation area terms from the redevelopment to any material extent. These are addressed below.

6.22 Within Conservation Areas the Council is under a duty to pay special regard to the desirability of preserving or enhancing the character or appearance of the area. Case law establishes that ‘preserving’ is equivalent of causing no harm.

6.23 The scale and form of development is, to my mind, commensurate with the site as existing, although it is undeniable that the built form, in projecting closer to Hafod Road, will be more prominent from the main public vantage points on Hafod Road. However, this is not to such a degree that the distinctive appearance of this part of the conservation area will be harmed and whilst increasing the footprint of the built form on site, the open aspect to the street frontage is maintained.

6.24 Arboricultural impacts are discussed more fully below, but the mature tree specimens on site are recognised by a series of individual and group Tree Preservation Orders and the design has been led to a significant degree by the constraints imposed. To this extent the redevelopment of the site will not only respect the significant and important trees, but give rise to further landscaping and long-term management arrangements. Overall the retained and proposed landscaping will provide an appropriate setting to what will remain perceptible as a detached building, set back quite significantly from the road with views from the public realm largely filtered. In this respect a prominent characteristic of the conservation area i.e. the tree cover, will be adequately reflected, managed and maintained in accordance with CS Policies LD1, LD2 and LD3.

6.25 In addition the scheme will reorder the existing, disparate and extensive areas of hardstanding. The removal of areas of hardstanding from within the root protection area of certain trees can

be described as a benefit, whereas the configuration of parking and servicing areas rationalises and improves upon the current situation.

- 6.26 With appropriate planning conditions in place, officers consider the proposed redevelopment, notwithstanding the demolition of the surviving elements of the original Brockington House, preserves the majority of those attributes within the conservation area as a whole that contribute to it being an area of special architectural or historic interest.
- 6.27 The Conservation Manager has had due regard to the desirability of putting the heritage asset back into a viable use consistent with its conservation (NPPF paragraph 131), but is persuaded that this is not possible in this instance. Moreover, even if the re-use of Brockington House had not been examined, officers are not convinced that this should count heavily against the scheme. This is because of the low degree of significance that officers are ascribing to the building in its current form and condition as a non-designated heritage asset.
- 6.28 The Conservation Manager rightly considers the loss of the existing building, focussing quite understandably on the historic element, in the context of the building in its own right and the Conservation Area at large. In my view, the assessment of the Conservation Manager is realistic given the evolution of the building and site as a whole. The relationship of villa to mature landscaped grounds has been materially and adversely affected to an extent that has direct consequence for the significance of the non-designated asset in the NPPF 135 context and the conservation area in the NPPF 134 context.
- 6.29 To summarise on this matter, paragraph 134 of the NPPF requires that proposals that lead to a less than substantial harm to the significance of a designated heritage asset (in this case the conservation area) should be weighed against the public benefits of the proposal, including securing its optimum viable use. The 'viable use' rider is not as relevant in the context that the designated heritage asset in this case is the conservation area itself, not an individual building. The analysis above tends to the view that the impact of the development upon the character or appearance of the conservation area, even when factoring in the demolition of Brockington House, is at the very lowest end of the less than substantial harm spectrum. The public benefits associated with the development include the provision of a 70-bed care facility in the context of evident demand for specialist accommodation for an elderly population. On that basis, it is your officer's view that the public benefits associated with the scheme demonstrably outweigh the very modest harm to the significance of the conservation area which leads to the overall conclusion that the paragraph 134 'test' is passed. The overall planning balance required by the fourth bullet point to paragraph 14 and CS Policy SS1 is therefore the appropriate mechanism for determining this application and is undertaken at the conclusion of this report.

Other Matters

Transport

- 6.30 The Transport impacts of the scheme are addressed in the submitted Transport Statement and Travel Plan. The site's lawful use is a significant material consideration in assessing the trip generation associated with the scheme. Therefore, whilst concern has been expressed in letters of representation regarding parking provision, it is noted that the 31 spaces allowed for actually exceeds the Council's adopted standards. On this basis officers do not consider there is any basis for objection to the level of parking promoted.
- 6.31 Officers agree it is realistic to suppose that owing to public transport provision and the site's location atop a hill, it is likely that the vast majority of visitor trips will be made by the private car. However, this in itself only represents a modest dis-benefit of the scheme, which is a brownfield redevelopment proposal within a built up area. This in itself is a material consideration weighing in favour of the principle of development at this location.

- 6.32 Visibility at the junction with Hafod Road has been carefully considered. The requisite splays can be delivered without recourse to major engineering works, although some clearance of vegetation will be required to the north side and some pruning to the south. As noted at 4.7 above, the hedgerow removal required (some 30 linear metres) relates to a low quality hedgerow of low species diversity. This loss is not objectionable.
- 6.33 Overall, the scheme is considered to accord with the relevant provisions of CS Policy MT1 and NPPF guidance.

Arboricultural Impacts

- 6.34 As described by the Arboricultural Officer above, the scheme as drawn would respect and integrate key mature tree specimens. Those to be removed are generally immature or of poor form and their removal would have no discernible effect on the well-treed character of the application site.
- 6.35 For these reasons the Officer records no objection and the scheme is considered acceptable from an arboricultural perspective.

Water and Sewerage

- 6.36 Welsh Water has confirmed the ability to supply the site with water and to treat the foul waste arising. A condition is nonetheless recommended to require the submission of a fully integrated drainage scheme.

Neighbour Impacts

- 6.37 As described above in Section 1 the comparison of the existing and proposed indicates, in terms of building heights that the proposal is in the main at the same height or lower than the existing building. Whilst the main hub, incorporating the entrance lobby is commensurate with the height of Brockington House, the northern wing i.e. that which in the main part would replace Brockington House, is generally somewhat lower. The southerly wing extends towards Hafod Road as opposed to towards existing neighbours in Brockington Drive, with the effect of leaving a generous amount of open space in this area; as is presently the case.
- 6.38 There is no significant increase in windows on the rearward facing elevation and in most instances there is slightly greater distance between the proposed building and the common boundary than exists at present. There are also 2 balconies and 3 terraces at first floor level; the terraces accessible from lounges 1, 3 and 4 respectively. These are located in positions that would not cause undue impacts in terms of overlooking. Of the two balconies, one is at the Hafod Road end of the southern wing. Again, this is a location that has no impact on neighbours. The smaller of the two balconies is at the north-eastern tip of the building and is accessible from a bedroom. This is 11 metres from the common boundary and only large enough to permit occupation by the resident of the bedroom concerned. Officers consider this relationship acceptable.
- 6.39 Regard has also been had for the approved scheme on adjoining land to the south and it is considered that the separation distances are acceptable. It is noteworthy that no objections have been received in relation to this point.
- 6.40 One concern has been expressed in relation to the potential for asbestos to be present in the existing building. This is an issue that the owner and their contractor will bear responsibility for. In planning terms I think it necessary to impose a condition governing hours of working.
- 6.41 Overall, officers are content that the scheme would provide good levels of amenity for existing and proposed residents and so accord with CS Policy SD1 and the NPPF; which regards the

attainment of good standards of amenity as indivisible from the pursuit of sustainable development.

