

# Agenda

## Planning and regulatory committee

Date: **Wednesday 14 March 2018**

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Time: **10.00 am**

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

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

For any further information please contact:

**Tim Brown, Democratic Services Officer**

Tel: 01432 260239

Email: [tbrown@herefordshire.gov.uk](mailto:tbrown@herefordshire.gov.uk)

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If you would like help to understand this document, or would like it in another format, please call Tim Brown, Democratic Services Officer on 01432 260239 or e-mail [tbrown@herefordshire.gov.uk](mailto:tbrown@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the meeting of the Planning and regulatory committee**

## **Membership**

<b>Chairman</b>	<b>Councillor PGH Cutter</b>
<b>Vice-Chairman</b>	<b>Councillor J Hardwick</b>
	<b>Councillor BA Baker</b>
	<b>Councillor CR Butler</b>
	<b>Councillor PJ Edwards</b>
	<b>Councillor DW Greenow</b>
	<b>Councillor KS Guthrie</b>
	<b>Councillor EL Holton</b>
	<b>Councillor TM James</b>
	<b>Councillor JLV Kenyon</b>
	<b>Councillor FM Norman</b>
	<b>Councillor AJW Powers</b>
	<b>Councillor A Seldon</b>
	<b>Councillor WC Skelton</b>
	<b>Councillor EJ Swinglehurst</b>

## Agenda

		Pages
1.	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
2.	<p><b>NAMED SUBSTITUTES (IF ANY)</b></p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p><b>DECLARATIONS OF INTEREST</b></p> <p>To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
4.	<p><b>MINUTES</b></p> <p>To approve and sign the minutes of the meeting held on 21 February 2018.</p>	9 - 34
5.	<p><b>CHAIRMAN'S ANNOUNCEMENTS</b></p> <p>To receive any announcements from the Chairman.</p>	
6.	<p><b>APPEALS</b></p> <p>To be noted.</p>	35 - 38
7.	<p><b>150659 - LAND AT HOLMER TRADING ESTATE, COLLEGE ROAD, HEREFORD, HEREFORDSHIRE</b></p> <p>Demolition of all existing buildings and hard standings, remediation of the site, including reinstatement or landscaping of the former canal and development of up to 120 homes, landscaping, public open space, new vehicle and pedestrian access and associated works.</p>	39 - 56
8.	<p><b>172019 - LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE</b></p> <p>Variation of condition 19 (p140285/0 76 dwellings and a business centre) amend to: the b1 commercial unit and its associated infrastructure as shown on approved plan 0609- 11/d/3.01 shall be constructed and capable of occupation for employment purposes prior to the final occupation of 35 no. Dwellings.</p>	57 - 62
9.	<p><b>174466 - 8 COTTERELL STREET, HEREFORD, HEREFORDSHIRE, HR4 0HQ</b></p> <p>Proposed residential development to provide 4 no flats.</p>	63 - 80



## **The Public's Rights to Information and Attendance at Meetings**

### **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
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- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

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- The Shire Hall is a few minutes walking distance from both bus stations located in the town centre of Hereford.

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Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.

The Chairman or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.

## Guide to Planning and Regulatory Committee

The Planning and Regulatory Committee consists of 15 Councillors. The membership reflects the balance of political groups on the council.

Councillor PGH Cutter (Chairman)	Conservative
Councillor J Hardwick (Vice-Chairman)	Herefordshire Independents
Councillor BA Baker	Conservative
Councillor CR Butler	Conservative
Councillor PJ Edwards	Herefordshire Independents
Councillor DW Greenow	Conservative
Councillor KS Guthrie	Conservative
Councillor EL Holton	Conservative
Councillor TM James	Liberal Democrat
Councillor JLV Kenyon	It's Our County
Councillor FM Norman	Green
Councillor AJW Powers	It's Our County
Councillor A Seldon	It's Our County
Councillor WC Skelton	Conservative
Councillor EJ Swinglehurst	Conservative

The Committee determines applications for planning permission and listed building consent in those cases where:

- (a) the application has been called in for committee determination by the relevant ward member in accordance with the redirection procedure
- (b) the application is submitted by the council, by others on council land or by or on behalf of an organisation or other partnership of which the council is a member or has a material interest, and where objections on material planning considerations have been received, or where the proposal is contrary to adopted planning policy
- (c) the application is submitted by a council member or a close family member such that a council member has a material interest in the application
- (d) the application is submitted by a council officer who is employed in the planning service or works closely with it, or is a senior manager as defined in the council's pay policy statement, or by a close family member such that the council officer has a material interest in the application
- (e) the application, in the view of the assistant director environment and place, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- (f) the application, in the reasonable opinion of the assistant director environment and place, raises issues of a significant and/or strategic nature that a planning committee determination of the matter would represent the most appropriate course of action, or
- (g) in any other circumstances where the assistant director environment and place believes the application is such that it requires a decision by the planning and regulatory committee.

The regulatory functions of the authority as a licensing authority are undertaken by the Committee's licensing sub-committee.

### Who attends planning and regulatory committee meetings?

Coloured nameplates are used which indicate the role of those attending the committee:

Pale pink	Members of the committee, including the chairman and vice chairman.
Orange	Officers of the council – attend to present reports and give technical advice to the committee
White	Ward members – The Constitution provides that the ward member will have the right to start and close the member debate on an application.  In attendance - Other councillors may also attend as observers but are only entitled to speak at the discretion of the chairman.

### Public Speaking

The public will be permitted to speak at meetings of the Committee when the following criteria are met:

- a) the application on which they wish to speak is for decision at the planning and regulatory committee
- b) the person wishing to speak has already submitted written representations within the time allowed for comment
- c) once an item is on an agenda for planning and regulatory committee all those who have submitted representations will be notified and any person wishing to speak must then register that intention with the monitoring officer at least 48 hours before the meeting of the planning and regulatory committee
- d) if consideration of the application is deferred at the meeting, only those who registered to speak at the meeting will be permitted to do so when the deferred item is considered at a subsequent or later meeting
- e) at the meeting a maximum of three minutes (at the chairman's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes will be allowed for public speaking
- f) speakers may not distribute any written or other material of any kind at the meeting
- g) speakers' comments must be restricted to the application under consideration and must relate to planning issues
- h) on completion of public speaking, councillors will proceed to determine the application
- i) the chairman will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.



**Minutes of the meeting of Planning and regulatory committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 21 February 2018 at 10.00 am**

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

**Councillors:** BA Baker, PJ Edwards, DW Greenow, TM James, MT McEvelly, FM Norman, AJW Powers, A Seldon and SD Williams

**In attendance:** Councillors H Bramer, DG Harlow and PP Marsh

**133. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors CR Butler, KS Guthrie, EL Holton, EJ Swinglehurst and WC Skelton.

**134. NAMED SUBSTITUTES**

Councillor MT McEvelly substituted for Councillor EJ Swinglehurst and Councillor SD Williams for Councillor WC Skelton.

**135. DECLARATIONS OF INTEREST**

**Agenda item 9: 163324 – Land to the West of A40 Weston Under Penyard**

Councillor H Bramer declared a non-pecuniary interest because some years ago in a personal capacity he had commissioned work from the applicants.

**Agenda item 10: 173082 – Land at Parkgate, Ivington**

Councillor J Hardwick declared a non-pecuniary interest because he knew the applicant.

**136. MINUTES**

**RESOLVED:** That the Minutes of the meeting held on 31 January 2018 be approved as a correct record and signed by the Chairman.

**137. CHAIRMAN'S ANNOUNCEMENTS**

None.

**138. APPEALS**

The Planning Committee noted the report.

*(Councillor J Hardwick in the chair)*

**139. 173600 - MODEL FARM COTTAGE, HILDERSLEY, ROSS-ON-WYE, HR9 7NN**

*(Hybrid planning application proposed for the development of employment uses including b1, b2 and b8, including full details of the access, internal road infrastructure and circulation routes, and landscaping within a landscape buffer zone providing surface water attenuation and planting.)*

*(Councillor Cutter fulfilled the role of local ward member and accordingly had no vote on this application.)*

The Principal Planning Officer gave a presentation on the application.

In accordance with the Planning Code, Councillor DG Harlow – Cabinet Member (economy and communications) spoke on the application. He commented on the importance of the project to the Herefordshire economy and encouraged the Committee to support it, expressing the view that the scheme was well designed, flexible to the needs of a range of occupiers and provided mitigation to address any impacts associated with the scheme.

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 endorsed the comments of the cabinet member on the economic value of the project.
- He expressed sympathy towards the tenants who were vacating smallholdings currently on the site and expressed the hope that the council would provide such assistance to them as it could.
- Issues relating to highways and transportation had been satisfactorily addressed as set out in the report to the Committee.
- His principal concern was to ensure that the housing estate neighbouring the site was well screened from the development, with a buffer zone in place before development commenced.
- It would be important that sub-contractors provided infrastructure of the appropriate quality to support the development.

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

- It would be important to ensure that the landscaping was good.
- It was to be hoped that drainage costs could be contained.
- It was important to ensure the provision of walking and cycling routes.
- The economic benefits of the scheme should be welcomed.
- The geographical location was suited to the development.
- One of the positive aspects of the development was the prospect that people living on the neighbouring residential development would secure employment on the economic development site, so minimising travel and reducing congestion. A concern was expressed that if the phasing of the two developments was not managed this aim would not be achieved.
- Clarification was sought on the buffer zone between the employment uses and the neighbouring residential areas and whether it would be preferable to provide more trees around the perimeter of the development.

The Lead Development Manager commented that the delivery of the site was in accordance with the Core Strategy policies to provide housing and employment. It was to be hoped that provision made in the capital programme would enable the economic development site to be delivered in a similar timespan to the neighbouring housing development. With reference to concerns expressed by Weston under Penyard Parish Council he observed that significant funding had been provided for highway works as part of the planning permissions granted for housing development within the Parish and it was to be hoped that this should address the Parish Council's concerns. The landscape buffer would be maintained and managed by Herefordshire Council.

The local ward member was given the opportunity to close the debate. He reiterated his support for the scheme.

Councillor Edwards proposed and Councillor Greenow seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 10 votes in favour, none against and no abstentions.

**RESOLVED: That officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any further conditions considered necessary by officers named in the scheme of delegation to officers:-**

1. **Application for approval of the reserved matters shall be made to the local planning authority before the expiration of eight years from the date of this permission.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

2. **The development hereby permitted shall be begun either before the expiration of eight years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.**

**Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990.**

3. **Prior to or concurrently with the submission of the first of the reserved matters application(s), a Site Wide Phasing Plan shall be submitted to the local planning authority for approval. The Phasing Plan shall include the sequence of providing the following elements for each identified phase or part thereof:**

- a) **Development Parcels and Associated Access Off the Internal Spine Road**
- b) **Foul Surface Water Features and Sustainable Urban Drainage**
- c) **Landscaping as per the Approved Drawings**
- d) **Other Environmental Mitigation Measures**

**No development shall commence apart from works agreed in writing with the LPA until such time as the phasing plan has been approved in writing by the LPA. The development shall be carried out in accordance with the approved phasing contained within the Phasing Plan unless otherwise agreed in writing by the Local Planning Authority.**

**Reason:** In order to ensure that the development is undertaken in conjunction with the requisite mitigation and to comply with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy.

4. No development within a phase (or part thereof) shall commence until approval of the details of the layout, scale and appearance relating to that phase (hereinafter called “the reserved matters”) has been obtained from the local planning authority in writing and carried out as approved.

**Reason:** To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy SD1 of the Herefordshire Local Plan – Core Strategy.

5. The development hereby approved shall be limited to the following combined gross external floor areas for Class B uses as defined by the Town and Country Planning (use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification:

- B1 – 16,500 square metres gross floor area
- B2 – 8,900 square metres gross floor area
- B8 – 4,000 square metres gross floor area

**Reason:** To define the terms of the permission in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy.

6. No future phase of the development shall commence until a detailed scheme of landscaping for that phase has been submitted to and approved in writing by the Local Planning Authority. The details submitted should include:

#### **Soft landscaping**

- a) A plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, species and canopy spread, together with an indication of which are to be retained and which are to be removed.
- b) A plan(s) at a scale of 1:200 or 1:500 showing the layout of proposed tree, hedge and shrub planting and grass areas.
- c) A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and grass establishment.

#### **Hard landscaping**

- a) Existing and proposed finished levels or contours
- b) The position, design and materials of all site enclosures (e.g. fences, walls)
- c) Car parking layout and other vehicular and pedestrian areas
- d) Hard surfacing materials
- e) Minor structures (e.g. street furniture, lighting, refuse areas, signs etc.)

**Reason:** In order to maintain the visual amenities of the area and to conform to Policy LD1 of the Herefordshire Local Plan – Core Strategy.

7. **The soft landscaping scheme approved for each phase under condition 6 shall be carried out concurrently with the works to provide vehicular and pedestrian access to that phase of the development and shall be completed no later than the first planting season following the completion of that phase of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation.**

**If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall also be completed upon the completion of the works to provide vehicular and pedestrian access.**

**Reason: In order to maintain the visual amenities of the area and to conform to Policy LD1 of the Herefordshire Local Plan – Core Strategy.**

8. **A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.**

**Reason: In order to maintain the visual amenities of the area and to conform to Policy LD1 of the Herefordshire Local Plan – Core Strategy.**

9. **The visibility splays of 4.5m x 215m as per drawing CH-051 (Appendix G of the Transport Assessment) shall be provided from a point 0.6 meters above ground level at the centre of the access to the application site. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.**

**Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy.**

10. **As part of the Site Wide Phasing Plan (condition 3) details of works required at Overross Roundabout shall be submitted to and approved in writing by the Local Planning Authority. The Phasing Plan shall include details in relation to the point at which improvement works are required and work shall be completed in advance of the relevant phase of development or otherwise in accordance with a timetable to be agreed in writing with the Local Planning Authority.**

**Reason: In the interests of highway safety and to ensure sufficient capacity on the highway network so as to conform to Policy MT1 of the Herefordshire Local Plan – Core Strategy.**

11. **Before any other works hereby approved are commenced, the construction of the vehicular access from the A40 shall be carried out in accordance with approved drawing CH-050 (attached as Appendix H of the TA) at a gradient not steeper than 1 in 12. This shall include the provision of the ghost right turning lane on the A40 westbound approach, which shall be completed prior to the first occupation of the development.**

**Reason: In the interest of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy.**

- 12. The Reserved Matters submission for each phase or part thereof shall be accompanied by details demonstrating that an area has been properly laid out, consolidated, surfaced and drained and the spaces demarked on the ground within the application site for the parking of cars and the loading and unloading of commercial vehicles and for all vehicles to turn so that they may enter and leave the site in a forward gear. These areas shall thereafter be retained and kept available for those uses at all times.**

**Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety and to confirm to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy.**

- 13. The sustainable transport measures as shown on approved plans CH-050 Proposed Junction Works and CH051 A40 bus stops and pedestrian crossing and the pedestrian/cycle ways, shall be constructed in accordance with a timetable to be agreed in writing with the local planning authority. The sustainable transport measures comprise:-**

- Eastbound and Westbound Bus Stops on the A40 – Drawing CH-051**
- Controlled Pedestrian Crossing of the A40 – Drawing CH-051**
- Shared Footway/Cycleway Across the Site Frontage; &**
- Shared Footway/Cycleways within the Application Site.**

**Reason: To ensure an adequate and acceptable means of access is available in accordance with a timetable to be agreed with the local planning authority so as to confirm to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy.**

- 14. The Reserved Matters submission for each phase or part thereof shall be accompanied by details demonstrating secure and covered on site cycle parking for employees and visitors. These areas shall thereafter be retained and kept available for those uses at all times.**

**Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety and to confirm to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy.**

- 15. A full workplace Travel Plan will be submitted to and agreed in writing by the Local Planning Authority in consultation with Highways England prior to the occupation of each phase of the development. This shall contain details of actions to be taken to encourage the use of sustainable transport alternatives to private car, targets for mode shift and timescales for their implementation. The actions detailed shall then be implemented and monitored in accordance with the Travel Plan.**

**Reason: To ensure the safe and free flow of traffic on the A40, A449 and M50 Motorway and that the A40, A449 and M50 Motorway continues to serve their purpose as part of the national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 and to ensure that sustainable travel choices are available for occupants of the site.**

- 16. No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local**

**Planning Authority in consultation with the Highways Authority for the A40 and A449 trunk roads and the M50 motorway. The CTMP shall provide details of the access routes to the site to be used by construction traffic. The approved CTMP shall be adhered to throughout the construction period.**

**Reason: To ensure that the safety and efficient operation of the strategic road network is not compromised during the construction period.**

- 17. No phase of the development shall commence until full details of all external lighting to be installed for each phase have been submitted to and be approved in writing by the local planning authority. No external lighting shall be installed upon the site without the prior written consent of the local planning authority. The approved external lighting shall be installed in accordance with the approved details and thereafter maintained in accordance with those details.**

**Reason: In order to control the means of external illumination in the interests of protecting bio-diversity so as to comply with Policy LD2 of the Herefordshire Local Plan – Core Strategy.**

- 18. No phase of 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. 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.**

- 19. The Remediation Scheme, as approved pursuant to condition no. (18) 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.**

20. 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.