Whether the proposal would represent sustainable development in the terms of the Core Strategy and NPPF

- 6.42 The Core Strategy and NPPF make it plain that the purpose of the planning system is to contribute to the achievement of sustainable development. Both explain that there are 3 dimensions to this - economic, social and environmental – and that these give rise to the need for the planning system to perform a number of mutually dependent roles. In other words, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

The Economic Role

- 6.43 It is clear that economic benefits arise as a consequence of this development. The construction phase would create direct employment in that sector, with associated benefits to the supply chain. Long-term there is the creation of 60 full-time equivalent jobs associated with the operation of the home itself. Paragraph 19 of the NPPF confirms that significant weight should be placed on the need to support economic growth through the planning system. It is my view that the development proposal would fulfil the objectives of the economic role.

The Social Role

- 6.44 The scheme would deliver a scheme comprising 70 beds for those in need of care. The CS places emphasis on the need to plan proactively for the accommodation requirements of an ageing population and whilst this will require a range of responses, it is clear that care homes will continue to perform an important function. The Housing Delivery Officer records support for the scheme in this context and I am content that the scheme performs positively in terms of the social role.

The Environmental Role

- 6.45 It has been identified above that the two principal concerns in the environmental context are the heritage and arboricultural impacts. Arboricultural impacts are discussed above and it is concluded that the scheme accords with CS policies LD1, LD2 and LD3.
- 6.46 It is clear that great weight should be afforded the conservation of heritage assets. The appraisal above identifies ***modest harm*** within the context of NPPF paragraph 135 – which requires a balanced judgement having regard to the scale or any harm or loss and the significance of the heritage asset i.e. the loss of Brockington in and of itself is weighed in the overall planning balance. For the reasons set out above officers do not consider that the loss of Brockington should weigh heavily against the scheme.
- 6.47 Moreover, the harm arising from the loss of Brockington in the context of the Conservation Area is, for the reasons set out above, considered to fall at the lower end of the less than substantial spectrum. This harm needs to be weighed against the public benefits of the proposal in an unweighted test. In your officer's opinion, the level of harm to the conservation area is low to the extent that it is clearly outweighed by the public benefits of the scheme; these arising from the redevelopment of the scheme for specialist care accommodation for the elderly and those in need of care.
- 6.48 In overall terms, I find that notwithstanding the modest 'heritage harm', the retention of valuable tree cover and rationalisation of the ad-hoc layout on site means that the proposal has a 'neutral' impact in environmental terms.

Is the scheme representative of sustainable development in the overall planning balance?

- 6.49 Overall, in carrying out the necessary balance, my assessment is that notwithstanding the great weight which is given to the conservation of the designated assets, the public benefits outline above would outweigh the low level of 'less than substantial' harm which I have identified would be caused to these assets. In other words the appeal proposal passes the 'paragraph 134' test.
- 6.50 My reading of the Framework's guidance concerning non-designated heritage assets is that a similar balance against public benefits is not required, and that any harm to such assets is simply weighed in the overall balance.
- 6.51 Having identified that harm within the context of paragraph 135 is modest and in the context of paragraph 134 at the lower end of the 'less than substantial' scale, the public benefits arising with this proposal are considered to outweigh the harm. Officers have identified no additional 'non-heritage' harm to factor into the pre-weighted overall planning balance, with the effect that the scheme, which is considered to fulfil the economic and social roles and attain neutrality in environmental terms, is held overall to be in accordance with the development plan and representative of sustainable development. In terms that are thus consistent with the correct approach to decision-making, the application is thus recommended for approval subject to conditions.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

1. **A01 - Time limit for commencement (full permission)**
2. **C08 - Amended plans**
3. **C13 - Samples of external materials**
4. **C26 - Details of window sections, eaves, verges and barge boards**
5. **C48 - Archaeological survey and recording**
6. **C90 - Protection of trees/hedgerows that are to be retained**
7. **C95 - Details of boundary treatments**
8. **C96 - Landscaping scheme**
9. **C97 - Landscaping scheme - implementation**
10. **CAB - Visibility splays**
11. **CAE - Vehicular access construction**
12. **CAL - Access turning area and parking**
13. **CAZ - Parking for site operatives**
14. **CB2 - Cycle parking**

- 15. **CB3 - Travel Plan**
- 16. **CBK - Restriction on hours during construction**
- 17. **CCK - Details of slab levels**
- 18. **CD6 - Comprehensive and integrated draining of site**
- 19. **CE6 - Efficient use of water**

INFORMATIVES:

- 1. **Statement of positive and proactive working**
- 2. **I05 - No drainage to discharge to highway**
- 3. **I08 - Section 278 Agreement**
- 4. **I09 - Private apparatus within highway**

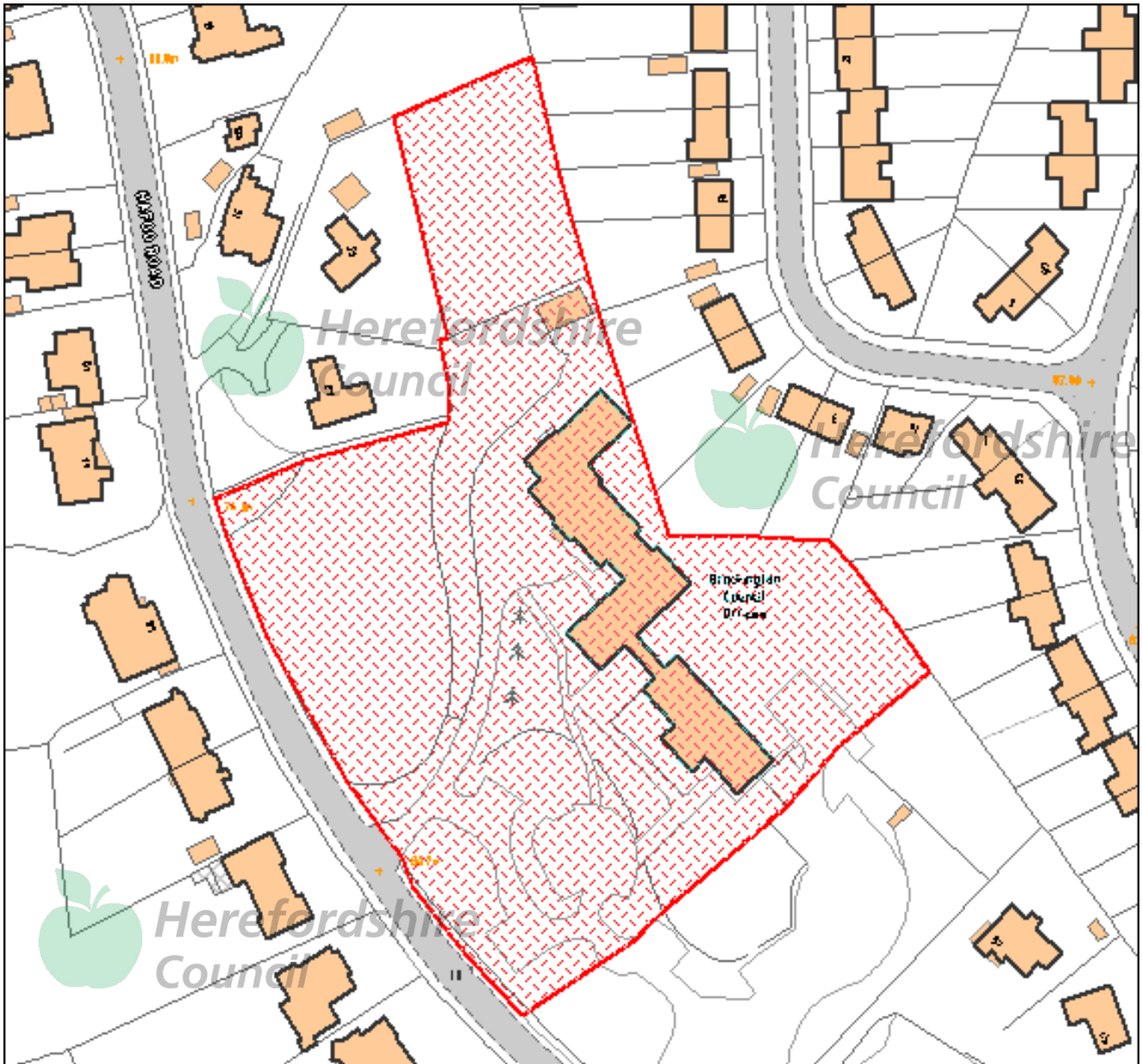
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 163646