21. No buildings on the application site shall be brought into beneficial use earlier than 31st March 2020, unless the upgrading of the Waste Water Treatment Works, into which the development shall drain, has been completed and written confirmation of this has been issued by the Local Planning Authority".

Reason: To prevent overloading of the Waste Water Treatment Works and pollution of the environment.

22. No phase of development shall be occupied until a drainage scheme for the related phase has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and 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.

23. Prior to the commencement of the development hereby approved a detailed survey of the existing culvert under the former railway embankment shall be completed. The survey should establish whether the culvert is blocked or damaged and that it has sufficient capacity to accommodate the outflows from the proposed attenuation ponds. The report shall be submitted to and approved in writing by the local planning authority. If the report concludes that the culvert has insufficient capacity the report should also recommend a range of measures to be implemented to ensure that sufficient capacity is available. The development shall not be occupied until the measures identified have, if required, been completed.

Reason: To ensure satisfactory arrangements are in place for the attenuation and managed discharge of surface water run-off so as to ensure that the development does not exacerbate the potential for flooding downstream, so as to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy 2011-2031.

24. The recommendations for species and habitat enhancements set out in the ecologist's report from ARUP dated September 2017 should be followed unless otherwise agreed in writing by the local planning authority. A working method statement for all protected species present, together with a 10 year ecological management plan integrated with the landscape plan should be submitted to the local planning authority in writing with each of the Reserved Matters submissions pursuant to this outline planning permission. The plan shall be implemented as approved.



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).

25. In this condition 'retained tree/hedgerow' means an existing tree/hedgerow that is to be retained in accordance with the approved plans and particulars.

With the exception of the formation of the means of access hereby approved no development, including demolition works shall be commenced on site or site huts, machinery or materials brought onto the site, before adequate measures have been taken to prevent damage to those trees/hedgerows that are to be retained. Measures to protect those trees/hedgerows must include:-

- a) Root Protection Areas for each hedgerow/tree/group of trees must be defined in accordance with BS5837:2012 – Trees in Relation to Design, Demolition and Construction Recommendations, shown on the site layout drawing and approved by the Local Planning Authority.
- b) Temporary protective fencing, of a type and form agreed in writing with the Local Planning Authority must be erected around each hedgerow, tree or group of trees. The fencing must be at least 1.25 metres high and erected to encompass the whole of the Root Protection Areas for each hedgerow/tree/group of trees.
- c) No excavations, site works or trenching shall take place, no soil, waste or deleterious materials shall be deposited and no site huts, vehicles, machinery, fuel, construction materials or equipment shall be sited within the Root Protection Areas for any hedgerow/tree/group of trees without the prior written consent of the Local Planning Authority.
- d) No burning of any materials shall take place within 10 metres of the furthest extent of any hedgerow or the crown spread of any tree/group of trees to be retained.
- e) There shall be no alteration of soil levels within the Root Protection Areas of any hedgerow/tree/group of trees to be retained.

Reason: To safeguard the amenity of the area and to ensure that the development conforms to Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy. The commencement of development in advance of these measures may cause irreparable damage to features of acknowledged amenity value

26. List of approved drawings

## 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. **I45 HN05 Works within the Highway**
3. **I05 HN10 No Drainage to Discharge to Highway**
4. **I38 N19 Avoidance of Doubt - Approved Plans**

*(The meeting adjourned between 10.42 and 10.52 am)*

*(Councillor PGH Cutter in the chair.)*

### 140. **173765/F AND 173766/L - LAND ASSOCIATED WITH PEMBRIDGE HOUSE, WELSH NEWTON, HEREFORDSHIRE**

*((Retrospective) construction of wall approx 2' 9" x 15' in local stone located adjacent to stable block in paddock. Sited where historical documents indicate a wall existed previously.)*

The Senior Planning Officer (SPO) 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 the Land Drainage Officer had advised that construction of the wall did not require land drainage consent because the watercourse had been successfully diverted. The culvert that created the diversion had been installed by a former landowner before the wall was built. Since then, improvements had been made by their riparian landowner to ensure that the diversion would work. This included an overflow from the pond. The land drainage officer therefore had no objection.

In accordance with the criteria for public speaking Ms P Fender, a local resident neighbouring the application site, spoke in objection to the scheme.

The local ward member was the applicant and the Councillor appointed to fulfil the role of local ward member on her behalf did not wish to speak on the application.

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

- Assurance was sought that the construction of the wall had not increased the risk of flooding on the neighbouring property. The SPO reiterated the advice of the land drainage officer that there was no issue arising from the construction and no objection to it.
- The committee update made reference to a further letter of objection that stated amongst other things: *"In her Planning Application the Applicant states: "this is a reinstatement -- sited where historical documents indicate a wall existed previously -- reinstatement of wall that formed part of the curtilage at listing."* It was asked who had seen these historical documents, noting that they had not been provided to the objector.

- The SPO commented that the council did not hold the documents. The Lead Development Manager added that the council held maps but these did not identify whether a line on a plan was a wall or a fence, for example. An aerial photograph, undated, had been supplied by the neighbour. This did show a wall in the area where the development had now taken place. Another wall constructed by the applicant fronting onto the lane constituted permitted development. He outlined the watercourse on a slide and how it flowed into a pond and thence into a discharge pipe.
- Members reviewed the aerial photograph that had been included in the slides accompanying the officer presentation.
- It was noted that the neighbour maintained that there had been an adverse impact on the amenity of her property from flooding as a consequence of the development.

The Lead Development Manager commented that the reason the application was retrospective was that in constructing the two walls a question had arisen as to whether both were permitted development. On inspecting the site he had concluded that one wall was permitted development but the other required planning permission and listed building consent.

Councillor Edwards proposed and Councillor Seldon seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 9 votes in favour, none against and 2 abstentions.

**173765/F**

**RESOLVED: That planning permission be granted subject to the following conditions:**

1. **B02 - Development in accordance with approved plans and materials**

**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, 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.**

**173766/L**

**RESOLVED: That Listed Building Consent be granted subject to the following condition:**

1. **D01 - Time limit for commencement (Listed Building Consent)**

**141. 163324 - LAND TO THE WEST OF A40, WESTON UNDER PENYARD HEREFORD**

*(Reserved matters application (layout, scale, appearance and landscaping) following outline approval 150888 - for the erection of 35 dwellings.)*

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs L Dunn of Weston Under Penyard Parish Council spoke in opposition to the Scheme. Mr D Moore, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor H Bramer was invited to speak on the application. He indicated that he would comment following the debate.

The principal issue the Committee discussed was the proposal to reduce the number of affordable homes the scheme would deliver from 12 to 7 on the grounds that the approved outline scheme was unviable. It was noted that this was contrary to the wish of the Parish Council and that there was an adopted Neighbourhood Development Plan. It was suggested that it also raised a question as to whether the affordable housing targets in the Core Strategy were realistic and achievable or needed to be revisited. The housing officer had commented at paragraph 4.6 of the report that priority should be given to the delivery of affordable dwellings rather than the payment of a commuted sum.

A concern was expressed about the layout noting the Transportation Manager's comments that there could be some difficulties with the proposed parking arrangements.

In response to questions officers made the following points:

- If a commuted sum were to be accepted, although this was not what the Parish Council wanted, this would be available for allocation within the housing market area; it was unlikely that this would be spent in Weston Under Penyard. The revised scheme did still provide affordable housing for the parish.
- The District Valuer did take account of the purchase price developers paid for land and assess whether that price was reasonable. The price had to be realistic and reflect current land values. There were instances in which the District Valuer had rejected submissions by developers. The District Valuer also took into account the level of return on investment that a developer would make. Officers did consider the District Valuer's assumptions and challenge them when this was considered appropriate. At an appeal Planning Inspectors would give weight to the views of the District Valuer.
- It was confirmed that the provision of affordable housing formed part of the S106 agreement and it was appropriate for the Committee to consider whether this could be varied as part of the reserved matters application.
- Weight had been given to the Neighbourhood Development Plan. It was simply the case that regard also had to be had to other material considerations. It was to be noted that policy H3 of the Weston Under Penyard NDP did state proposals for development should meet local housing needs: *"and should provide a tenure mix of 40% of Affordable Homes unless viability considerations can be shown to necessitate an alternative percentage of provision."* This took account of paragraph 173 of the National Planning Policy Framework, as set out at paragraph 6.20 of the report, that provided guidance on financial viability of schemes. This included the following: *"To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable."*
- The Forward Planning Team would be informed of the concern about whether affordable housing targets were achievable for consideration as part of the review of the Core Strategy.

The local ward member was given the opportunity to close the debate. He commented that there was a dilemma. He shared the Parish Council's disappointment at the reduction in the number of affordable homes. However, account had to be taken of the District Valuer's ruling. It would be regrettable if refusal of the scheme were to mean that

the other benefits that would be provided through the S106 agreement were lost. The revised scheme would also still provide some affordable housing and contribute to meeting the council's overall housing targets.

Councillor Seldon proposed and Councillor Baker seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 6 votes in favour, 1 against and 4 abstentions.

**RESOLVED: That subject to the completion of a Deed of Variation to the Section 106 Town & Country Planning Act 1990 obligation agreement to reduce Affordable Housing provision from twelve to seven units, officers named in the Scheme of Delegation to Officers are authorised to grant approval of reserved matters, subject to the conditions below and any other further conditions considered necessary.**

1. **B01 Development in accordance with approved plans and documents**
2. **C01 Samples of external materials**
3. **C06 Stonework laid on natural bed**
4. **With specific regard to Plots 23, 24, 35 and Plots 27 to 33 inclusive - Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015,(or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Class A Part 2 and of Schedule 2, shall be carried out.**

**Reason: In order to protect the character and amenity of the locality; particularly as the existing hedgerow forms an important landscape and biodiversity feature, and to comply with Policies LD1 and SD1 of the Herefordshire Local Plan – Core Strategy, Policy SE1 of the Weston under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.**

5. **With the exception of any site clearance and groundwork, no further development shall take place until details of a footpath from the site onto Seabrook Place are submitted to and approved in writing by the local planning authority. The footpath shall be constructed in accordance with the approved details and shall be capable of use not later than upon the occupation of the 19<sup>th</sup> dwelling.**

**Reason: In the interests of highway safety and convenience and a well co-ordinated development and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy D2 of the Weston under Penyard Neighbourhood Development Plan and the National Planning Policy Framework.**

6. **F08 No conversion of garage to habitable accommodation**
7. **M17 Efficient use of water**

**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. The attention of the applicant is drawn to the conditions on the outline planning permission granted on 2 April 2015 (Reference No. P132924/O. This application for the approval of reserved matters is granted subject to these conditions.**

*(The meeting adjourned between 12.25 and 12.35 pm.)*

**142. 173082 - LAND AT PARKGATE, IVINGTON, LEOMINSTER, HEREFORDSHIRE, HR6 OJX**

*(Proposed erection of an agricultural workers' dwelling (part retrospective)).*

The Development Manager gave a presentation on the application, which had been withdrawn from the agenda at the previous meeting, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these Minutes. He added with reference to paragraph 5.1 of the report that it had been confirmed that Leominster Town Council had had no objection to the application.

In accordance with the criteria for public speaking, Mr R Pendleton of Leominster Town Council spoke in support of the application. Mr J Hanson, the applicant, spoke in support.

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

She made the following principal comments:

- The Council had by its actions demonstrated the importance of adhering to planning policies. The matter had been ongoing for some time and had been stressful for the applicant. It was not a situation anyone would willingly choose to be in.
- Sustainability underpinned the Core Strategy. Parkgate consisted of 3 cottages. It was not in open countryside it was in farmland. The cottages had been constructed to provide accommodation for farm workers. Two other small houses were immediately close by.
- The location was sustainable. The Council had placed tenants in the nearby houses for many years. A regular bus service to Leominster ran past the house.
- Only one dwelling currently had an agricultural tie. Approving the application for a further tied dwelling would contribute to the economic viability of the farm.
- The house had been constructed on the footprint of the former dwelling and to the same height. The frontage was the same and stones and tiles of the former building had been reused, providing an attractive result, matching the cottage next door.
- Leominster Neighbourhood Development Plan, approved since the appeal, could be afforded moderate weight. Policy LANP 5 permitted new housing development in the open countryside where it replaced an existing dwelling on the same site and was of a similar size and scale to the dwelling to be replaced.
- The applicants had fostered many children and contributed to the community.

- Having restored two cottages it was perhaps unsurprising that the applicant had not realised that the dwelling the subject of the application needed to be treated differently. Ideally advice would have been sought. However, they had not been well served by advice they had received from the council.
- Neighbours supported the application which restored what had been a dangerous structure to an attractive affordable house, enhancing its setting, located between two other homes.

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

- A retrospective application was regrettable, but it was a confused situation involving several misunderstandings and did not appear to be an opportunistic application. The applicants had had mixed advice some of which was a matter of dispute.
- The proposal was sustainable development.
- A building had previously been on the site.
- The application had the support of the Town Council the local ward member and neighbours.
- The dwelling needed to be tied to the holding due to the labour intensive nature of the holding.

The Lead Development Manager commented that the Committee needed to consider the matter as an application for a new agricultural dwelling as though no building had taken place.

In response to questions he suggested that an agricultural tie would be best achieved through a condition and S106 agreement to tie the dwelling to the holding. A tie could apply to someone currently employed in agriculture or whose last employment had been in agriculture.

He added that in accordance with S38 of the Planning and Compulsory Purchase Act 2004 applications had to be determined in accordance with the development plan unless material considerations indicated otherwise. The application had been supported by limited information. No agricultural appraisal had been submitted. The building on the site was unauthorised and did not form part of the consideration. The Committee was required to consider the application as though it were for a new agricultural dwelling on the site.

In response to discussion of the application of policies that would support the application he commented that policies RA3, RA4 and LANP 5 (i) would be relevant.

Councillor Greenow proposed and Councillor James seconded a motion that the application be approved subject to a Section 106 agreement and conditions tying the property to the farm as an agricultural dwelling which members considered was in accordance with policies RA3, RA4 and LANP5 (i) The motion was carried with 10 votes in favour, none against and 1 abstention.

The local ward member was given the opportunity to close the debate. She reiterated her support for the scheme.

**RESOLVED: That planning permission be granted subject to a Section 106 agreement and conditions tying the property to the farm as an agricultural dwelling and officers named in the Scheme of Delegation be authorised to detail the conditions.**

**143. 174332 - 1 ARROWSMITH AVENUE, BARTESTREE, HEREFORD, HR1 4DW**

*(Councillor Norman had left the meeting and was not present during consideration of this application. Councillor Greenow fulfilled the role of local ward member and accordingly had no vote on this application.)*

The Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mrs S Soilleux, of Bartestree and Lugwardine Group Parish Council spoke in opposition to the Scheme. Mr P Davies, a local resident and neighbour, spoke in objection.

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

He commented that the proposal, which would increase the size of the dwelling by some 60% was contrary to policy BL2 of the adopted Neighbourhood Development Plan. It would have a significant adverse effect on the amenity of several properties.

In the Committee's discussion of the application the parish council's objection was noted and concern was expressed about the scale of the development and its effect on the amenity of neighbouring residents.

A view was also expressed that there were other properties in the development that were closer to one another than neighbouring properties would be to the extended dwelling. This made it difficult to refuse the application.

The Lead Development Manager confirmed that there were no policies limiting the percentage by which a dwelling could be extended. Officers considered the design was acceptable and compatible with other properties in the area and to be in accordance with policy. Other properties nearby were closer to one another than neighbouring properties would be to the extended dwelling and weight would be given to that point by an inspector in the event of an appeal.

The local ward member was given the opportunity to close the debate. He reiterated his view that the development would be detrimental. The rear of the extended property would be close to the neighbouring property as opposed to being close to the side of the property as in the case of the distances between other properties in the area to which reference had been made.

Councillor Seldon proposed and Councillor Edwards seconded a motion that the application be refused on the grounds that it was contrary to policy SD1 of the Core Strategy and policy BL2 of the Neighbourhood Development Plan by reason of design and relationship with adjoining dwellings. The motion was carried with 5 votes in favour, 2 against and 2 abstentions.

**RESOLVED: That planning permission be refused on the grounds that the application was contrary to policy SD1 of the Core Strategy and policy BL2 of the Neighbourhood Development Plan and officers named in the Scheme of Delegation to Officers be authorised to detail these reasons.**

**144. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**Appendix - Schedule of Updates**



The meeting ended at 1.35 pm

**Chairman**



# **PLANNING COMMITTEE**

**Date: 21 February 2018**

## **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

**173765/F and 173766/L - (RETROSPECTIVE) CONSTRUCTION OF WALL APPROX 2' 9" X 15' IN LOCAL STONE LOCATED ADJACENT TO STABLE BLOCK IN PADDOCK. SITED WHERE HISTORICAL DOCUMENTS INDICATE A WALL EXISTED PREVIOUSLY, AT LAND ASSOCIATED WITH PEMBRIDGE HOUSE, WELSH NEWTON, HEREFORDSHIRE,**

**For: Miss Swinglehurst, Pembridge House, Welsh Newton, Monmouth, Herefordshire NP25 5RN**

### ADDITIONAL REPRESENTATIONS

A further representation has been received in relation to application from Ms Patti Fender. It has been submitted in the form of a Formal Complaint to the Chief Executive but contains the following abridged comments:

Planning Officers told me that I would be directly informed of the date that the above Planning Application, from an elected Councillor a member of the Planning Committee, would come before the Planning Regulatory Committee.

I was not informed, but it is now my understanding that the meeting is to take place on 21 February 2018 to decide upon this issue.

It is stated that, "You're legally entitled to look at the planning officer's report to the Councillors' planning committee at LEAST FIVE DAYS before they meet to make a decision. It's important to take this opportunity."

I have unlawfully been denied that opportunity.

In her Planning Application the Applicant states: "this is a reinstatement -- sited where historical documents indicate a wall existed previously -- reinstatement of wall that formed part of the curtilage at listing." But she did not provide a copy of the historical documents in evidence.

However, the Planning Officer has referred to the historical documents in his letters for the various consultations, as being of specific importance and central to this Application. I asked for a copy of these documents, but they weren't provided.

Consequently, on 14 February I made a Freedom of Information Request for a copy of these historical documents.

Immediately following my request, this Planning Application was unlawfully included in a Planning Regulatory Meeting. I was not informed. My legal entitlement to see the Planner's report at least five days prior to the meeting has been unlawfully denied to me.

The reply from the Building Conservation Manager to the case officer refers to, "the abutment of a new wall" which fails to relate to the Application. This states clearly that, "a

reinstatement--- sited where historical documents indicate a wall previously existed --- reinstatement of wall that formed part of the curtilage at listing".

The Manager made no reference whatsoever to evidence provided in my objections giving precisely the position of the listed curtilage historical wall. This was researched by a highly qualified expert for evidence on behalf of the Court. The wall is not in the position claimed by the Applicant as referred to in "historical documents". It is evident that the Manager's reply is lacking in integrity and clarity.

The numerous untruths by the Applicant in the Application were questioned in my Objection to the Application, but neither mentioned nor addressed by Planners.

It is claimed that there is no Planning history on this site. It is known that there is a current Section 106 legally binding Planning Obligation on that specific land made by Herefordshire Council, and that it should only be planted with trees, with no other use.

Pembridge House has been severely flooded on numerous occasions, but these never affected my neighbouring property.

A land owner is not permitted to divert (the owner stated purpose of the newly built walls) the downhill flow of water particularly onto another property. There are other land owner responsibilities with which Mr. Hodges, responsible Officer for the Flood Risk Strategy, is apparently doing his very best to override, necessitating in yet another Freedom of Information Request.

This flooding issue was brought to the attention of Herefordshire Council in 2015. It is a simple matter, the Applicant has agreed in legal documents that she built the walls to divert surface/flood water away from her property and onto my property, I provided much written and photographic factual evidence.

The remaining elements of the Formal Complaint refer to a previous Court case involving the applicant, criticism of failing to have regard to Made Neighbourhood Plans an a series of questions relating to the processing of the applications.

## **OFFICER COMMENTS**

The comments above are not material planning considerations and will be considered under the Council's Formal Complaints procedure.

The Council does not undertake to notify interested parties when an application is to be considered by the Planning and Regulatory Committee.

Agenda papers are published 5 clear days in advance of a meeting in accordance with the statutory requirement.

Under the public speaking procedure, on publication of the agenda papers, those who have made representations on an application are notified that the application is to be considered by the Committee and invited to register to speak in accordance with the scheme. A review has indicated that a Public Speaking letter to Ms Fender was generated and sent. However, it has transpired that unfortunately there was an error in the e-mail address. Ms Fender has taken up the opportunity to speak at the meeting as an objector.

## **NO CHANGE TO RECOMMENDATION**

**173082 - PROPOSED ERECTION OF AN AGRICULTURAL WORKERS' DWELLING (PART RETROSPECTIVE) AT LAND AT PARKGATE, IVINGTON, LEOMINSTER, HEREFORDSHIRE, HR6 0JX**

**For: Mr Hanson per Ms Sarah Hanson, The Old Watermill, Kingsland, Leominster, Herefordshire HR6 9SW**

**ADDITIONAL REPRESENTATIONS**

9 letters of support have been received.

The agent has submitted a further letter which is understood to have been sent to all members of the committee.

In the event that not everyone received it it is copied here.

173082 – Proposed erection of an agricultural worker’s dwelling (part retrospective) at land at Parkgate, Ivington, Leominster, HR6 0JX

With reference to the officer report for this application, which is on the agenda for 21<sup>st</sup> February, I would like to raise some points which are pertinent to this case and I am most grateful that you will take the time to read the following submission.

What is not made clear in the committee report is that refusal of this application means that the house should be demolished.

This would mean the loss of a viable house, which because of its size and small plot, would offer low cost accommodation, whether it is for an agricultural worker or not.

The officer report cites the enforcement appeal at some length as evidence that the site is not in a sustainable location - although the inspector did not say this, only that neither side had put forward evidence about the sustainability or otherwise of the location.

What has changed since the planning appeal is that it has been demonstrated that Herefordshire Council cannot show a five-year housing land supply. This means that its policies for the supply of housing are not up to date.

This was not the case at the time of the appeal and so the inspector gave full weight to the policies cited by the Council in its reasons for the enforcement notice (but as noted below, did not consider other relevant policies).

Because this is an application for an agricultural worker’s dwelling, I did not provide evidence about the sustainability of the location, but since this has been cited as a ground for refusal, I would like to point out that the house is well related to existing built development near the site. It is within walking distance of the local school and the church and that stop on request bus services to Hereford and Leominster pass the site several times daily. The site is exactly 2.6 miles from the centre of Leominster where there is an abundance of facilities and services, together with transport links to elsewhere. The road to Ivington is not particularly busy and consequently it would not be unattractive to use either on foot or on a bike. If a car was relied on, the closeness of the site to Leominster means that many of the journeys would be likely to be short, and therefore would result in only limited environmental harm.

The report refers (at 6.7) to the prospect of selling or letting three of the existing four dwellings on the farm to non-farm workers. Although it is a fact that as there are three dwellings not tied to the farm, they could in theory be disposed of, Mr Hanson has no intention of doing this.

- Lower Wintercott – farmhouse located on the farm and occupied by Mr John Hanson and his wife Shirley along with their foster children.
- Hop Kiln Cottage – located on the farm and occupied by one son and his family – *agricultural occupancy condition attached to this property*
- Parkgate Cottage – located adjacent to the site and occupied by other son and his family
- White House – located adjacent to the site and occupied by daughter and her family – no connection with the farming business

The report also refers (at 6.12) to imposing an agricultural occupancy condition not only on this dwelling, but on the three other dwellings not already tied, should the councillors be minded to approve this application.

It is possible to impose planning conditions on matters which are off site (Grampian), however, it's quite a stretch to impose an occupancy condition on a dwelling that is not part of the planning unit or used in conjunction with it, especially if that dwelling is currently occupied by someone not functionally linked to the business. It is likely such a condition would not withstand the normal tests of being reasonable and appropriate as a condition must be expedient for the purposes of, or in connection with, the development authorised by a permission.

The farmhouse will be lost from the farming business because Mr Hanson is retiring and it does not meet the affordability/size etc definitions of an agricultural worker's dwelling. In addition, Mr Hanson's daughter's house is not available for an agricultural worker. The only house that might pass the acceptability test is the one occupied by Mr Hanson's son, Jonathan (to the north of the application site) but there is no likelihood that this house would be lost to the use of an agricultural worker, which is the only acceptable ground for imposing such a condition.

The report refers (at 6.8) to my point about a delay in recognising the breach and taking action. Action was not taken swiftly. The first visit by a council enforcement officer was 24<sup>th</sup> November 2014 and the requisition for information was served in early May ahead of the serving of a temporary stop notice (TSN) on 15<sup>th</sup> May 2015. During this period of 5 months, work had continued as Mr Hanson had not been advised by the council enforcement officer that what he was doing was unauthorised.

All building work ceased upon the receipt of the TSN.

The enforcement notice followed 'swiftly' on 27<sup>th</sup> May 2015.

Mr Hanson contacted the council and asked them to explain the enforcement action, given his understanding from the council's enforcement officer's first visit in November that he was not in breach of planning control in restoring the house.

The written response from the council of 29<sup>th</sup> May 2015 advises: "*nobody from the Local Planning Authority will be visiting you at the site to discuss the matter as it is not required.*"

The council had taken the view that the only course of action was for the cottage to be demolished.

As highlighted previously in my letter to Councillors, in response to the first committee report, there were clearly alternative solutions that should have been offered.

The building had been used for storing agricultural implements prior to the renovation works. A building in agricultural use would qualify for conversion to residential use under Class Q of the **Town and Country Planning (General Permitted Development) Order 2015**.

Additionally, the National Planning Policy Framework (NPPF, adopted March 2012) at paragraph 55 *promotes sustainable development in rural areas and states that housing should be located where it will enhance or maintain the vitality of rural communities – with one of the criteria being where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting.*

The Core Strategy, which was adopted in October 2015, carried sufficient weight at the time of the enforcement action (especially where its policies complied with the NPPF). Policy RA5 adopts this national guidance at a local level and encourages the *sustainable re-use of individual and groups of redundant or disused buildings, including farmsteads in rural areas, which will make a positive contribution to rural businesses and enterprise and support the local*

economy (including live work units) or which otherwise contributes to residential development, or is essential to the social well-being of the countryside, will be permitted where:

1. design proposals respect the character and significance of any redundant or disused building and demonstrate that it represents the most viable option for the long term conservation and enhancement of any heritage asset affected, together with its setting;
2. design proposals make adequate provision for protected and priority species and associated habitats;
3. the proposal is compatible with neighbouring uses, including any continued agricultural operations and does not cause undue environmental impacts and;
4. the buildings are of permanent and substantial construction capable of conversion without major or complete reconstruction; and
5. the building is capable of accommodating the proposed new use without the need for substantial alteration or extension, ancillary buildings, areas of hard standing or development which individually or taken together would adversely affect the character or appearance of the building or have a detrimental impact on its surroundings and landscape setting.

The building could also have been utilized by the cottages either side in the form of ancillary accommodation, or for domestic or agricultural storage. It is also possible the building could have been used for holiday accommodation which would have provided an income for the farm – this being an appropriate form of diversification. However, none of the options above were presented to Mr Hanson as a possible solution.

The report refers (at 6.8) to the council not being responsible for advice that was given by Mr Hanson's former agents, which is accepted. But it is responsible for the advice given by its own officers and it is maintained that this advice was wholly inappropriate and is why building work continued at the site until the TSN was served.

The council's enforcement policy promotes '*negotiating with transgressors, giving them the opportunity to resolve breaches before formal action is taken, unless the breach is so serious it warrants immediate formal action or negotiation becomes protracted and / or is deemed unlikely to yield an acceptable outcome.*'

Clearly the breach was deemed serious and that is why, following the submission of an application for building regulations in March 2015, the enforcement team issued the TSN on 15<sup>th</sup> May 2015. But why was the 'seriousness' of the breach not followed up so swiftly by the enforcement team after the officer's initial visit in November 2014. Mr Hanson had no further contact from the enforcement team following the November 2014 visit until the requisition for information was received in May 2015 = 5 Months.

There appears internal inconsistency in the council's approach to Mr Hanson as para 6.8 of your officer's report says that when enforcement first looked at the case it was decided that an application to regularize the development was inappropriate. However, during court proceedings, the council put an offer on the table for Mr Hanson to submit an application for an agricultural worker's dwelling. It was the Council's insistence that the application took this form, to enable it to tie the dwelling to the farm and so prevent the applicant from profiting from the redevelopment of the cottage.

It should not be forgotten that the council had also offered to withdraw the requirement for the building to be demolished if Mr Hanson were to plead guilty and receive a criminal record (as recorded in the email from Dean Hulse, council's barrister – copy attached to previous letter to Cllrs). Mr Hanson rightly declined this offer.

## **OFFICER COMMENTS**

The Inspector did consider the sustainability of the development at paras 17- 20 before concluding at 21 that it was not sustainable.

The Council cannot demonstrate a 5 year housing land supply but RA3 and RA4 are not 'out of date' furthermore the council can demonstrate a 3 year supply so weight can be attributed to NDP's (depending on their individual progress). At the time of the appeal now weight could be attributed to the Leominster NDP, hence why it was not a reason for refusal at that time.



Reference is made to existing dwellings not meeting affordability/size or acceptability tests, but there is no reference to where this criterion exists.

There is again reference to matters of advice which were to be tested at court since the advice offered is contested.

By the time the notice was issued the rebuild was substantially complete to the extent that a conversion proposal would have not have complied with Policy RA5.