SITE ADDRESS : BROCKINGTON, 35 HAFOD ROAD, HEREFORD, HR1 1TA

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Further information on the subject of this report is available from Mr Edward Thomas on 01432 260479

MEETING:	PLANNING COMMITTEE
DATE:	7 April 2017
TITLE OF REPORT:	162601 - PROPOSED CONVERSION OF EXISTING BARN TO TWO DWELLINGS AND ERECTION OF 5 DWELLINGS AT LAND ADJACENT TO UPPER WESTON, WESTON UNDER PENYARD, HEREFORDSHIRE. For: Mr & Mrs Evans per Mrs Julie Joseph, Trecorras Farm, Llangarron, Ross-on-Wye, Herefordshire, HR9 6PG
WEBSITE LINK:	https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162601&search=162601
Reason Application submitted to Committee - Redirection	

Date Received: 10 August 2016

Ward: Penyard

Grid Ref: 363248,223520

Expiry Date: 20 October 2016

Local Member: Councillor H Bramer

1. Site Description and Proposal

- 1.1 The site is located within the settlement boundary of Weston under Penyard and covers an area of 0.25 hectares. The site contains a large existing stone barn positioned adjoining and at 90 degrees to the highway (proposed to be converted) and a smaller barn. An unnamed watercourse is located approx. 40m to the northwest of the proposed development site. The topography of the site varies, rising towards the rear (eastern) boundary with Weston Park.
- 1.2 The site is not within a conservation area, Area of Outstanding Natural Beauty and there are no listed heritage assets in the vicinity. No statutory designations apply to the site or existing buildings.
- 1.3 The proposal is for the conversion of the large existing barn into two dwellings and part demolition, part retention of a smaller barn for ecological mitigation and ancillary residential use. In addition, the construction of five dwellings with parking and associated curtilage areas (17 car parking spaces) is proposed. Two existing vehicular accesses are upgraded as part of the proposal.

2. Policies

2.1 National Planning Policy Framework

The following sections are of particular relevance:

- Introduction – Achieving Sustainable Development
- Section 6 – Delivering a Wide Choice of High Quality Homes
- Section 7 – Requiring Good Design
- Section 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Section 11 – Conserving and Enhancing the Natural Environment
- Section 12 – Conserving and Enhancing the Historic Environment

2.2 Herefordshire Core Strategy Policies

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- SS7 - Addressing Climate Change
- RA1 - Rural Housing Strategy
- RA2 - Herefordshire's Villages
- OS1 - Requirement for Open Space, Sport and Recreation Facilities
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- LD3 - Green Infrastructure
- LD4 - Historic Environment and Heritage Assets
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Waste Water Treatment and River Water Quality

2.3 The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/planning-policy/core-strategy/adopted-core-strategy>

2.4 Weston-under-Penyard Neighbourhood Development Plan (This is a made plan)

- H2 - Location of new developments
- H4 - Type of Housing
- D1 - Design Appearance
- D2 - Technical Design
- ST1 - Accommodating traffic within the Parish
- SB1 - Supporting local business
- SB2 - Workspace development
- SE1 - Sustaining the parish environment and landscape
- SE6 - Sustainable water management

<https://myaccount.herefordshire.gov.uk/weston-under-penyard>

3. **Planning History**

3.1 None

4. **Consultation Summary**

Statutory Consultations

4.1 Welsh Water has no objection, commenting as follows –

Sewerage – We note from the application that the proposed development does not intend to connect to the public sewer network. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

Water Supply – no objection to the proposed development

Internal Council Consultations

- 4.2 The Council's Drainage Consultants do not object to the proposed development on flood risk and drainage grounds. They advise should the Council be minded to grant planning permission, that the submission and approval of detail proposals for the disposal of foul water and surface water runoff from the development is included within suitably worded planning conditions.
- 4.3 The Environmental Health and Trading Standards Manager has no objection regarding contaminated land issues. It is recommended a condition be appended to any approval in the interests of human health and to ensure that the proposed development will not cause pollution to controlled waters or the wider environment.
- 4.4 The Transportation Manager has no objection on the basis of amended plans. Requested conditions are attached to the recommendation, below.
- 4.5 The Conservation Manager (Ecology) on the basis of additional information with further details of the foul water management of the proposed development stating that the proposed package treatment plant will not be discharging directly in to any watercourse and has sufficient capacities, concludes through a Habitats Regulation Assessment screening that there are '*no likely significant effects*' on the River Lugg/River Wye SAC from this development.

The detailed bat survey has shown the usage of both barns by bats including Lesser and Greater Horseshoe. This means that a Natural England EPS Licence will be required to be in place before any work commences on site. This is included as part of the proposed mitigation and working methods recommended in the ecological report by Pure Ecology dated November 2016. A number of conditions are requested if permission is granted. These are attached to the recommendation, below.

- 4.6 The Public Rights of Way Manager has no objection.