**NO CHANGE TO RECOMMENDATION**



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>14 MARCH 2018</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

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**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 RECEIVED**

### **Application 170984**

- The appeal was received on 21 February 2018
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against Refusal of Planning Permission
- The appeal is brought by Mr & Mrs Long
- The site is located at Land at Four Winds, Phocle Green, Ross-on-Wye, Herefordshire
- The development proposed is Erection of a 3 bed dwelling, amended access and bio-disc drainage
- The appeal is to be heard by Written Representations

**Case Officer: Miss Emily Reed on 01432 383894**

## ***APPEALS DETERMINED***

### **Application 172417**

- The appeal was received on 8 December 2017
- 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 Mrs Elizabeth Bond
- The site is located at Parkway House, Parkway, Ledbury, Herefordshire, HR8 2JG
- The development proposed was Proposed erection of two dwellings
- The main issues are:
  - Whether or not the proposal would be in a suitable location for the dwellings concerned, having regard to the principles of sustainable development;

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

- The effect of the proposed development on the character and appearance of the surrounding area and its biodiversity, and on the amenity of the Malvern Hills Area of Outstanding Natural Beauty (the AONB);
- The planning balance, having regard to housing provision

**Decision:**

- The application was Refused under Delegated Powers on 24 August 2017
- The appeal was Dismissed on 15 February 2018

**Case Officer: Mr Andrew Prior on 01432 261932**

**Application 170739**

- The appeal was received on 23 November 2017
- 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 Mrs A Smith & Mr G Barrett
- The site is located at Land at The Woodlands, Bridstow, Ross-on-Wye, Herefordshire
- The development proposed was proposed erection of a single chalet bungalow.
- The main issue was:
  - Whether the site would be a suitable location for residential development having regard to the effect of the development on the character and appearance of the area which is within the Wye Valley Area of Outstanding Natural Beauty (AONB) and the accessibility of services and facilities.

**Decision:**

- The application was Refused under Delegated Powers on 5 May 2017
- The appeal was Allowed on 16 February 2018

**Case Officer: Miss Emily Reed on 01432 383894**

**Application 172045**

- The appeal was received on 24 November 2017
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Non determination
- The appeal was brought by Mr Dennis Hutchinson
- The site is located at Land at Apple Mead, Kinnersley, Herefordshire, HR3 6QB
- The development proposed was Outline application for the erection of three new bungalows including, access, layout, turning manoeuvring and car parking
- The main issue(s) were:-
  - Whether the site would be suitable location for residential development having regard to its effect on the character and appearance of the area and the accessibility of services and facilities;
  - The effect of the proposal on highway safety; and
  - The effect on biodiversity.

**Decision:**

- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against Non determination
- The appeal was Dismissed on 16 February 2018

**Case Officer: Mr Adam Lewis on 01432 383789**

**Application 172110**

- The appeal was received on 1 December 2017
- 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 Styles
- The site is located at Land adjacent Wheatsheaf Inn, Whitbourne, Herefordshire
- The development proposed was Proposed 4 bedroom detached house (live/work) with parking.

- The main issue was:-
  - Whether the proposed development would be in a suitable location, given that it is outside the settlement boundary, and in relation to access to services and facilities via sustainable modes of transport.

**Decision:**

- The application was Refused under Delegated Powers on 25 August 2017
- The appeal was Dismissed on 20 February 2018
- An Application for the award of Costs, made by the Appellant against the Council, was Dismissed

**Case Officer: Mr Andrew Prior on 01432 261932**

**Application 171040**

- The appeal was received on 8 December 2017
- 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 Mrs Claire Snead
- The site is located at Wymm House, Sutton St Nicholas, Hereford, Herefordshire, HR1 3BU
- The development proposed was Proposed erection of one dwelling.

The main issues are:

- i) whether or not the proposal would be in a suitable location for a dwelling, having regard to the principles of sustainable development;
- ii) the effect of the proposed development on the character and appearance of the area;
- iii) the planning balance, having regard to housing provision.

**Decision:**

- The application was Refused at Planning Committee on 14 June 2017.
- The appeal was Dismissed on 23 February 2018

**Case Officer: Miss Emily Reed on 01432 383894**

**Application 162068**

- The appeal was received on 27 November 2017
- 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 & Mrs Sparey
- The site is located at Land opposite Yarpole Village Hall, Cock Gate, Leominster, Herefordshire, HR6 0BL
- The development proposed was Proposed 3 no. dwellings with garages and private drive.
- The main issues were:

- i) whether the site would be a suitable location for this residential development having regard to its effect on the character and appearance of the area; and
- ii) the effect on the living conditions of the occupiers of Oak Croft.

**Decision:**

- The application was refused under Delegated Powers on 19 July 2017.
- The appeal was Dismissed on 23 February 2018
- An application for the award of costs, made by the council against the appellant was dismissed.
- 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 172318**

- The appeal was received on 24 November 2017
- 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 Miss Norris
- The site is located at White Wells, Laskett Lane, Much Birch, Herefordshire
- The development proposed was Proposed two storey building for dance studio, gym, treatment room and office with client accommodation
- The main issue was:-  
Whether the development would be suitably located having regard to the accessibility of services and facilities and its setting

**Decision:**

- The application was Refused under Delegated Powers on 23 August 2017
- The appeal was Allowed on 28 February 2018

**Case Officer: Simon Withers 01432 260612**

**Application 171411**

- The appeal was received on 24 November 2017
- 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 & Mrs J Jones
- The site is located at Land adjacent to Sunnybank Cottage, Little Birch, Herefordshire
- The development proposed was Proposed dwelling.
- The main issue was:

Whether the site would be a suitable location for this residential development having regard to the effect on the character and appearance of the area and the accessibility of services and facilities.

**Decision:**

- The application was Refused at Planning Committee on 13 September 2017
- The appeal was Allowed on 28 February 2018

**Case Officer: Simon Withers 01432 260612**

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

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>14 MARCH 2018</b>
<b>TITLE OF REPORT:</b>	<p><b>150659 - DEMOLITION OF ALL EXISTING BUILDINGS AND HARD STANDINGS, REMEDIATION OF THE SITE, INCLUDING REINSTATEMENT OR LANDSCAPING OF THE FORMER CANAL AND DEVELOPMENT OF UP TO 120 HOMES, LANDSCAPING, PUBLIC OPEN SPACE, NEW VEHICLE AND PEDESTRIAN ACCESS AND ASSOCIATED WORKS AT LAND AT HOLMER TRADING ESTATE, COLLEGE ROAD, HEREFORD, HEREFORDSHIRE,</b></p> <p><b>For: Codex Land PCC Cell B per Mr Ben Stephenson, Greyfriars House, Greyfriars Road, Cardiff, CF10 3AL</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=150659&amp;search=150659">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=150659&amp;search=150659</a>
<b>Reason Application submitted to Committee – Re-reporting</b>	

Date Received: 5 March 2015

Ward: Holmer

Grid Ref: 351720,241781

Expiry Date: 31 March 2018

Local Member: Councillor AR Round

### 1. Site Description and Proposal

- 1.1 On 9 March 2015, an application for outline planning permission was submitted to redevelop the application site for up to 120 dwellings, and to restore or to alternatively safeguard the former route of the Herefordshire & Gloucestershire canal included within the application site.
- 1.2 The application site is located approximately 1.8 km from Hereford city centre. The southern portion of the site comprises the former route of the Herefordshire to Gloucestershire canal, which however has now been filled in by demolition material from the tile works that previously operated on the site. In land use terms, the application site is employment land. It should be noted that the site is now vacant; the tenants occupying the site previously having now moved on to new premises.
- 1.3 At its meeting on 13 January 2016, the Council's Planning Committee resolved to grant outline planning permission subject to the completion of a s.106 agreement that, *inter alia*, facilitated the restoration of the canal. In resolving to grant outline planning permission, Members accepted that the proposed development would make no provision for affordable housing or other s.106 contributions (save for the possibility of a claw-back mechanism in the proposed s. 106 agreement).

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

- 1.4 At the time of Members' consideration of the outline application on 13 January 2016, the viability information before the Council (which included independent advice from the District Valuation office ("DV"), was that it would not be viable for the proposed development to provide both for the restoration of the canal and affordable housing and other s.106 contributions. Members were accordingly advised that a choice had to be made between which of these matters should come forward with the development, i.e. just the affordable housing or just the restoration of the canal.
- 1.5 The advice to Members based on policy E4 was that simply safeguarding the route of the canal and deferral of restoration was "highly likely to prejudice the delivery of a continuous route and is in conflict with Policies E4 and HD2" (paragraph 6.23). The prejudice identified was not to the provision of sufficient land to provide a restored canal in the future; officers made clear that "the canal could be delivered in isolation after the completion of the residential development." Rather, the prejudice was principally the lost opportunity to obtain some form of developer contribution towards the significant cost of restoring the canal.
- 1.6 A s.106 agreement has not been agreed since the resolution of 13 January 2016. Instead, following lengthy discussions and review (which has included the Canal Trust), the applicants have submitted revised viability appraisals which conclude that the proposed development can only viably proceed if:
- a) The works to the canal be limited to preparing the canal for future restoration (i.e. restoration not now taking place);
  - b) No affordable housing be provided; and
  - c) No other s.106 contributions be made.
- 1.7 This appraisal has been independently reviewed by the DV. The DV agrees with the applicant, and has concluded that the proposed development "could not afford the provision of any Affordable Housing or the payment of any Section 106 contributions, in addition to safeguarding the Canal for future restoration." This is on the basis that even without the cost associated with the canal, further detailed investigation aimed at establishing the costs of developing the site as part of a single groundworks contract, has revealed that the abnormal costs associated with the development are significantly higher than originally thought. These costs include demolition, remediation of contamination across the entire site and the off-site highway works.
- 1.8 The proposal as it stands, therefore, is for the erection of up to 120 open market dwellings with associated access and ancillary development, with safeguarding of the canal corridor to include capping with topsoil and landscaping. A s.106 agreement would require the transfer of the canal land to the Canal Trust at nil consideration.
- 1.9 The original application was accompanied by the following technical studies:
- Topographic Survey
  - Flood Risk and Drainage Assessment
  - Noise Assessment (with update)
  - Ground conditions/Contamination Survey
  - Ecological Survey; updated with reptile surveys
  - Arboricultural Survey
  - Transport Assessment
  - Engineering Statement regarding the canal
  - Statement of Community Involvement – A public consultation event was held on 28<sup>th</sup> October 2014. This was held at the RNC with invitations delivered to households in Victoria Park. The event was also advertised in the Hereford Times.



- 1.10 As alluded to above, subsequent viability appraisals have been independently reviewed by the DV and the applicants have also prepared a feasibility study to demonstrate that the restoration of the canal is possible post-completion of the housing development.
- 1.11 The Council has adopted a Screening Opinion confirming it does not consider the scheme to represent development requiring the submission of an Environment Statement.

## 2. Policies

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

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
HD1	-	Hereford
HD2	-	Hereford City Centre
HD3	-	Hereford Movement
HD7	-	Hereford Employment Provision
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
E2	-	Redevelopment of Existing Employment Land and Buildings
E4	-	Tourism
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure Delivery

## 2.2 NPPF

Introduction	-	Achieving Sustainable Development
Section 4	-	Promoting Sustainable Communities
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities
Section 11	-	Conserving and Enhancing the Natural Environment
Section 12	-	Conserving and Enhancing the Historic Environment

### Paragraph 173 – Viability

- 2.3 The Hereford Area Plan (HAP) will set out the detailed proposals to ensure delivery of the targets in the Core Strategy specifically for Hereford. Consultation is on-going. Presently, the HAP is not sufficiently advanced to attract weight for the purpose of decision-making on planning applications.

- 2.4 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/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

### 3. Planning History

- 3.1 DCCE2007/1655/O – Mixed use development comprising residential (115 units), employment (office, industrial and warehousing), retail and supporting infrastructure including new access off College Road, roads, footpaths, open spaces, landscaping, parking and re-opening of part of canal at Holmer Trading Estate, Hereford, HR1 1JS – Refused 3 September 2008 and allowed on appeal 21 August 2009.

This mixed use scheme comprised up to 115 dwellings, 605 square metres of office space, 4,600 square metres of industrial land and 1,500 square metres of retail floor space. The residential element was at 85 dwellings/hectare (including 4-storey apartments). This permission has never been implemented but was subject of an application from the previous owners to extend the lifetime of the permission (S121750).

### 4. Consultation Summary

#### Statutory Consultations

- 4.1 No further comments have been received from the Environment Agency or Welsh Water. Neither organisation objected originally.

#### Internal Council Consultations

- 4.2 Transportation Manager: The application is in outline and the internal layout will be determined at the Reserved Matters stage. In designing the internal layout, care and consideration must be given to the pedestrian and cycle desire lines and the usage of the access by HGV's and the number of visitors to the Cavanagh's site.

Parking will need to be to HC Design Guide and if garages are to be used, the internal dimensions need to be 6m x 3m. The internal layout will need to be adopted under s38 agreement.

The access and links will need to be provided as part of the development, without these the site will not be sustainable from a transport perspective. Please see the conditions below:

#### **CAP** - Junction improvement/off site works

Development shall not begin until details of the following off-site highway works have been submitted to and approved in writing by the local planning authority and a S278/S38 agreement has been entered into, and the development shall not be occupied until the scheme has been constructed in accordance with the approved details.

The works identified are:

- Suitable access to the site has been designed and road safety audited and to include the following:
- Pedestrian footpath to the north and south linking to the existing footpaths on College Road
- Include into the design the access to the development to the North.
- Signalised control of the bridge to enable a footpath link

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

- Safe crossings from the site linking to the Playing fields off Old School Lane (cycles and pedestrians; for pedestrians north of the railway bridge to cross to the eastern side of College Road; from the site to the footpath on the west to cross the railway bridge and to link to the path north of the public open space.
- The design should incorporate the redevelopment opposite and utilise Toucan crossings where the opportunity arises.
- A full construction footway cycle link to the south linking to the existing path south of the site adjacent to Wessington Drive, future proofing for any canal works proposed. Plus link to Wessington Drive itself.
- Identifying and implementing any Traffic Regulation Orders required ensuring the safe passage of pedestrians and traffic in the vicinity of the proposed works.

#### 4.3 Environmental Health Officer:

I refer to the above application and would make the following comments in relation to contaminated land and human health issues.

There is a recognition that remediation is required at the site prior to development. With this in mind and the reports submitted to support the application the following condition should be appended to any approval. Given the canal is not necessarily proposed to be reinstated at this stage, we'd expect a risk assessment be included considering retention of the infilled canal as it stands. This should look at future formal or informal use to demonstrate it won't present a risk to residents of the adjacent site(s).

1. 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. 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.

2. The Remediation Scheme, as approved pursuant to condition no. (1) 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.

3. 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.

Technical notes about the condition

1. I would also mention that the assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.

2. And as a final technical point, we require 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.

4.3 Public Rights of Way: No objection

4.4 Housing Delivery Officer: There is no requirement to provide 35% affordable housing following confirmation from the DV that the scheme is not able to provide an affordable housing contribution due to viability.

With regards to the open market mix, the developer is proposing a mix of 2 and 3 bed flats and houses which meets the need of the area.

4.5 Conservation Manager (Ecology): The only comment I have to make to this additional information is that the method statement and enhancement plan required by Condition 23 should now be informed by an updated survey. The last ecological assessment was made in 2017 and, given the ecologist needs to confirm that no appreciable changes have taken place on the site which may have affected species and biodiversity.

4.6 Environmental Health Manager (Noise): No further comment, but original qualified comments are reported below.

“I can advise that although there are some differences in the predicted noise levels between the August and October 2015 reports on the impacts of Industrial Noise upon the Proposed Residential Dwellings, I do not consider these to be significant and confirmation has been provided that the noise is predicted at the first-floor level. My view as expressed in my response dated the 23rd September 2015 therefore remains substantially the same. I would however express reservations as regards the possible levels of night time noise that could affect parts of the proposed development in that although they are predicted to be within the World Health Organisation Guidelines I am concerned that these levels could be detrimental to the internal amenity of residents particularly those residing closest to Cavanagh's body shop, and whilst not wishing to raise an objection to the proposed development I would recommend that permission is only considered subject to a condition requiring that a scheme of noise protection measures be agreed in writing prior to the commencement of the development and implemented before the dwellings are occupied. The exact nature of these measures will to some extent depend on the final detail of the development, however it is envisaged that they will include the measures identified in the February and October 2015 noise assessments plus additional measures such as acoustically treated passive vents and upgraded fenestration to some properties, particularly those closest to Cavanagh's body shop.”

## 5. Representations

### 5.1 Hereford City Council:

Planning Committee objected to Planning Application 150659, on the conditional basis that Councillors do not think that the Canal should be landscaped out, and should instead be reinstated. Councillors would like to see more information on what the applicant wishes to do with the Canal, as the feature is historic in nature. Councillors would also like the answers to the following; Have the Canal Trust been notified? Will the developer ensure it is safe for the public? Until these comments have been taken into consideration and the applicant confirms that the Canal will not be destroyed, Councillors cannot give their approval.

### 5.2 Neighbour/third party responses

Subsequent to receipt of the District Valuation Officer's final report in December 2017 the Council undertook re-consultation which involved writing to all parties who had been consulted previously, posting notices and re-advertising in the newspaper. This, combined with the applicant's synopsis below, answers the query in respect of the involvement of the Canal Trust.

Given the site is now vacant, no further communication has been received from former tenants and nor has any communication been received from any other local residents or adjoining commercial premises.

### 5.3 The applicants have submitted a synopsis of the planning history

*"Codex purchased the site in April 2014.*

*Codex liaised with the planning officers, the ward councillor and the Canal Trust to discuss the new proposals which were very different from the previous application scheme which was won at appeal in 2009 but never implemented as it was not commercially viable. The market had changed substantially since the 2008 crash and the site was now no longer regarded as an important employment site due to the poor quality of the buildings. Codex proposed a straightforward residential scheme for small to medium family houses with a few apartments.*

*It was suggested that whilst in any case the route of the canal should be preserved for possible re-instatement, there was a desire to see this section reinstated if possible as that had been proposed in the previous mixed-use scheme. Codex were asked to consider if this was achievable. Codex appointed Watermans to carry out a detailed cost analysis of these works. It should be noted that Codex were aware at the time that such reinstatement was not a justifiable S106 cost but they were prepared to consider it as an option if that was the wish of the Council and if it was financially possible.*

*Eventually Watermans came up with an estimated figure of around £3.2m on top of the site costs which meant that delivery of the canal re-instatement seemed possible as long as there were no other S106 burdens. Codex proposed to the Council that they were prepared to go forwards on an either or basis. Either the canal re-instatement or social housing and S106 contributions. The planning department required Codex to put the case to the District Valuer to be independently assessed and they came back with the conclusion that the site was indeed only viable with one of the two elements in place. The outline application for 120 units was submitted in March 2015.*

*The planning department originally told Codex they would recommend the social housing option as they considered that a priority over the canal re-instatement but then changed their minds and recommended the latter and the application went to committee in January 2016 and achieved a resolution to grant.*

*The resolution insisted that the S106 should be a three way document including the Canal Trust. Codex embarked on protracted discussions with them and the Council to sort out that document and put the site on the market for sale. That process was adversely affected by the requirement to reinstate the canal and by the ongoing financial demands of the Canal Trust for annual stipends from all the completed houses in perpetuity. Eventually a potential purchaser was found but they insisted that they would only go ahead if the canal re-instatement was treated as a separate civil engineering project from the housebuilding and a fixed price contract was obtained for that element alongside the decontamination and groundworks contract for the site so that they would know those costs were fixed. They also needed far more detailed investigations carried out across the site before going out to tender for the works.*

*Whilst this was going on, Codex began to manage the process of both compensating the remaining commercial tenants and helping them find new premises.*

*By January 2017 the S106 was well advanced and the site virtually empty when a serious problem was flagged by the prospective purchaser. They had completed extensive further site investigations and gone out to competitive tender on the groundworks contract. They said that the canal element was coming out at £8.2m rather than the £3.2m originally estimated by Watermans due to unforeseen engineering works needed to support the canal. Codex and the housebuilder consulted the Canal Trust who suggested ways to reduce the cost. The works were re-costed with the lead contractor but still came out at £5.8m and not only was that a problem but the costs of decontaminating the site itself and the groundworks associated had also gone up substantially.*

*Codex met with the planning officers in April and explained the situation and both parties agreed that the canal re-instatement would probably have to be dropped despite their best efforts to support the project and that a new evaluation would have to be carried out in light of the current information that was based on updated investigations and competitive tenders.*

*Opus International were selected to re-evaluate the site and to go to an independent groundworks company to confirm the costs. Savills then took this information and re-valued the site. This report was then submitted to the District Valuer in the summer for independent verification both by them as valuers and an independent QS company to provide them with advice. After a series of exchanges and requests for further clarification and information, the DV finally confirmed in January of this year that despite Opus's efforts to further save costs, the site would not support either the canal restoration or normal S106 requirements due to the re-assessed costs of demolition, decontamination, groundworks, service costs and offsite works to the highway.*

*Codex now request that the application is taken back to committee as soon as possible with a view to a revised resolution taking into account what is now known. Codex entered into this project with the best intentions and took on the canal restoration wish in the belief it could be done. Unfortunately some four years on, this has now proved impossible and the project costs have grown to crippling levels. This contaminated brownfield site is now empty and a security problem and is in desperate need of remediation and regeneration. The principle of residential is established and it can still provide 120 much needed small to medium sized family homes in the heart of the city if a suitable planning consent is forthcoming that follows the DV's recommendations. The route of the canal will be safeguarded and landscaped in accordance with policy. There is no reason why the reinstatement cannot be done at a later date when the funds required are available. “*

- 5.4 Herefordshire and Gloucestershire Canal Trust: No further comment at the time of writing, but the comments produced in the original Case Officer Report from 13 January 2018 is set out below:

Obviously our Objection will remain in place until such time as a suitable tri-partite s.106 is signed delivering the Canal and maintenance income. We would wholly support the scheme subject to that s.106.

For clarity the s.106 for delivery of a restored Canal through this site is required as:

1. It is a fundamental breach of Policy if this scheme does not deliver the Canal, as to not deliver the scheme at the time of the adjoining development would severely prejudice the delivery not only of the Canal on this site but also within the City. It is therefore a Breach not only of the wider Canal Policies but also those for the Canal Basin area Policies as well, which is reliant on the connecting Canal. There is no alternative route at this location due to the Aylestone Tunnel [in perfect condition; we have full diving surveys] and the close proximity of the high pressure gas main.
2. The development proposals include development of the cutting side and require significant retaining walls as shown in the developers own drawings. This is development on the associated infrastructure of the Waterway which is protected within and beyond the protected corridor and is in Breach of the Protection Policy. This would also completely prejudice the restoration of the Canal due to significantly increasing its restoration costs in breach of Policy. However, with a suitable tri-partite s.106 to ensure restoration of the Canal and provision of these retaining walls and other infrastructure at the time of development and income stream we would fully support the proposals subject to all other matters herein.
3. It should be noted that the site requires decontamination at the time of the development. Neither the Trust nor the Council would have the resources to do this at a later date. It is not viable to restore this section after development undertaking such heavy civil engineering immediately adjoining the new properties and in conflict with the site access road, and to do so would prejudice the restoration in Breach of Policy.

The only viable way to restore the Canal through this site in our lifetimes is as an integral part of a redevelopment scheme. Any failure to deliver this will not only be a breach of policy on several counts but also will prejudice the redevelopment of the Canal Basin and bringing forward developments closer to the city centre.

It should be remembered that the Canal will bring significant Economic benefits to the area which will help mitigate for the loss of employment land on this site. The British Waterways report in 2009 indexed and updated to today projects in the order of £30m/year and 650 jobs. The previous inspector applied significant weight to this and the wider benefits of the Canal on this site:

20. *On the main issue, I have found that the proposal would conflict with UDP Policy E5, and would be likely, by reason of the loss of some employment land and possible hardship for some existing tenants, to result in harm. However, in my judgement, the Canal restoration, and its resultant benefits to long-term planning objectives for the City, are material considerations in this case, which are sufficient to outweigh the conflict with the development plan and the limited harm I have identified.*

We should make clear that the drawings supplied for the 'restoring the Canal option' do however have our full support. Subject to a suitable tri-party s.106 covering restoration of the Canal and ongoing maintenance contributions our Objection will be removed and we wholly support this scheme which would see a crucial section of Canal within the City delivered.

We must stress that this scheme with delivery of the Canal is the only potential means which we can realistically see for delivering the Canal on this site. That will dramatically increase the attractiveness and viability of delivering the Canal within the City and as identified with Dwr Cymru - Welsh Water and the Environment Agency provide a route for surface water disposal [we have already invested some £35k delivering the storm overflow weir at Aylestone Park to provide for this].

Subject to an agreed tri-partite s.106 we fully Support this Application and will remove our existing Objection.

- 5.5 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=150659&search=150659](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=150659&search=150659)

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 2004 Act embodies a "presumption in favour of the development plan." This is not to say, however, that a development plan cannot be departed from. So long as the presumption in favour of the development plan is recognised, a decision-maker may depart from the development plan if "material considerations indicate otherwise".
- 6.2 In this case much revolves around the correct approach to interpreting policies. These must be interpreted objectively in accordance with the language used, read in their proper context. But while the meaning of policies is a question of law, when the application of a policy requires matters of judgement, those judgments are exclusively for the decision-maker to resolve.
- 6.3 It is Policy E4 that falls to be considered in light of the above principles. This policy provides so far as is material as follows:

### "Policy E4 – Tourism

Herefordshire will be promoted as a destination for quality leisure visits and sustainable tourism by utilising, conserving and enhancing the county's unique environmental and heritage assets and by recognising the intrinsic character and beauty of the countryside. In particular, the tourist industry will be supported by a number of measures including:

5. The safeguarding of the historic route of the Herefordshire and Gloucestershire Canal (shown on the Policies Map), together with its infrastructure, buildings, towpath and features. Where the original alignment cannot be re-established, a corridor allowing for deviations will be safeguarded. New developments within or immediately adjoining the safeguarded corridor will be required to incorporate land for canal restoration. Development not connected with the canal that would prevent or prejudice the restoration of a continuous route will not be permitted."



- 6.4 In your officer's opinion, what policy E4 achieves is the safeguarding of the route of the canal, together with its associated infrastructure and features. This is what the first sentence of policy E4(5) is directed towards. The policy achieves this by two means. First, per the penultimate sentence, new developments within or adjacent to the canal corridor must incorporate land for canal restoration. This ensures that land can be safeguarded (e.g. by a s.106 agreement as is proposed here) but imposes no positive requirement on a developer to actually restore the canal.
- 6.5 Second, per the final sentence, new development must not "prevent or prejudice the restoration of a continuous route". Again, this imposes no positive requirement on a developer to actually restore the canal. Read with the first sentence of policy E4(5), which is concerned with the "safeguarding of the historic route" of the canal, the requirement under policy in the view of officers, is to not prevent or prejudice the ability to provide a continuous restored canal by reason of the route of the canal being either built over or otherwise unable to be utilised as such, because of new development.
- 6.6 The officer's report for the 13 January 2016 Planning Committee meeting confirms that the canal could be delivered in isolation after the completion of the residential development and this is further explained by the applicant's feasibility report. Plainly, as the officer's report also confirms, there would be amenity impacts for future residents if restoration of the canal takes place in the future. There is also the prospect of the costs of restoration being increased to some extent by reason of the adjacent residential development. It would remain, however, that the route of the canal will still be available and sufficiently accessible for such restoration works to take place.
- 6.7 In the view of officers, consistent with the meaning of policy E4(5) set out above, it would in these circumstances be reasonably open to the decision-maker to conclude that the proposed development does not prevent or prejudice the restoration of the canal, contrary to policy E4(5), by reason of it only preparing the canal for future restoration and by safeguarding the relevant land. This analysis is of course contradictory to the original comments of the Canal Trust reported at 5.4, but an approach that has been informed by legal opinion.
- 6.8 Officers are conscious that the view about policy E4(5) set out above takes a more limited view of the type of "prejudice" contemplated by this policy, compared to that set out in paragraph 6.23 of the original officer report. There are two points that follow from this difference in approach.
- 6.9 Firstly, even if the interpretation of E4(5) set out above is wrong, the Local Planning Authority is able to depart from the development plan if material considerations indicate otherwise. The material considerations that can be relied upon in this case are:
- (a) that it is unviable for the developer to do more than prepare the canal for future restoration (i.e. restoration not now taking place); and
  - (b) approval of the development will bring material benefits through the provision of up to 120 new homes, so supporting the aim in national and local policy to boost significantly the supply of housing. On this approach, departing from the presumption in favour of the development plan would be a matter of planning judgment, which in the view of officers would be rationally and reasonably open to Members.

- 6.10 It is prudent to advise Members to consider this application on the basis of these two competing interpretations of policy E4(5). That is, on the one hand, that policy E4(5) does not require the developer to do more than safeguard land such that there is no conflict with the development plan if a restored canal is not provided (as the developer now proposes), and on the other hand, that even if the policy should be read as requiring that development be refused if prejudice of any kind is caused to the prospect of restoration of the canal, that Members can depart from the development plan if in their judgment the above mentioned material considerations indicate to them that they should do so.
- 6.11 Second, on the basis that the view of the meaning of policy E4(5) is accepted, the Council is not prevented in other cases (where viability considerations do not limit the ability to undertake restoration in the same way) to seek either restoration of the canal or contributions towards such restoration, and would in appropriate cases be able to give weight to the provision of such restoration or contributions in an overall planning balance. This is in addition to being able to rely on policy E4(5) to ensure that sufficient land is retained within relevant developments for the future restoration of the canal (as is proposed in this case).
- 6.12 For the above reasons, it is the view of officers that development on the application site which does not include actual restoration of the canal but which does safeguard land for a restored canal complies with policy E4(5) of the Core Strategy.
- 6.13 If Members were to take the alternate view, then refusal would ensue and officers do not consider it the intention of E4(5) to prevent the redevelopment of previously developed land; particularly where the development makes provision sufficient land to facilitate future restoration.

### **Other Matters**

#### The Loss of Employment Land

- 6.14 The original Committee Resolution accepted that the redevelopment of the estate for residential purposes was acceptable. The site is now vacant; tenants having moved on. Officers do not consider there are any material changes to circumstance that would warrant retention of the site as employment land and conclude that the proposal continues to comply with CS Policy E2. In short, the redevelopment of poor rated employment land in a sustainable location for residential development continues to be acceptable and is in fact given more weight by the continued inability to demonstrate a 5 year supply of housing land. The original Committee resolution was taken as constituting a 'commitment' for the purposes of calculating housing land supply and the loss of the 120 dwellings would further diminish the land supply figure.

#### Housing Mix

- 6.15 The viability assessment assumed a housing mix comprising 2 and 3-bed properties. The Housing Delivery Officer has acknowledged that the absence of affordable housing notwithstanding, more modest open market units such as proposed, would continue to fulfil a need. Thus, insofar as it can do absent affordable housing, the scheme is considered to comply with CS Policy H3. A condition is recommended requiring that the housing mix brought forward at the Reserved Matters stage is consistent with the Council's evidence of need.

#### Vacant Building Credit

- 6.16 It should also be noted that even if the site could viably support the provision of affordable housing, which is demonstrably not the case, the 'Vacant Building Credit' introduced by the Government to stimulate the redevelopment of previously developed land, would act to reduce the number of affordable dwellings that could be sought to 13 units, not 42 (or 35%).

- 6.17 Consultation responses from the Land Drainage officers, Archaeologist and Environmental Health Officer (noise) have not changed from the original report. All were content that the scheme is acceptable subject to the imposition of planning conditions, which are reported below.