5. Representations

- 5.1 Weston-under-Penyard Parish Council comments in principle there would be no objection to a smaller development on the site and subject to identified concerns being fully resolved to their satisfaction. Reference is made to Herefordshire Council's SHLAA Report where the site was rejected for allocation as being unable to yield more than five units. The Parish Council's comments are reproduced in full in Annex A accompanying this Report as they reference in detail policies from the new Weston-under-Penyard Neighbourhood Development Plan. However, the objection is summarised as:

- the smaller barn would be demolished, requested for the incorporation of this building within the development
- concern over size of bedrooms
- roadside dwellings not in keeping with this part of the village
- objects to two vehicular access points
- concerns over level of parking provided
- Concern over surface water
- Concern over pedestrian safety
- One tree is to be removed, others should be retained
- Lack of green space

5.2 Eleven local residents object to the proposal, comments are summarised as:

- Concern over impact on ecology and protected species
- Over development of the land
- Proposal creates cramped dwellings
- Development not in keeping with character hereabouts
- Conflict with Neighbourhood Plan design requirements
- Inadequate parking
- Concern over highway safety
- Concern over surface water flooding
- Impact on adjoining amenity
- Lack of amenities in the village
- Impact on streetscene
- The third barn should be retained
- Weston under Penyard has already more than delivered its minimum target of development
- Scale of development not appropriate
- Impact on the setting of the retained agricultural buildings

5.3 The consultation responses can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/planning-and-building-control/development-control/planning-applications/details?id=162601&search=162601>

Internet access is available at the Council's Customer Service Centres:-

<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires local planning authorities to determine applications in line with the provisions of the local development plan unless material circumstances dictate otherwise.

6.2 Paragraph 14 of the National Planning Policy Framework (NPPF) clearly defines '*presumption in favour of sustainable development*' as the golden thread running through the NPPF. It goes on to state that for decisions taking this means approving development proposals that accord with the development plan without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole or specific policies in the NPPF indicate development should be restricted.

Policy Assessment

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

6.4 Where the existence of a five year land supply cannot be demonstrated, there is presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing.

- 6.5 Paragraph 14 of the NPPF states that there “*is a presumption in favour of sustainable development and for decision taking this means... where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole... or specific policies in this Framework indicate development should be restricted.*”
- 6.6 The NPPF is therefore emphasising the importance of the presumption in favour of sustainable development. In reaching a decision upon new housing the current supply position will need to be balanced against other factors in the development plan and/or NPPF.
- 6.7 This position has been crystalised following a recent Appeal Court Decision and the implications of this position following the *Suffolk Coastal DC v Hopkins Homes & SSCLG* and *Richborough Estates v Cheshire East BC & SSCLG*[2016] EWCA Civ 168 were described by the Court thus:

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

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

- 6.8 This site is therefore considered sustainable in regards its location and compliance with Core Strategy policy RA2 and Neighbourhood Development Plan policy H2 and the principle of residential development is supported.
- 6.9 The NPPF sets out 12 core land-use planning principles in paragraph 17 which should underpin decision taking. These include the principle to ‘*proactively drive and support sustainable economic development to deliver homes, businesses and industrial units, infrastructure and thriving places that the country needs*’.
- 6.10 Paragraph 9 of the NPPF states pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life, Including (but not limited to) improving the conditions in which people live, work, travel and take leisure. The Ministerial foreword to the NPPF states *our standards of design can be so much higher. We are a nation renowned worldwide for creative excellence, yet, at home, confidence in development itself has been eroded by the too frequent experience of mediocrity* and goes on to set out the Government's policies, aims and objectives in Section 7 Requiring Good Design, paragraphs 56-68.
- 6.11 It is clear from the NPPF that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 58 states planning policies and decisions should aim to ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;

- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
 - respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
 - create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
 - are visually attractive as a result of good architecture and appropriate landscaping.
- 6.12 Whilst local planning authorities are advised not to impose architectural styles, paragraph 60 states it is proper to seek to promote or reinforce local distinctiveness.
- 6.13 Paragraph 61 acknowledges that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.
- 6.14 Paragraph 64 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 6.15 Core Strategy Policy SS1 – *Presumption in favour of sustainable development*, in line with the NPPF, has a positive approach to such development. Furthermore, planning permission will be granted unless the adverse impact of the permission would significantly and demonstrably outweigh the benefits of the proposal.
- 6.16 Core Strategy Policy SS2 – *Delivering new homes* sets out Herefordshire is to deliver a minimum 16,500 dwellings during the plan period and that designated rural settlements play a key role in that delivery and support the rural economy, local services and facilities. Such settlements will deliver a minimum 5,600 dwellings.
- 6.17 Core Strategy policy SS7 – *Addressing climate change* describes how development will be required to mitigate their impact on climate change, and strategically, this includes:
- focussing development to the most sustainable locations
 - delivering development that reduces the need to travel by private car and encourages sustainable travel options including walking, cycling and public transport
- 6.18 Core Strategy policy RA1 – *Rural housing distribution* sets out the strategic way housing is to be provided within rural Herefordshire and to deliver a minimum 5,600 dwellings. Herefordshire is divided into seven Housing Market Areas (HMAs) in order to respond to the differing housing needs, requirements and spatial matters across the county.
- 6.19 Core Strategy policy RA2 – *Housing outside Hereford and the market towns* identifies the settlements in each HMA area where both the main focus of proportionate housing development will be directed, along with other settlements where proportionate housing growth is appropriate.
- 6.20 Weston-under-Penyard is within the Ross on Wye HMA and one of 31 settlements designated to be the main focus of proportionate growth in that HMA. The Ross on Wye HMA is to provide a minimum 1150 dwellings in the Plan period with an indicative housing growth target of 14%. Weston-under-Penyard has a minimum target figure for 65 dwellings from 2011-2031. Four Completions were recorded from 2011-2016 and there are presently were 81 commitments.
- 6.21 The application site is therefore sustainably located, being within the main built core of Weston-under-Penyard, a settlement designated under Policy RA2 and within the settlement boundary defined by the Neighbourhood Plan. Development is therefore acceptable in principle on a

locational basis. This combined with the scale of the development and housing target and completion figures for Weston under Penyard therefore leads to the conclusion that the proposal may reasonably be considered to represent proportionate sustainable housing growth within the village.

- 6.22 In principle and strategically, the proposal is acceptable as it represents sustainable and proportionate development, complying with Core Strategy policies SS1, SS2, SS7, RA1 and RA2, the relevant policies of the NDP and the requirements of the NPPF.
- 6.23 The Weston-under-Penyard NDP was made on 20 May 2016 and now forms part of the statutory development plan for the area. The NDP as an adopted plan is a material consideration. In line with the recent ministerial statement, the plan will also be attributed full weight in the absence of a 5 year land supply due to the site allocations contained within the plan, its adoption within the last 2 years and the LPA's demonstration of a 4.49 year land supply.
- 6.24 The Weston-under-Penyard Neighbourhood Plan contains a settlement boundary for the settlement of Weston-under-Penyard which includes two site allocations (policy HS1 and HS2) and a criteria based infill policy for the settlements of Ponsthill and Bromash (policy H2). The two sites have planning permission for 35 and 37 dwellings.
- 6.25 Although proportional growth requirements should not be seen as a mathematical exercise, the site allocations together with the existing commitments clearly demonstrate the parish contribution to the Ross on Wye Housing Market Area growth in line with policy RA2 of the Core Strategy already within the early part of the plan period.
- 6.26 The plan however is not seeking to impose a cap on the supply of housing development and policy H2 seeks to shape and direct appropriate windfall growth within the parish. The examiner comments that the plan 'adopts an appropriate positive approach to growth'. With this in mind, Policy H2 (d) of the NDP indicates that new build residential development will not be permitted outside the Weston-under-Penyard settlement boundary but does indicate the criteria for further windfall development.
- 6.27 With regards to the application, the land in question is within the settlement boundary and not subject to a local green space designation, therefore the determination will need to have regards to policies H2, D1 and D2.
- 6.28 The recent update to the Planning Policy Guidance note which accompanies the NPPF indicates that where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, weight may still be given to relevant policies in the emerging neighbourhood plan (post Regulation 16).
- 6.29 Paragraph 14 of the NPPF states that the presumption in favour of sustainable development requires the granting of planning permission, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This includes paragraphs 183–185 and paragraph 198 which states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.
- 6.30 Therefore given the recently government guidance, the adoption of the NDP and the demonstration within both site allocations and existing commitments that proportional growth can be achieved, the Weston-under-Penyard NDP should be afforded significant weight despite the five year land supply position.