## 7. Conclusions

- 7.1 The first officer report to committee concluded that the scheme could not viably support both the restoration of the canal (then estimated at c. £3,000,000) and the provision of affordable housing and other s.106 contributions. The Committee resolution favoured the restoration of the canal and discussions ensued with a view to completing the necessary s.106 agreement.
- 7.2 As reported above, further analysis of the costs of delivering a fully restored canal have been scrutinised independently by the DV, who concludes that as a consequence of the costs of canal restoration now being more accurately assessed (in conjunction with other abnormal costs), the scheme can no longer viably support the restoration of the canal or affordable housing (and other s.106 contributions). In other words, even absent the cost of the canal restoration the increase in the costs associated with demolition, remediation, groundworks, off-site highways works and services means that the scheme cannot viably support affordable housing either.
- 7.3 On the basis of independently verified reports produced by the DV, officers are content that the position in respect of viability is unarguable.
- 7.4 The Canal Trust's original response at 5.4 above (no update having been received at the time of writing) considers that non-delivery of the canal in conjunction with the housing development proposed would cause prejudice to and prevent the delivery of a fully restored canal in conflict with E4(5).
- 7.5 However, legal opinion sought on the interpretation of E4(5) confirms that there is no positive requirement placed upon a developer to restore the canal. The requirement of E4(5) relates to the safeguarding of the canal route, supplemented by a legal agreement that will see the canal land transferred to the Canal Trust's ownership. If these two things happen, as is proposed here, then the legal opinion is clear that there is no breach of E4(5).
- 7.6 Officers are of course sympathetic to the common-sense view that says it would be easier to restore this section of canal and develop the housing site simultaneously. This approach has lots to commend it, but does not reflect the inability of the housing development to support the cost of restoring the canal. As the applicant notes above at 5.3, this was the genuine intent from the outset.
- 7.7 If one accepts the analysis of E4(5) above (i.e. that there is no positive requirement that a developer should restore the canal) then it must follow that it cannot be the realistic intent of Policy E4(5) to prevent the sustainable redevelopment of previously developed land until such time that a scheme that *might* viably support the restoration of the canal arrives.
- 7.8 Overall, therefore, it is no longer an issue of balancing the restoration of the canal against the provision of affordable housing. The development cannot afford either. The correct interpretation of E4(5) confirms that there is no positive requirement placed upon a developer to restore the canal, merely to safeguard the route to allow for future restoration. Moreover, if a planning permission is not issued, then the canal land would not be transferred to the Canal Trust (or at least such a transfer would be rendered far less likely).

- 7.9 Moreover, even if a decision-maker were to consider that E4(5) *does* require the developer to restore the canal, it would not be perverse or irrational to depart from the requirements of this policy if material considerations as outlined at 6.9 above, indicates that the decision-maker should do so.
- 7.10 These material considerations include, very obviously, the viability of the scheme and also the weight that should go to the delivery of 120 dwellings on sustainable, previously developed land in the context of an absence of a demonstrably 5-year supply of housing land.
- 7.11 On this basis, the application as before Members now, is considered to comply with the Development Plan and is recommended for approval subject to the conditions set out below (as well as any others considered necessary by officers) and the execution of a legal agreement requiring that the canal land be transferred to the Canal Trust.

## **RECOMMENDATION**

**That subject to the completion of a Section 106 Town and Country Planning Act 1990 obligation requiring the safeguarding of the route of the Canal and transfer of the Canal Land (at nil consideration), officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary by officers.**

- 1. A02 Time Limit for Submission of Reserved Matters (Outline Permission)**
- 2. A03 Time Limit for Commencement (Outline Permission)**
- 3. A04 Approval of Reserved Matters**
- 4. A05 Plans and Particulars of Reserved Matters**
- 5. B03 Amended Plans**
- 6. H06 Vehicular Access Construction**
- 7. H17 Junction Improvement/Off site Works**
- 8. H19 On Site Roads - Phasing**
- 9. H20 Road Completion in 2 Years**
- 10. H21 Wheel Washing**
- 11. H27 Parking for Site Operatives**
- 12. H29 Secure Covered Cycle Parking Provision**
- 13. H31 Outline Travel Plan**
- 14. G19 Details of Play Equipment**
- 15. G10 Landscaping Scheme**
- 16. G11 Landscaping Scheme - Implementation**
- 17. G14 Landscape Management Plan**

18. **L01 Foul/Surface Water Drainage**
19. **L02 No Surface Water to Connect to Public System**
20. **L03 No Drainage Run-Off to Public System**
21. **L04 Comprehensive & Integrated Draining of Site**
22. **The recommendations for species mitigations set out in Section 5 of the ecologist's reports from Ecology Services dated November 2015 and habitat enhancements set out within Section 5 of the ecologist's reports from Ecology Services dated February 2015 should be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. A working method statement for protected species present and habitat enhancement plan should be submitted to the local planning authority in writing. 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).**

23. **Development shall not commence until a scheme to safeguard the residential units hereby permitted from road traffic, railway and industrial noise has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of any dwellings and shall thereafter be retained.**

**Reason: To protect the amenities of the residential units hereby approved so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the NPPF.**

24. **Prior to the commencement of development, details of a scheme for acoustic attenuation of noise from the extract fans at Cavanaghs shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the residential units hereby permitted and any works or attenuation measures shall thereafter be retained.**

**Reason: To protect the amenities of the residential units hereby approved so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the NPPF.**

25. **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.

26. The Remediation Scheme, as approved pursuant to condition no. 25 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.

27. 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.

28. M17 Water Efficiency – Residential

29. Non-standard – Housing Mix

#### **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. N02 Section 106 Obligation
3. HN01 Mud on Highway
4. HN04 Private Apparatus within Highway
5. HN05 Works within the Highway
6. HN07 Section 278 Agreement

- 7. **HN08 Section 38 Agreement & Drainage Details**
- 8. **HN10 No Drainage to Discharge to Highway**
- 9. **HN21 Extraordinary Maintenance**

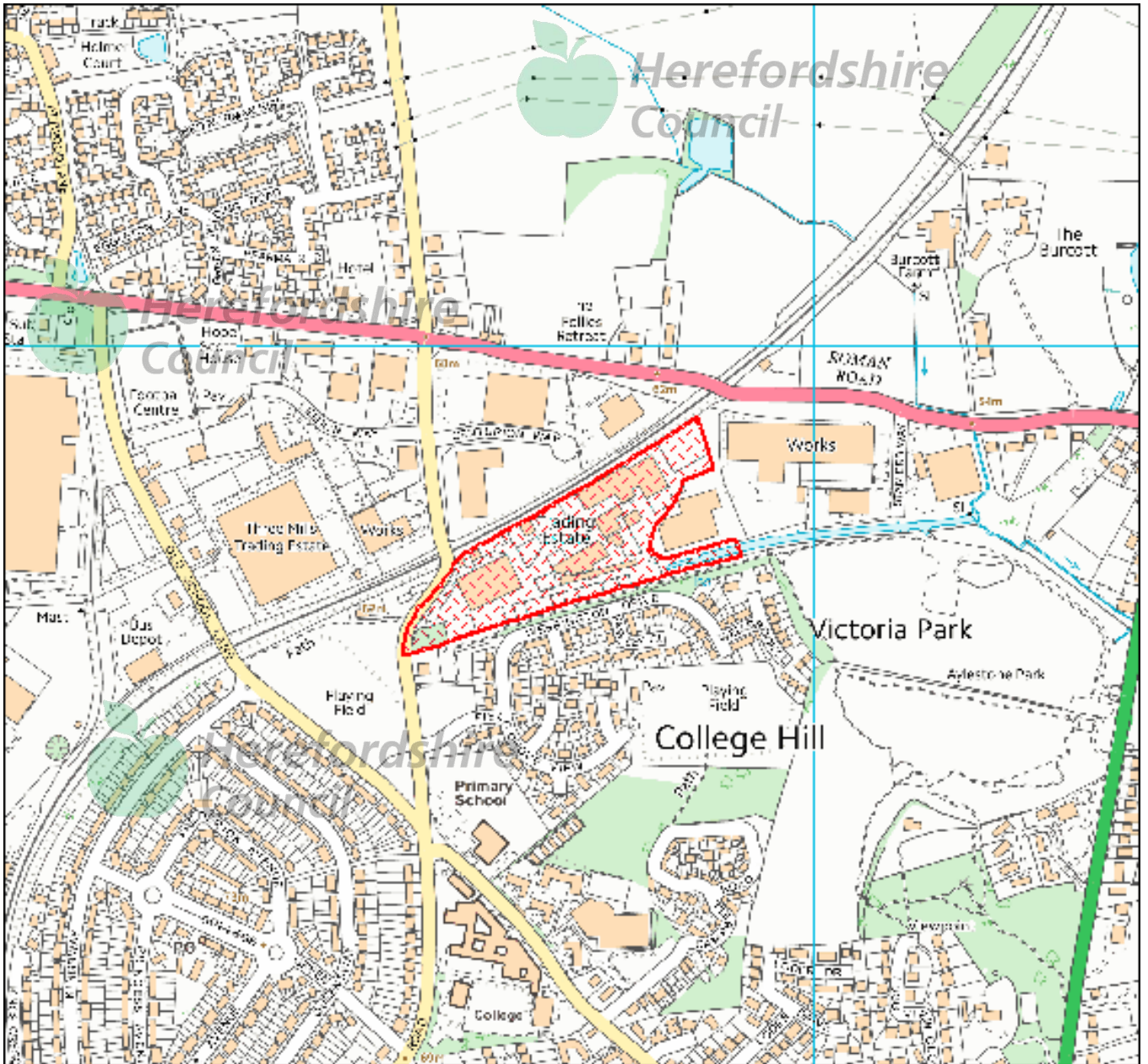
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 150659

**SITE ADDRESS :** LAND AT HOLMER TRADING ESTATE, COLLEGE ROAD, HEREFORD, HEREFORDSHIRE

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<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>14 MARCH 2018</b>
<b>TITLE OF REPORT:</b>	<p><b>172019 - VARIATION OF CONDITION 19 (P140285/0 76 DWELLINGS AND A BUSINESS CENTRE) AMEND TO: THE B1 COMMERCIAL UNIT AND ITS ASSOCIATED INFRASTRUCTURE AS SHOWN ON APPROVED PLAN 0609- 11/D/3.01 SHALL BE CONSTRUCTED AND CAPABLE OF OCCUPATION FOR EMPLOYMENT PURPOSES PRIOR TO THE FINAL OCCUPATION OF 35 NO. DWELLINGS AT LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE.</b></p> <p><b>For: Mr Jones per Miss Hawa Patel, 28 Pickford Street, Digbeth, Birmingham, B5 5QH</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=172019&amp;search=172019">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=172019&amp;search=172019</a>
<b>Reason Application submitted to Committee - Council Interest (Development Partner)</b>	

Date Received: 2 June 2017

Ward: Bromyard  
Bringsty

Grid Ref: 365195,255414

Expiry Date: 21 December 2017

Local Member: Councillor N.E. Shaw

**1. Site Description and Proposal**

- 1.1 Outline planning permission and approval of reserved matters has been granted for the erection of 76 dwellings and six B1 business units, subject to conditions. Work has commenced on the site and the first dwellings are complete and are ready to be occupied.
- 1.2 Condition 19 of the original outline planning permission; which provided detailed plans of the first business unit, required that unit to be constructed and capable of occupation prior to the occupation of any of the dwellings.
- 1.3 This application is made under S73 of the Town & Country Planning Act 1990 and seeks to vary condition 19 of the outline permission. For the avoidance of any doubt, the condition reads as follows:

*The B1 commercial unit and its associated infrastructure as shown on approved plan 0609\_11/d/3.01 shall be constructed and capable of occupation for employment purposes prior to the first occupation of any of the dwellings hereby approved.*

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

*Reason: To ensure that the employment use hereby permitted is brought into use and to secure a mixed form of sustainable development in accordance with Policy S1 of the Herefordshire Unitary Development Plan and the National Planning Policy Framework.*

- 1.4 The proposal seeks to vary the wording of condition 19 to allow 35 dwellings to be occupied before the commercial building is complete and capable of occupation.

## **2. Policies**

### **2.1 Herefordshire Local Plan - Core Strategy**

SS1	-	Presumption in Favour of Sustainable Development
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency

### **2.2 Bromyard Neighbourhood Development Plan**

Bromyard and Winslow Town Council designated a neighbourhood area on 23 November 2015, however a decision was taken in their March 2017 meeting that they wish to withdraw from the neighbourhood planning process.

### **2.3 National Planning Policy Framework**

Paragraph 206 of the NPPF advises that:

*“Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”*

- 2.4 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/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

## **3. Planning History**

- 3.1 140285/0 - Hybrid application - part Outline for 76 dwellings (35% affordable) and a business centre for B1 uses, with all matters except access to be reserved. Part Full, for the development of a single B1 business unit and the means of access thereto – Approved
- 3.2 161188/RM - Application for approval of reserved matters following outline approval. (P140285/O) for 76 dwellings and associated works – Approved

## 4. Representations

### 4.1 Bromyard & Winslow Town Council:

The Town Council resolved to strongly object to this application on the basis that the construction of the business units was always intimately linked to the construction and occupation of the allied housing. The Council considers it imperative that the first business unit is constructed and available prior to the occupation of the first dwelling on the Porthouse site.

### 4.2 One letter of objection has been received from a local resident, Mr Hancocks, which reads as follows:

*“Having an interest in an adjacent commercial property to this development my opinion is that Bromyard is in need of business premises to offer employment to the occupiers of these houses and others yet to be built, which is why the condition was there in the first place. It is obvious there is more profit in houses than Business units which I suggest is the reason for the application.”*

### 4.3 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=172019&search=172019](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=172019&search=172019)

## 5. Officer’s Appraisal

5.1 Development has commenced on the residential part of the site and the first dwellings are close to completion and will soon be capable of occupation. Condition 19 requires that the first commercial unit approved in detail as part of the ‘hybrid’ outline planning permission should be completed and capable of occupation prior to the occupation of any of the dwellings. However, the two elements of the site are now separately controlled. The original applicant has retained the area of land upon which the B1 commercial premises are to be constructed, whilst the residential part is being developed separately.

5.2 The applicant is requesting some flexibility with respect to condition 19 given that they have progressed more immediately with the residential part of the scheme. They acknowledge that the delivery of employment units in Bromyard is important for the town. This is particularly so given that to date, neither Bromyard Town Council or Herefordshire Council have been unable to identify land to meet the Core Strategy requirement for 5 hectares of employment land over the plan period.

5.3 The condition was originally imposed to ensure the delivery of a mixed form of sustainable development. The suggested amendment is that the approved commercial unit should be provided prior to the occupation of the 35th dwelling. There is no intention on behalf of the applicant to absolve themselves of the requirement of the condition entirely, simply that it should allow some housing to be occupied before the commercial unit is complete.

5.4 The delivery of housing is an important objective for the Council, especially given the continued shortfall of housing land. The site is sustainable and in my view the amendment of the condition as proposed will continue to ensure that the delivery of the commercial element of the scheme is provided. The outcome will remain the delivery of a mixed form of sustainable development and the scheme will remain compliant with Policy SS1 of the Core Strategy. Furthermore, other conditions imposed when granting outline planning permission have ensured that the means of access to the employment land has been constructed, therefore delivering a significant infrastructure element for this part of the site.

5.5 The application requires the completion of a Deed of Variation to the Section 106 Agreement signed as part of the original permission. Subject to its completion, the application is recommended for approval.

**RECOMMENDATION**

**That subject to the completion of a Deed of Variation to the Section 106 Town & Country Planning Act 1990 obligation agreement, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any other further conditions considered necessary by officers named in the scheme of delegation to officers:**

- 1. The permission hereby granted is an amendment to planning permission 140285/O dated 18 August 2014 and, otherwise than is altered by this permission, the development shall be carried out in accordance with that planning permission and the conditions attached thereto.

**Reason: For the avoidance of doubt and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 2. The B1 commercial unit and its associated infrastructure as shown on approved plan 0609\_11/d/3.01 shall be constructed and capable of occupation for employment purposes prior to the occupation of 35no.dwellings.