Assessment

- 6.31 Sustainable development and sustainability are more than a matter of location. The NPPF states that good design is a key aspect of sustainable development and indivisible from good planning. It is not just a matter of aesthetics. Amongst other things, it says that decisions should aim to ensure that developments function well and add to the overall quality of the area; and optimise the potential of the site to accommodate development. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 6.32 Section 7 (*Requiring good design*) of the NPPF requires developments should function well and add to the overall quality of an area, establishing a sense of place to create attractive places to live, work and visit through responding to local character and history and reflecting local identity, whilst at the same time not stifling innovation. This approach is reinforced through Core Strategy policies SS6, LD1 and SD1 and the criteria of policy RA2 which requires development should reflect the size, role and function of the settlement and be located within or adjoining its main built up area. Attention is required to be paid to the form, layout, character and setting of the site and its location, resulting in high quality sustainable development.
- 6.33 As such, given the sustainable location and in principle acceptability of the development on those terms, the decision making process turns to the assessment of material considerations.
- 6.34 At the local level policies regarding design and context reflect the Government's aims and objectives. Core Strategy Policy RA2 states new dwellings should make a positive contribution to their rural landscape by being built to a high standard, incorporating appropriate materials and landscaping. High quality design that is sustainable and reinforces the locally distinctive vernacular will be particularly encouraged. Innovative and/or contemporary design will also be supported where it is appropriate to its context, it makes a positive contribution to the architectural character of the locality and achieves high levels of sustainability in terms of energy and water efficiency, as set out in Policy SD1.
- 6.35 Housing proposals will be permitted under policy RA2 where the following criteria are met:
- Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area.
 - Their locations make best and full use of suitable brownfield sites wherever possible;
 - They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and
 - They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.
- 6.36 Although the application is neither within a conservation area or immediately adjoining any listed buildings, there are heritage implications and opportunities from the proposal. The application site is located in the historic core of the village and its most picturesque area featuring the public house, dwellings set around the road junction and stone barn fronting the lane from which the application site is accessed. It is therefore reasonable this environment is maintained or enhanced by new development. Along with the above Core Strategy policies which support this position, the Weston under Penyard Neighbourhood Plan does likewise.

- 6.37 NPPF section 12 sets out the position regarding conserving and enhancing the historic environment. Specific principles and policies relating to the historic environment and heritage assets and development are found in paragraphs 126 – 141. The NPPF sets out in paragraph 126 that there should be a positive strategy for the conservation of the historic environment. It is recognised that heritage assets are an irreplaceable resource should be conserved in a manner appropriate to their significance taking into account of:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
 - the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring
 - the desirability of new development making a positive contribution to local character and distinctiveness
 - opportunities to draw on the contribution made by the historic environment to the character of a place.
- 6.38 Paragraph 131 – 133 sets out what and how LPAs should consider in determining planning applications featuring heritage assets. This includes:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.39 The Core Strategy sets out heritage policy under LD4. The historic environment is defined as all aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora. Those elements of significance with statutory protection are referred to as designated heritage assets. Policy LD4 is applicable to heritage assets throughout Herefordshire whether formally designated e.g. listed buildings and conservation areas, or not.
- 6.40 Policy LD4 – *Historic environment and heritage assets* requires development proposals affecting heritage assets and the wider historic environment should:
- Protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible;
 - Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas;
 - use the retention, repair and sustainable use of heritage assets to provide a focus for wider regeneration schemes;
 - record and advance the understanding of the significance of any heritage assets to be lost (wholly or in part) and to make this evidence or archive generated publicly accessible and where appropriate, improve the understanding of and public access to the heritage asset.
- 6.41 The historic environment and heritage assets are significant contributors to sustainable development. Important local buildings have a social value and can act as focal points for local communities. The historic environment is of cultural value as it illustrates the historical development of Herefordshire. Heritage assets also bring economic benefits as Herefordshire's well preserved historic environment is a major factor in its tourism industry and the county's quality of life.

- 6.42 Core Strategy policy LD1 – *Landscape and townscape* criteria requires new development must achieve the following:
- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
 - conserve and enhance the natural, historic and scenic beauty of important landscapes and features through the protection of the area's character and by enabling appropriate uses, design and management
- 6.43 The proposal features five new build residential units and conversion of an existing barn to form two residential units. A semi detached pair of cottages front the site/ highway and adjoin the road facing gable elevation of the retained barn. Two detached dwellings are located behind this, creating a 'courtyard' or 'farmyard' layout. A further detached dwelling to the south of the retained barn, is set back from the highway. New and reinforced green planting forms boundary treatments and landscaping. Two vehicular accesses serve the proposal, utilising and upgrading existing access points with parking areas off road within the development.
- 6.44 The road fronting semi detached dwellings are three bedroomed units with a cottage vernacular, featuring front porch, chimneys and rear gable protrusion. The cottages are a mirror of each other, measuring 8 x 7.4 metres in plan over their greatest extents with a height to ridge of 8.6 metres and eaves of 5.4 metres.
- 6.45 Dwelling 'plot 3' is a four bedroom unit set behind the cottages to the east of the site has a design and appearance echoing and influenced by the retained barn. It has an evocative 'barn' principle elevation, with a feature, principally glazed gable and 'slit' windows. This design approach helps reinforce the 'courtyard' or 'farmyard' character and layout. The rear elevation has a more traditional 'house' elevation and is not visible from public vantage points. The dwelling measures 13.4 x 8.8 metres in plan excluding attached single garage over its maximum extents with a height to ridge of 8.4 metres and eaves of 5.4 metres.
- 6.46 A further dwelling adjacent to the above is of a more tradition vernacular and design approach. It has a feature gable, open sided porch and detailing around the windows. It has an attached garage. This design approach enables the retained barn to be aesthetically dominant and prevents a design 'clash' and acts a design gap to the barn like new build. The dwelling measures 13.4 x 11.5 metres in plan over its maximum extent with a height to ridge of 8.3 metres and eaves of 5.4 metres.
- 6.47 The barn to be retained and converted into two dwellings is currently unlisted, however, it is considered by officers to be a locally important heritage asset located in the historic core of the village adjoining and viewed in connection with other buildings of historic and architectural merit. It is emphasised this barn and the adjoining Upper Weston are not listed under *Appendix A – Assets of Community Value (Listed Buildings, historically interesting buildings and Monuments)* of the Neighbourhood Development Plan.
- 6.48 The retention of the barn has been secured through negotiation with officers and its social and environmental contribution to the village's character and appearance has been recognised by the applicant. Original proposals sought the barn's demolition. It is noted the reality is, without a planning permission incorporating the barn, it could legitimately be demolished without any formal consent required. As such the barn is 'at risk'.