**Reason: To ensure that the employment use hereby permitted is brought into use and to secure a mixed form of sustainable development in accordance with Policy SS1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

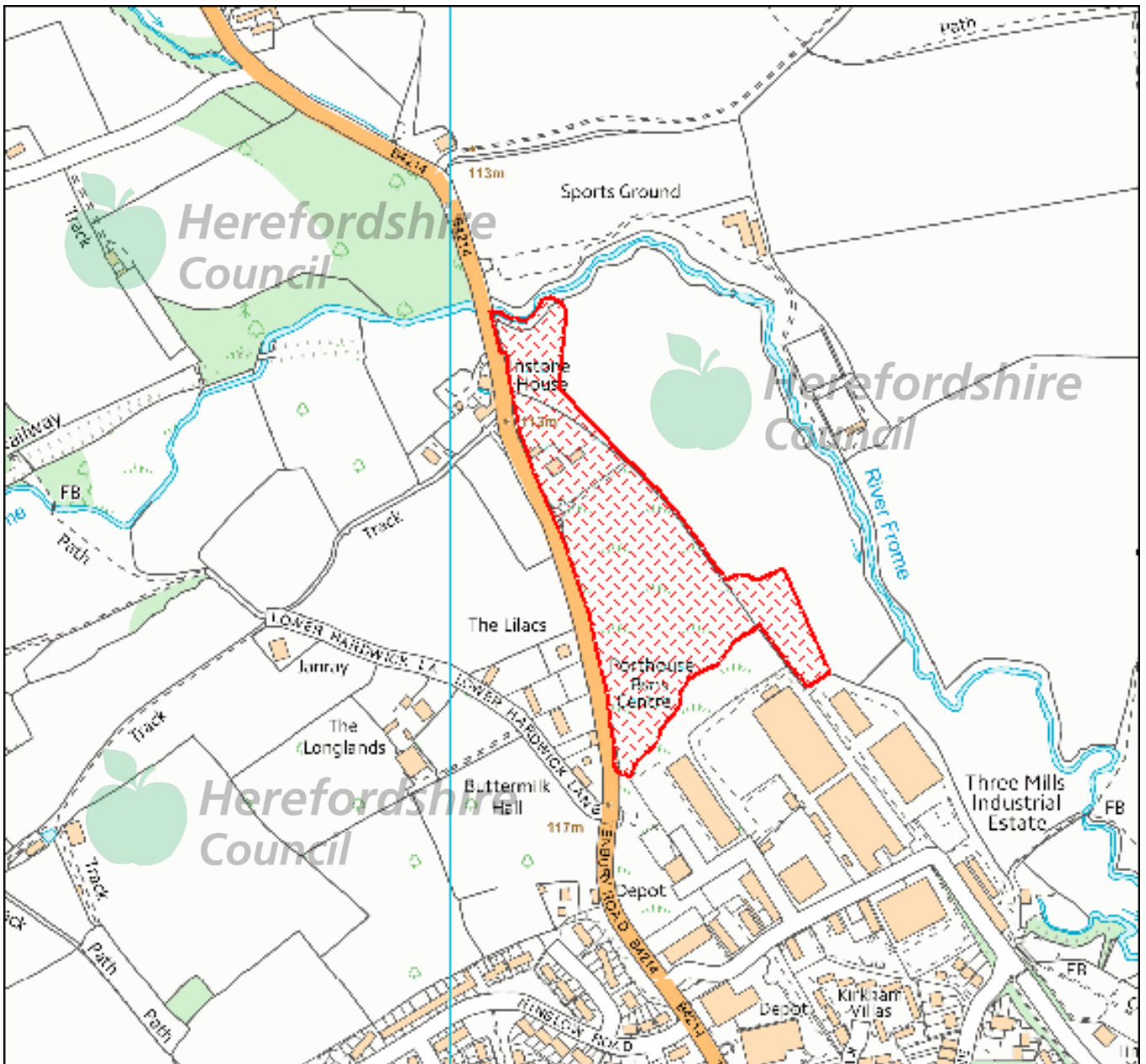
**INFORMATIVES:**

- 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, 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.

Decision: .....  
Notes: .....  
.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 172019

**SITE ADDRESS :** LAND AT PORTHOUSE FARM, TENBURY ROAD, BROMYARD, HEREFORDSHIRE

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<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>14 MARCH 2018</b>
<b>TITLE OF REPORT:</b>	<b>174466 - PROPOSED RESIDENTIAL DEVELOPMENT TO PROVIDE 4 NO FLATS AT 8 COTTERELL STREET, HEREFORD, HEREFORDSHIRE, HR4 0HQ</b>  <b>For: Mr Gough per Mr T J Ford, 30 Grove Road, Hereford, Herefordshire, HR1 2QP</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=174466&amp;search=174466">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=174466&amp;search=174466</a>

**Reason Application submitted to Committee - Redirection**

**Date Received: 28 November 2017    Ward: Greyfriars    Grid Ref: 349969,240262**

**Expiry Date: 21 March 2018**

Local Member: Councillor AJW Powers

## **1. Site Description and Proposal**

- 1.1 The application site is a small, long established plumbers' yard that fronts the north east side of Cotterell Street. It is approximately 36 metres to the northwest of the junction of Cotterell Street and its junction with White Horse Street and lies within an established, predominantly Victorian residential neighbourhood within the Whitecross area of Hereford.
- 1.2 Presently the essentially rectangular site (approximately 9 metres by 23 metres) is fenced off and has an extensive coverage of single storey structures clustered against a former brick and slate coach house building that lies to the north of the site with a yard area behind. The former coach house building is some 6.7 metres to the roof ridge and 4.6 metres to the eaves. These buildings have been used for storage, showroom and office accommodation to serve the plumbers' business and abut the common boundary with number 6 Cotterell Street, with a narrow walkway to the western side of the site to gain access to the rear yard area. The site is flat, with a two storey, end terraced dwelling to the southeast and a two storey detached property to the northwest. Adjoining the rear boundary is the rear garden of a side on two storey semi-detached dwelling located at the head of Bruce Thomas Close, a relatively modern, small residential cul-de-sac off Whitecross Road.
- 1.3 It is proposed to demolish all the existing structures on the site and erect a two storey building, to provide four one bedroomed flats (two flats at ground floor and two above). The building would be sited alongside number 6 Cotterell Street. It would be 7.4 metres to the roof ridge and 5 metres to the eaves, with the elevation fronting the road being some 9 metres. The principal elevation, facing Cotterell Street, incorporates a gable with a modestly oversailing roof and covered access to the right hand side to serve all four flats and an area for secure and covered cycle storage, waste and recycling bins and a garden to serve the rear ground floor flat (number

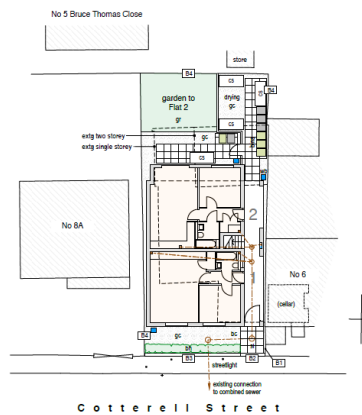
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Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

2). The one bedroomed flats would range between 40.5 and 52.1 square metres in floor area; each providing open plan living, dining and kitchen areas and a bedroom with either an ensuite shower room or separate bathroom facility. A low brick wall with bullnose brick capping and metal railings on top, with box hedging behind is proposed to the south elevation to Cotterell Street.



Street Elevation - South



Site Layout

- 1.4 The application was accompanied by a Design and Access Statement and a Phase 1 Desk Study Report. The former advises that the site is currently in use as a joinery workshop, having previously been a plumber's yard/heating showroom. The design concept is set out, comparison with the extant permission; noting that the permitted development rights were not removed, such that a three metre projecting rear extension would have been possible without further application. It is stated that extant scheme is 1.05 metres taller than that now proposed.

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
HD1	-	Hereford
HD3	-	Hereford Movement
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
E2	-	Redevelopment of Existing Employment Land and Buildings
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality
ID1	-	Infrastructure Delivery



2.2 Highways Design Guide for New Developments

2.3 National Planning Policy Framework:

The following sections are of particular relevance:

Introduction	-	Achieving Sustainable Development
Section 4	-	Promoting Sustainable Transport
Section 6	-	Delivering a Wide Choice of High Quality Homes
Section 7	-	Requiring Good Design
Section 8	-	Promoting Healthy Communities

2.4 National Planning Policy Guidance

2.5 The Herefordshire Local Plan 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/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

**3. Planning History**

3.1 151031/O - Site for proposed erection of 2 dwellings – approved 13.7.2015

**4. Consultation Summary**

Statutory Consultations

4.1 Natural England

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

4.2 Welsh Water

We have reviewed the information submitted as part of this application with particular focus on Drawing Number 807-03 which shows the proposed foul drainage arrangement and we have no adverse comment to make on this proposal. We also refer to the Phase One Desk Study Report dated 2nd November 2016 which indicates that there is a good chance that the ground conditions are favourable for infiltration. We therefore request that percolation tests are undertaken and a suitably sized soakaway installed.

Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

Conditions

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

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.

## Advisory Notes

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](http://www.dwrcymru.com). 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. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

### Internal Council Consultations

#### 4.3 Transportation Manager

I am concerned that no car parking is proposed for the development, in an area that already suffers from on street parking stress, and would therefore object to the proposal.

However in view of the small units proposed in this sustainable location close to employment areas, bus routes, cycle routes and the city centre, and with cycle storage provision, I am dubious that a refusal on highways safety grounds based solely on lack of parking provision could be substantiated. The lack of parking may however be considered to cause amenity issues.

#### 4.4 Environmental Health Manager

I refer to the above application and would make the following comments in relation to contaminated land and human health issues.

The application has been submitted with the following report.

"Phase One Desk Study Report. Proposed Residential Development. 8 Cotterell Street, Hereford. HR4 7RB." Prepared by Environmental Management Solutions, ref: EMS6478a, Dated 2nd November 2016.

This report recommends further investigation be carried out and as such the following condition should be appended to any approval with a recognition that the Desk Study element has been satisfied.

1. 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. 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.

2. The Remediation Scheme, as approved pursuant to condition no. (1) 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.

3. 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.

Technical notes about the condition

1. I would also mention that the assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.
2. And as a final technical point, we require 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.

#### 4.5 Waste

Approve with conditions. Paved area needed for the collection point of the bins.

#### 4.6 Conservation Manager (Ecology)

With foul water connection proposed to mains sewer (and indicated as likely acceptable by Welsh Water) and with surface water being managed onsite through a SuDS/Soakaway system I can not identify any unmitigated 'Likely Significant Effect' on the River Wye SAC/SSSI.

I have no ecological records for this site but I am aware that bats are numerous across the whole area and could be opportunistically utilising the existing brick 2 story building, likewise nesting birds. I do not believe this LPA has sufficient reason to request an ecological survey but if Consent is granted I would suggest including a relevant advisory note reminding the applicant

of their personal obligations and liabilities to protected species and nesting birds under UK Wildlife Legislation. The new development would also allow the opportunity to provide betterment of the local biodiversity potential by the inclusion of habitat enhancement features such as bat boxes/bricks/tubes and bird nesting features such as Sparrow Terraces and Swift bricks/boxes. I would request that a relevant condition is included to secure the Biodiversity enhancements in line with best practice, NPPF guidance, NERC Act and Core Strategy LD2.

#### Protected Species and Nesting Birds Informative

The Authority would advise the applicant that all bats and their roosts (whether bats are present or not) are legally protected and so to satisfy their own legal obligations and risk management they may want to commission a basic ecological check from a suitably qualified ecologist/bat worker immediately prior to any work commencing or at a minimum make any contractors working on the buildings/roofs aware that protected wildlife could be present and what to do if wildlife is found – stop work immediately and seek professional advice from a licensed bat worker or ecologist. More information can be found on the Bat Conservation Trust website: [www.bats.org.uk](http://www.bats.org.uk) All nesting birds (and their nests) are legally protected from disturbance – the bird nesting season is generally accepted as March to August and care should be taken to plan work and at all times of the year undertake the necessary precautionary checks prior to work commencing. Any external lighting shouldn't illuminate any 'natural' boundary feature or increase night time sky illumination (DEFRA/NPPF Dark Skies Guidance 2013).

#### Nature Conservation – Enhancement

Within 3 months of completion of the building works evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation of at least TWO bat roosting enhancements (habitat boxes, tubes, tiles, bat bricks, raised weatherboarding); TWO bird nesting boxes and ONE pollinating insect habitat home built in to, or attached to the new property or on land or buildings under the applicant's control, should be supplied to and acknowledged by the local authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006

#### Informative:

I would suggest advice should be sought from an appropriately experienced ecologist or bat worker. Habitat boxes should be suitably hard wearing and durable eg Schwegler woodcrete, Greenwood habitat's 'ecostycrete' or similar. No external lighting should illuminate any of the enhancements, surrounding woodland habitat or other boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative (DEFRA/NPPF Guidance 2013).

## 5. Representations

- 5.1 Hereford City Council Planning Committee objected to Planning Application 174466, on the grounds that the proposed build constitutes overdevelopment. Councillors also took into account the numerous complaints and objections of local residents, citing the issue of parking as a primary reason for objection. With so few parking spaces included in the development, it would be unreasonable to allow the application to proceed without a countermeasure in place to reduce the number of cars parked on the already densely packed road.

5.2 16 letters of objection have been received from 12 individuals. In summary the main points raised are:

- Lack of off road parking to serve four flats is unacceptable – potential for between 4 and 8 additional cars
- Existing problems with congestion on street parking including restrictions to buses and fire engines, and blocking of driveways, due to the narrow nature of the street and overpopulation of existing housing
- On certain evenings there are pub sports' nights at the pub, making parking even worse
- Proposals for further parking restrictions (double yellow lines on the corners, reduced parking on Whitehorse Street, no-waiting zones on almost 50m of Cotterell Street)
- Site is big enough to include off road parking and previous permission did provide it
- Parking is already potentially dangerous and source of frustration
- Too many multi households already – Council allow more and more to be built or have many occupants
- Proximity and overlooking to 8a Cotterell Street
- Proximity to 6 Cotterell Street and potential to undermine the stability of the gable end
- Party Wall Act applies, mentions 3 metre rule for building works too close to adjacent properties – grounds for refusal
- Japanese knotweed is present on site – not mentioned in submission, groundworks would disturb its roots making the situation worse
- Council may follow Government planning guidelines with reference to no parking on site, but this does not guarantee that residents will follow this policy and not own a car
- Victorian Street is picturesque and new build would look out of place
- Not opposed to redevelopment, but it should address these key issues

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=174466&search=174466](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=174466&search=174466)

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

### Principle

- 6.1 It is a legal requirement that applications are determined in accordance with the Development Plan, unless material planning considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990). This requirement is reconfirmed in paragraphs 11 to 13 of the National Planning Policy Framework (hereon referred to as NPPF). These paragraphs state that the NPPF is guidance and does not change the statutory status of the Development Plan, but that it is highly desirable for local planning authorities to have an up-to-date local plan. In this instance the Development Plan consists of the Herefordshire Local Plan – Core Strategy (hereon referred to as the CS), which was adopted on 16th October 2015.
- 6.2 The NPPF and National Planning Policy Guidance (hereon referred to as NPPG) are important material planning considerations.

6.3 At the present time the Council has a shortfall in housing land supply, with the published position being 4.54 years. In such cases where there is a lack of 5 year housing land supply, paragraph 49 of the NPPF states that policies relevant to the supply of housing cannot be considered to be up to date and as a result the ‘tilted’ planning balance set out in paragraph 14 applies. This requires permission to be granted *‘where the development plan is absent, silent or relevant policies are out of date, granting 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.’*

CS policy SS1 reiterates paragraph 14 of the NPPF.

6.4 In terms of the planning history, firstly it should be acknowledged that the previously granted outline planning permission (151031) for a pair of two storey, semi-detached dwellings remains extant until 13<sup>th</sup> July 2018. It is therefore a material planning consideration. Nevertheless, the current submission is a full planning application rather than a reserved matters submission. Secondly, it is important to note the lawful use of the site is a B1 use. It constitutes previously developed land, as per Annex 2: Glossary of the NPPF and ‘brownfield land’ as per the CS’s Glossary of Terms. It is a core planning principle of the NPPF (8<sup>th</sup> bullet point of paragraph 17), that planning should encourage the effective use of land by reusing land has that been previously developed.