- 6.49 The barn conversion will form two dwellings. Whilst its historic character and features inform and are retained within the conversion, in order to meet highway requirements, the end gable is to be taken down and rebuilt with the resultant width of the barn reduced. Whilst this is not ideal, it is considered this compromise is acceptable on the following points:
- the retention of the unlisted heritage asset can be assured
 - the works will have minimal impact on the character and appearance of the streetscene regarding the barn itself
 - the barn will still contribute to the character and appearance of the locality and be dominant and a key feature of the streetscene
- 6.50 The approach and acceptability of this conforms with the principles of the NPPF regarding heritage assets and ensuring their retention through use and has regard to the assets unlisted but locally important status.
- 6.51 Plot 5 features a detached dwelling that is an inverted 'L' shape in plan and again has a rural vernacular featuring a mix of ridge heights, open porch and dormer windows. A home office area is included above the attached double garage, access by an external staircase, and creates a 'coach house' like wing to the dwelling. The proposal measures 18.5 x 10.6 metres in plan over its maximum extents with a height to ridge of 8.3 metres and eaves of 5.4 metres.
- 6.52 An existing brick barn is to be in part demolished with a section to be retained and renovated at loft level to form a bat loft in accordance with the Ecological Report. This has been agreed as acceptable by the Council's Conservation Manager (Ecology). The retained building will form part of plot 5's curtilage. The retained barn also features an open fronted log store below. The barn will be screened from public vantage points by Plot 5 and the converted barn. Although the Parish Council would prefer the barn is retained in full, as detailed, these are unlisted structures not in a conservation area so could be demolished without consent. The partial retention and reuse at least provides an historical reference point regarding the history of the site and a practical use. As such, relevant heritage policies are complied with.
- 6.53 The proposal is considered to be reflective, informed of and complementary to the historic character, appearance and materials utilised hereabouts and as such complies with Core Strategy policies SS6, RA2, LD1, LD4 and SD1, the relevant design and heritage policies of the Weston under Penyard Neighbourhood Plan and relevant aims and objectives of the NPPF.

Assessment against Neighbourhood Plan

- 6.54 As relevant to the application, regarding **Policy H2: Location of New Developments**, the proposal satisfies the following criteria
- a) *Development will be permitted at the locations defined in Policies HS1 and HS2;*
 - b) *To allow for appropriate growth in Weston village an extended Settlement Boundary is defined as shown on the Policy Map H2;*
 - c) ***Applications will be supported for small residential developments on infill gaps and on redevelopment sites within the Weston village Settlement Boundary;***
 - d) *With the exception of the conditions described in sub-items (e), (f), (g), (h), (i) and (j), new build residential development will not be permitted outside the Weston village Settlement Boundary.*

- 6.55 The proposal as submitted and through conditions will conform with **Policy D1 – Design Appearance**. The policy states proposals for all forms of new development should offer a design that seeks to reflect local distinctiveness and the aesthetic qualities of traditional rural settlements and buildings found in South Herefordshire. Development proposals should contain design measures which, in addition to regulatory requirements, will:
- a) Be sympathetic to the existing traditional character of the parish, utilising a mixture of materials and architectural styles and incorporate locally distinctive features, for example, the use of local stone;
 - b) Ensure that the design and use of materials is such that affordable homes are visually indistinguishable from market housing;
 - c) Respect the scale, density and character of existing properties in the parish;
 - d) Provide buildings that relate well to established building heights and bulks. A building height of no more than 2 storeys should normally be used. House designs with three storeys (or “2½” storeys) may be approved subject to location and high class architectural design and choice of materials;
 - e) Allow for two-storey terraced housing in appropriate locations with the retention of open space on site for soft landscaping and amenity space;
 - f) Not detract from the amenity of adjacent existing properties;
 - g) Preserve existing trees, boundary hedges, ponds, orchards and hedgerows and make provision for tree planting with types already found within the parish; and
 - h) Be set back from the road and well screened by mature trees/shrubs landscaping to maintain a soft edge to the Weston village and blend with the existing landscape.
- 6.56 It is considered requirements a – g are complied with and conditions ensure appropriate materials, details, finishes, landscaping and their maintenance.
- 6.57 On balance refusal could not it is considered be substantiated on the points described by the Parish Council and objectors. It is considered the design meets relevant policy requirements and furthermore, recommended conditions will ensure this. This position manifests itself when considering the NDP policies and is further strengthened when considering the Core Strategy policies and relevant aims and objectives of the NPPF. It is considered a refusal against Core Strategy and NPPF policies could not be justified and rather, the proposal satisfies their aims and objectives.
- 6.58 **Policy D2 – Technical Details** will be similarly complied with and relevant consultees have confirmed the acceptability of the proposal regarding technical matters and through the use of conditions.

It is also emphasised Upper Weston is not listed under Appendix A – Assets of Community Value (Listed Buildings, historically interesting buildings and Monuments).

The Judicial Review *Palmer-v-Herefordshire Council & anr [2016]* covered the issue of policy conflict, where policies could indicate different recommendations. The conclusion from the Court was –

I have no difficulty with the proposition that different policies can point in different directions. In such a case the decision maker may have to decide whether to prefer one policy over another and to grant planning permission even though the requirements of one relevant policy have not been satisfied.

6.59 As such, whilst it is appreciated that there is always a level of subjectivity associated with interpreting policy compliance, in this case it is concluded that the report is 'sound'; refers to relevant policies, and acknowledges the policy tension/ conflict. These are balanced within the report as set out above.

Highways

6.60 Amended plans were received following original comments from the Transportation Manager. The amended plans considered in this assessment show, If the visibility splay is taken to the running lane of the carriageway, as stated in Manual for Streets 2, then the visibility splay meets the 67m distance requirements.

6.61 The U70206 from which access is gained has no footways and a limited amount of verge for pedestrians to use. The site is approximately 250m away from the bus stop which connects to the Stagecoach service to Gloucester and Ross on Wye. Access of the bus service to Ross on Wye, requires pedestrians to cross the A40. The existing crossing provision is dropped kerbs and tactile.

6.62 At the junction of the A40 and U70206 is the widely used pub, therefore pedestrians will regularly walk down the U70206. There have been no accidents recorded at the junction in the current 5 year period.

6.63 Concerns have been raised regarding the farm vehicles using the U70206, however as shown in the submitted speed and volume survey, large vehicles only equate to less than 10 % of the total number of vehicles. The development will look to increase vehicles on the U70206 by 1%, this in itself would not be classed as severe.

6.64 Due to the location of the bus stop the site provides access to sustainable transport along with cycle storage provision therefore allows for options to reduce the number of private vehicle movements.

6.65 As such it is considered the proposal is acceptable in respect of highway safety and its impact on the road network hereabouts and having regard to movements other than those by a private vehicle. There is adequate off road parking and secure cycle storage provision. On the basis of all of the above and recommended conditions attached below, the proposal is considered to satisfy the relevant aims and objectives of Core Strategy policies SS1, SS4, MT1, RA2 and SD1 and the Council's Highways Design Guidance requirements.

Summary

6.66 On the basis of the above, the proposal represents sustainable, appropriate development respecting and responding to the local context providing a proportionate contribution to Herefordshire's and the Ross HMA housing supply. The proposal also retains and reuses an unlisted heritage asset, providing environmental and social benefits. As such relevant local and national planning policies are satisfied and approval is recommended.

RECOMMENDATION

That planning permission be granted subject to the following conditions and any further conditions considered necessary by officers under the scheme of delegation:

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**

3. **Foul water and surface water discharges shall be drained separately from the site.**
Reason: To protect the integrity of the public sewerage system.
4. **No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.**
Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.
5. **G10 Landscaping scheme**
6. **G11 Landscaping scheme – implementation**
7. **The recommendations as identified in section 5 of the ecological report by Pure Ecology dated November 2016, listed under Condition 2 of this Decision Notice shall be fully implemented as stated, unless otherwise agreed in writing by the planning authority. Prior to commencement of the development, a species mitigation and habitat enhancement scheme integrated with a landscape scheme as required under Condition 5 of this Decision Notice covering the whole site should be submitted to and be approved in writing by the local planning authority. The scheme shall be implemented as approved and thereafter be maintained as such.**
Reasons: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the NERC Act 2006, Conservation of Habitats and Species Regulations 2010 and relevant Policies of the Core Strategy.
8. **Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 shall be submitted to and approved in writing by the local planning authority and implemented as approved.**
Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy
9. **Removal of permitted development rights**
Reason: To ensure the design, energy efficiency and sustainability qualities of the proposal is maintained and to protect the character and appearance of the AONB and in the interests of adjoining amenity
10. **No conversion of garage to residential use**
Reason: In the interests of adjoining amenity
11. **CAB - 67m x 2.4 South 64m x 2.4m North**
12. **CAL - Access, turning area and parking**
13. **CAH - Driveway gradient**
14. **CAE - Vehicular access construction**

- 15. CAS - Road completion
- 16. CB2 - Secure covered cycle parking provision
- 17. CAE - Vehicular access construction
- 18. CAJ - Parking - estate development (more than one house)
- 19. CAZ - Parking for site operatives
- 20. I18 - Foul and surface water drainage
- 21. I16 - Restriction on hours of construction

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2. HN01 Mud on highway
- 3. HN04 Private apparatus within highway
- 4. HN05 Works within the highway
- 5. HN10 No drainage to discharge to highway
- 6. HN24 Drainage other than via highway system
- 7. The enhancement plan required under Condition xx of this Decision Notice should include details and locations of any proposed Biodiversity/Habitat enhancements as referred to in the National Planning Policy Framework and the Herefordshire Core Strategy. As proposals for bat mitigation and enhancement are managed through the required EPS Licence at a minimum we would be looking for additional proposals to enhance bird nesting to be incorporated in to the new buildings or nearby retained features as well as consideration for amphibian/reptile refugia, hedgehog houses and invertebrate/pollinator homes within the landscaping/boundary features.

No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative.

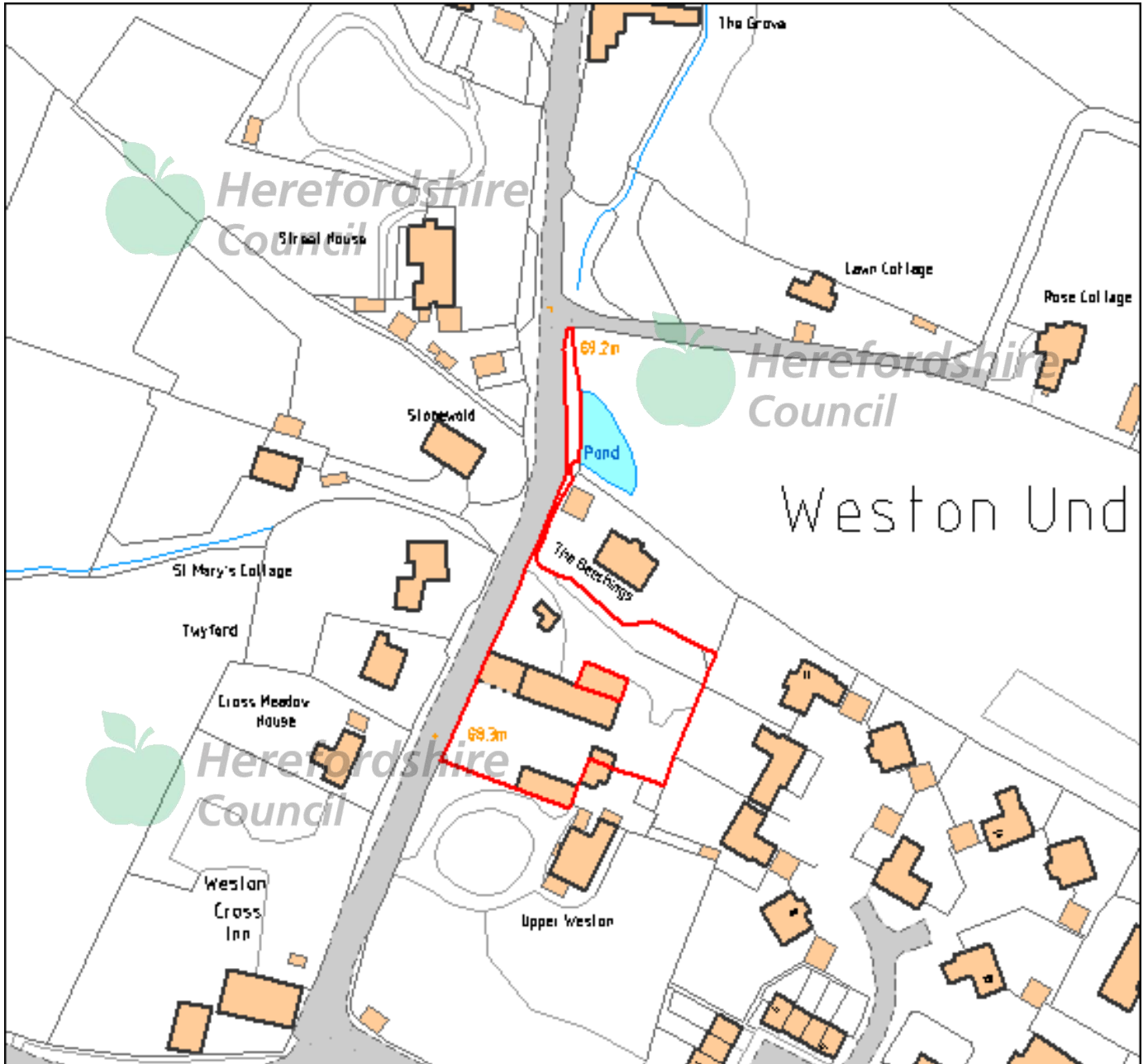
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 162601

SITE ADDRESS : LAND ADJACENT TO UPPER WESTON, WESTON UNDER PENYARD, HEREFORDSHIRE

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Annex A

Proposed Process for Management of Planning Matters by the Parish Council

Planning Application Report for submission to Parish Council by Planning Group

General Information

Number	P162601/F
Location	Land adjacent to Upper Weston, Weston under Penyard
Proposal	Proposed conversion of existing barn to two dwellings and erection of 5 dwellings.
HC Case Officer	Carl Brace
Applicant	Mr & Mrs J Evans
Agent	Mrs Julie Joseph
Date received by Parish Council	12th Sept 2016
PC comments requested by	3rd October 2016
Target HC determination date	Thursday 20 October 2016

Review of Compliance with Neighbourhood Plan

Relevant Neighbourhood Plan Policy	Remarks	Compliant? Yes/No
Policy H2: Location of New Developments	<p>In principle, in terms of location, the development appears to comply with Policy H2 (c) and (h) which state:</p> <p><i>c) Applications will be supported for small residential developments on infill gaps and on redevelopment sites within the Weston village Settlement Boundary;</i></p> <p><i>h) Applications will be supported for the conversion of a building of architectural and/or historic merit where that building is structurally sound and capable of conversion without complete or substantial rebuilding;</i></p> <p>However it is noted that the smaller barn would be demolished. Further consideration is requested for the incorporation of this building within the development.</p>	<p>Yes</p> <p>Yes, subject to further consideration that the second barn is retained within the development.</p>
Policy H4: Type of Housing	<p>All seven proposed houses are three or four bedroom types and so the development does not reflect the range of house types defined in Policy H4, as follows.</p> <p><i>This policy directs that development applications should favour the following types of homes:</i></p> <p><i>a) Family homes (three bedrooms or more) and</i> <i>b) Starter homes (two bedrooms) and</i> <i>c) Adapted/easy access homes e.g. bungalows and</i> <i>d) Homes for local people</i></p>	<p>No</p> <p>No</p>

	<p>Although no house dimensions have been made available it would appear from inspection of the plans that some of the room sizes, particularly bedrooms, would be quite small. If so then this would not seem to promote the quality of homes required by the National Planning Policy Framework, as quoted in paragraphs 3.5 and 3.7 of the Planning, Design and Access Statement.</p>	
<p>Policy D1: Design Appearance</p>	<p>a) Paragraph 4.3 of the Planning, Design and Access Statement refers to the use of local stone and render but no detailed information has been sighted to define the actual appearance of the houses in terms of the extent and mix of these materials.</p> <p>h) As proposed the houses on plots 1 and 2 would not be "set back from the road and well screened by mature trees/scrubs". These houses are shown to be almost on the roadside and are not therefore in keeping with this part of the village.</p>	<p>No (pending further clarification).</p> <p>No</p>
<p>Policy D2: Technical Design</p>	<p>(a) Two access points into the site are proposed in the application. Whilst it is noted that these two access points already exist it is considered that the development should not need two access points and that this would not be the safest option.</p> <p>(b) The space for off-street parking by residents and visitors is far from adequate. In the parish it is quite common for car ownership to be three or more per dwelling and that garages are often used totally for other purposes than parking. Contrary to the statement in paragraph 2.2 of the Planning, Design and Access Statement the village does not have "good public transport links" and this contributes to the high car ownership. The present bus service is quite limited and further reductions in the service are being considered by Herefordshire Council. A survey of adult residents in 2014 showed that only 10% used the bus service more than once per week on average. Plots 1 and 2 with three bedroom houses are shown to have no car parking space other than a single garage each. Allowance should be considered for additional cars owned by visitors. Office facilities are proposed at plot 5 and this could require additional parking space. It is noted that no space is available on the site for later expansion of parking spaces. With the layout proposed it is considered that undesirable on-street parking would be inevitable. This would be highly undesirable for road safety reasons at this location.</p> <p>d) Section 7 of the Planning, Design and Access Statement proposes a sustainable drainage system but no details have been sighted. There is a history of regular severe flooding</p>	<p>No</p> <p>No</p> <p>No (pending further</p>

	<p>of the highway at this location, including inundation of building. The statement proposes to "minimise any flow of surface water onto the highway" whereas the design should ensure zero flow onto the highway. No permeability tests seem to have been undertaken to date.</p> <p>e) and f) The layout proposed does not provide for safe pedestrian/cycle/pushchair/wheelchair access to existing footways and any of the local facilities.</p> <p>g) Confirmation is required that the development would be compliant with Policy 02 (g), regarding potential contamination from agricultural processes.</p> <p>Confirmation must be provided that access to the adjacent house "The Beechings" is legally assured.</p>	<p>No</p> <p>No (subject to further clarification)</p> <p>Confirmation required.</p>
Policy STI: Accommodating Traffic within the Parish	<p>a) Access and off-street parking - see above.</p> <p>d) Safe pedestrian and cycle routes - see above</p>	<p>No</p> <p>No</p>
Policy SBI: Supporting Local Business	A small home office space is proposed above the garage at plot. This appears to be compliant with policy SBI.	Yes
Policy SB2: Work Space Development	As 581 above.	Yes
Policy SE1: Sustaining the parish environment and landscape	<p>a) and b) The plans provided with the application appear to indicate that at least one mature tree would be removed. If possible the site layout should allow for any existing trees to be retained. The tree shown in Drg No 7702/116 is omitted in Drg 7702/110. There is no green space or new green landscaping provided in the design layout in which the largely occupied by the seven plots. Fewer houses and more green space should be provided.</p> <p>d) It is understood that the Natural England Bat Mitigation Guidelines will be adhered to.</p>	<p>No</p> <p>Yes</p>
Policy SE6: Sustainable Water Management	c) Clarification is required regarding the location and suitable capacity of the proposed onsite sewage disposal facility. Drg No shows this to be next to the road in the SW corner whereas the Planning, Design and Access Statement indicates at Section 7.1 that the location will be in the SE corner of the site.	No, subject to clarification.

Formal PC comments submitted to Herefordshire Council

Conclusion:	In principle the Parish Council would have no objection to a smaller development on this site and subject to all the above stated concerns being fully resolved to their satisfaction.
Comments:	In addition to the above specific comments the conclusion is that too many houses are being proposed for the site and that this is causing some of the difficulties identified above. It is noted that HC in their 2012 SHLAA report rejected this site, stating "Site is rejected as unlikely to yield 5 dwellings".

4 OCTOBER 2016**Agreed by Parish Council:****CHAIR**