6.5 The principle of residential development has already been accepted, through the extant permission granted in 2015 and despite a change in the Development Plan since that date, through the adoption of the CS, the principle remains acceptable. The loss of an employment site has already been accepted and this remains a material consideration whilst the earlier permission remains extant. Furthermore, the lawful use of the site is considered to be a ‘non-conforming’ use within a residential area and the proposed use is by its nature compatible.

6.6 The main issues arising from the proposal are the impact on the street scene and neighbouring properties’ residential amenity, highway safety, contamination, and ecology including drainage.

#### Visual amenities

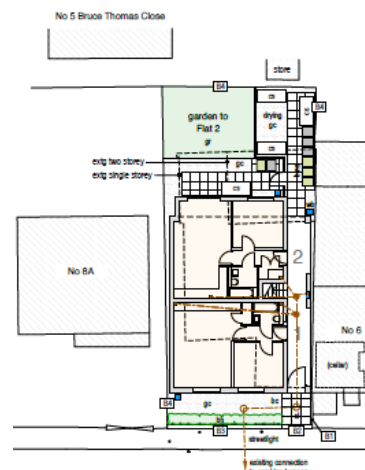
6.7 The site’s context is characterised by two storey development, typically terraced with shallow front gardens and low brick boundary walls to Cotterell Street. At the present time, it is considered that the buildings on the site and the boundary fence to Cotterell Street have a negative impact on the street scene. The neighbouring detached dwelling, number 8a, is an anomaly in terms of its set back siting, mass and design. The proposed building would be two storey and sited alongside number 6 Cotterell Street, an end terraced property. It would have a gable with bargeboard detailing to the principal elevation, reflecting the design of Bakery Mews, which lies to the east of the adjacent terrace. It is considered that the proposed building would be of a height, principal elevation and roof design that demonstrates that the townscape has positively influenced its design and scale as per CS policies LD1 and SD1. The form and design of the building and the boundary treatments respond to local character and reflect the identity of the surroundings in accordance with the requirements of the NPPF, which promotes good design. External materials can reasonably be subject to a condition to ensure that they are compatible with the surroundings. In visual terms the proposal would represent an enhancement of the townscape in compliance with CS policies SD1 and LD1 and the requirements of the NPPF.

## Impact on neighbours

- 6.8 CS policy SD1 and the NPPF (paragraph 17) require developments to ensure a good standard of living conditions is achieved for existing and proposed occupiers of land and buildings. In appraising the impact of the proposal on the living conditions of existing residents it should be noted that the proposal would replace a non-conforming business use with four flats, in a residential area. It is appreciated that the employment site may currently not be that active, but nevertheless it is a lawful use and operations could intensify or another business falling within the same use class could lawfully operate from the site without the need for further planning permission. There are no planning restrictions on hours of operation. Consequently, the proposal is considered to provide an improvement to the living conditions of existing residents in terms of the use of the site.
- 6.9 With regards the impact of the proposed building operations firstly it should be recalled that there is an extant permission for a pair of two storey, semi-detached dwellings on the application site. As approved, these would be sited alongside the southeastern gable end of number 8a and abutting the boundary with number 6.



As approved and extant



As proposed

- 6.10 Whilst the proposed scheme would result in a forward project in relation to number 8a, this would be to the southeast along side a parking area. The rear elevation of the proposed building would project approximately 1.2 metres beyond that of number 8a. With regards number 6, the side elevation of the proposed building would abut the gable end, as the existing single storey structures do. There are no windows in this gable end and the provision of a two storey building would not adversely affect the existing living conditions. Taking into account the existing relationship between the buildings on site and the neighbours and the extant permission, it is considered that in its context of relatively high density development, the proposal would not have a harmful impact on the existing occupiers' living conditions. The scheme is considered to accord with the provisions of CS policy SD1 and the NPPF. The concerns raised with regards the potential structural implications of building up to the boundary wall would fall within the Building Regulations and/or the Party Wall Act. It is therefore not a consideration in the determination of this planning application.

## Highways

- 6.11 With regards the impact on highways CS policy MT1 and the NPPF paragraph 32 are applicable. Amongst other requirements, CS policy MT1 states that proposals should:
- demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development
  - encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities
  - ensure that developments are designed and laid out to achieve safe entrance and exit
  - have regard to with both the council's Highways Development Design Guide and cycle and vehicle parking standards as prescribed in the Local Transport Plan - having regard to the location of the site and need to promote sustainable travel choices.
- 6.12 The NPPF, paragraph 32, requires decisions to take account of whether there would be safe and suitable access to the site and should only refuse permission on transport grounds where the residual cumulative impact of the development would be severe.
- 6.13 The existing parking congestion is understood; on road parking is ubiquitous and limits the road width. Cotterell Street, similarly to other unclassified streets in this predominantly Victorian area, has very limited off road parking and generally properties have relatively narrow frontages, thus limiting residents parking near to their respective properties. This existing situation is considered by existing residents to adversely impact on highway safety and their expectations to be able to park in the vicinity of their homes. The lawful business use of the site appears to have only very limited off road parking (area for one car sized vehicle) in the forecourt between the existing boundary fence and the buildings, with gated access.
- 6.14 The site is considered to be in a highly sustainable location with good access to local shops, schools, employment and services and with Hereford City Centre being only 800 metres distant, offering a wide range of services and access to public transport to facilitate onward travel. The scheme proposes four one bedroomed flats, with secure and covered cycle storage for two cycles per unit. It is considered that these factors would mean that future residents would have a real choice on how they travel, in accordance with the sustainable travel patterns encouraged by both the CS and the NPPF.
- 6.15 The car parking standards in the Council's Highways Design Guide for New Developments sets a standard of a maximum of 1 car parking space for one bedroomed units. The Guide also states (section 2.20) that the '*Council has deemed that parking standards need to allow for significantly lower levels of off street parking provision, particularly for developments:*
- *In locations, such as town centres, where services are readily accessible by walking, cycling or public transport;*
  - *Which provide housing for elderly people, students and single people where the demand for car parking is likely to be less than for family housing; and*
  - *Involving the conversion of housing or non residential buildings where off street parking is less likely to be successfully designed into the scheme.'*
- 6.16 This is a proposal for one bedroomed units, more likely to be occupied by single people, couples, the elderly (ground floor flats in particular) and students. It also involves redevelopment of previously developed land where the incorporation of off road parking would not accord with the prevailing character of the area, although there are examples of such nearby.



- 6.17 There is potential that the provision of four small residential units will add extra pressure on very limited on street parking in the vicinity. This would exacerbate existing residents' parking problems and associated frustration. The existing parking problems are appreciated and the concern that this would worsen as a result of this proposal devoid of off road parking provision. However, the existing position must be fully accepted, to enable an accurate assessment of the implications of the proposed development. The parking requirements are not to be compared to those of a greenfield site. Lawfully the site can be used for a B1 use and also a B8 (storage and distribution) under permitted development rights. These uses could give rise to more frequent vehicle movements and larger vehicles, although these would be more likely, but not restricted to, day time activities when local residents may have less need for parking. It is considered that there is potential for some extra pressure on parking in the area, which in turn would increase the frustration of residents. The Transportation Manager's response endorses this. However, given the emphasis of planning policy to promote alternative forms of travel to the car, the site's accessibility and the nature of the scheme for small units, it is considered that the scheme could not be refused on this basis.

#### Contamination

- 6.18 CS policy SD4 states that where contamination is present appropriate remediation is required to ensure that a safe development would be achieved. The responsibility for securing safe development lies with the landowner/developer (NPPF paragraph 120). A Phase 1 Desk Study Report has been provided and the Environmental Health Officer has noted that the report recommends further investigation be carried out. It is considered reasonable and necessary to impose a precautionary condition in respect of contamination to ensure that future residents of the flats have a good standard of living conditions.

#### Ecology and drainage

- 6.19 The proposal includes the demolition of a former coach house building and various attached structures. An ecology survey report has not been provided, but neither was one provided for the extant planning permission granted almost three years ago. In these specific circumstances it is considered that a precautionary note advising of the legal requirements pertaining to protected species would be appropriate.
- 6.20 CS policy SD4 sets out sequential preferences for foul drainage, with a mains connection being the first option. The scheme proposes a mains connection and Welsh Water do not object to this. Turning to surface water disposal, Welsh Water have recommended a condition preventing a connection. The application has confirmed that presently the surface water connects to the mains and that the redevelopment of the site would reduce the existing impermeable surfaces by 6.7 square metres and three water butts would also be included in the scheme. It is intended, if possible, for surface water to drain to soakaways. No percolation tests have been carried out at the present time, although as confirmed in paragraph 7.3 (page 14) of the Phase One Desk Study Report confirms that it is likely that at least a part of the Glaciofluvial Sheet Deposits are granular in nature and would be suitable to allow soakaway drainage. It is considered likely that the ground will be adequate for soakaways, but the restrictive factor is the lack of space for standard soakaways. The applicant has advised that an engineered system may provide a solution. On this basis, Welsh Water have provided a revised recommended condition to provide flexibility to assess the possibility of soakaways first. They have stressed the importance that all sustainable drainage options are explored before a public sewer connection is considered and advising that a combined sewer connections is seen as the least sustainable option and a last resort.

## Other matters

- 6.21 Neighbours have advised that there is Japanese knotweed on the site and express concern that groundwork disturbance to the roots would make it spread. It is advised that this is a civil matter, meaning that it is the owner's responsibility to stop it spreading onto another's land. It is classified as 'controlled waste' and can only be disposed of at licenced landfill sites. An informative note is considered to be proportionate, given that this falls outside of the planning remit, to ensure that this matter is highlighted to the applicant and any future developers.

## Conclusion

- 6.22 Presently the Council cannot demonstrate a 5 year housing land supply, so paragraph 49 of the NPPF states that the policies relevant to the supply of housing cannot be considered up to date. The weight to be afforded to these policies is for the decision maker to apportion; the closer their degree of consistency with the NPPF the greater the weight to be afforded. The CS housing policies relevant to this application promote growth and are not restrictive to the principle. Paragraph 14 requires a 'tilted' planning balance to be undertaken, stating that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate development should be restricted. Thus, harm in or by itself is not sufficient; harm must be of sufficient gravity to significantly and demonstrably outweigh the benefits. There are no policies in the NPPF that direct refusal of the proposal and as set out above the principle of residential development is considered to comply with CS policies. The proposal is considered to comprise sustainable development and the 'planning balance' must be undertaken. In practice this is commonly appraised under the three dimensions of sustainable development; the environmental, social and economic roles.
- 6.23 The construction of a new building comprising four residential units would contribute to the housing supply and the local economy through the employment of trades and purchase of materials (potentially local business for this small scale development) and payment of the New Homes Bonus. In social terms, and most importantly the scheme would provide small, low-cost, market housing in the context of an under-supply of housing land and would therefore positively contribute to the range of housing in accordance with CS policy H3. The additional units of accommodation would increase the residents in the area, which may also help to sustain the local facilities. For four units these benefits would be moderate. In environmental terms, a key benefit would be the extinguishing of a non-conforming use in a residential area. Furthermore, locationally the site is sustainable, with future occupiers having a real choice on how to travel for day to day living. The inclusion of secure and covered cycle storage is welcomed and would facilitate occupiers' use of non-motorised transportation methods. The scheme would therefore support a transition to a low carbon future, in compliance with a core planning principle of the NPPF and this leans in favour of the scheme. The removal of the incongruous fencing to Cotterell Street and ad hoc development behind, would enhance the appearance of the street scene. However, as identified earlier there are very real local concerns with regards the further pressure on already limited on street parking. Overall, and accepting that the planning balance is tipped in favour of supporting sustainable development, I consider that the potential, but not unequivocal harm, would be limited and of insufficient gravity to significantly and demonstrably outweigh the benefits in this case. Having regard to the NPPF as a whole, together with adopted CS policies with appropriate weight afforded as stipulated in the NPPF, it is considered that the scheme comprises sustainable development, and that permission should be granted subject to conditions as set out below.

## RECOMMENDATION

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

1. **A01 Time limit for commencement (full permission)**
2. **C06 (UK Map Centre site location plan – 1:1250, 807-03, 807-04, 807-05)**
3. **C01 Samples of external materials**
4. **No development shall take place, including demolition of the existing buildings, until the following has been carried out and confirmation submitted to and approved in writing by the local planning authority:**

a) as the Phase 1 Desk Study Report (Environmental Management Solutions – dated 2.11.2016) recommends intrusive investigations, 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. This shall include an appropriate demolition asbestos survey.

b) if the risk assessment in (a) 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. 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: The treatment of any potential contamination is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to ensure that contamination of the site is removed or contained and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

5. **The Remediation Scheme, as approved pursuant to condition no. (4) 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: The treatment of any potential contamination is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to ensure that contamination of the site is removed or contained and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

6. **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: The treatment of any potential contamination is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to ensure that contamination of the site is removed or contained and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 7. No development, other than demolition of the existing buildings, shall commence until a drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and 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.**

- 8. With the exception of any site clearance and groundwork (excluding any works to retained features), no further development shall commence on site until a landscape design has been submitted to and approved in writing by the Local Planning Authority. The details submitted should include:**

**Soft landscaping**

- a) A plan(s) at a scale of 1:200 or 1:500 showing the layout of proposed hedge and shrub planting and grass areas**  
**b) A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and grass establishment.**

**Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 9. The soft landscaping scheme approved under condition 8 shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period.**

**Reason: In order to maintain the visual amenities of the area and to enhance habitat biodiversity so as to conform with Policies LD1 and 2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 10. Prior to the first occupation of any of the residential units hereby approved a collection point for waste and recycling bins shall be provided within the application site in accordance with details (siting, size and surface materials) which shall have first been submitted to and approved in writing by the Local Planning**

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Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

**Authority.** The development shall be carried out in accordance with the approved details.

**Reason:** To ensure that there is adequate provision for the collection of waste and recycling within the application site in accordance with the requirements of policies SD1 of Herefordshire Local Plan – Core Strategy.

11. B01 Development in accordance with the approved plans

12. Prior to the first occupation of the flat to which it serves a ‘Protect a Cycle’ storage unit or an alternative secure and covered cycle store, the details of which have first been submitted to and approved in writing by the Local Planning Authority, shall be provided as per the siting indicated on the approved site plan (drawing 807-03). The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and thereafter shall be maintained.

**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 with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

13. Within 3 months of completion of the building works evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation of at least two bat roosting enhancements (habitat boxes, tubes, tiles, bat bricks, raised weatherboarding); two bird nesting boxes and one pollinating insect habitat home built in to, or attached to the new property or on land or buildings under the applicant’s control, should be supplied to and acknowledged by the local authority.

**Reason:** To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006

14. I16 Restriction of hours during 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. Technical notes about conditions 4-6:

1. The assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.

2. 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.

3. The applicant's/developer's attention is drawn to the existence of Japanese knotweed on site. It is the applicant's/developer's legal responsibility to ensure this does not adversely affect neighbouring properties and to ensure it is disposed of in an appropriate manner. For more information please refer to:

<https://www.gov.uk/guidance/prevent-japanese-knotweed-from-spreading>

4. The applicant is advised that all bats and their roosts (whether bats are present or not) are legally protected and so to satisfy their own legal obligations and risk management they may want to commission a basic ecological check from a suitably qualified ecologist/bat worker immediately prior to any work commencing or at a minimum make any contractors working on the buildings/roofs aware that protected wildlife could be present and what to do if wildlife is found – stop work immediately and seek professional advice from a licensed bat worker or ecologist. More information can be found on the Bat Conservation Trust website: [www.bats.org.uk](http://www.bats.org.uk) All nesting birds (and their nests) are legally protected from disturbance – the bird nesting season is generally accepted as March to August and care should be taken to plan work and at all times of the year undertake the necessary precautionary checks prior to work commencing. Any external lighting shouldn't illuminate any 'natural' boundary feature or increase night time sky illumination (DEFRA/NPPF Dark Skies Guidance 2013).
5. It is suggested that advice should be sought from an appropriately experienced ecologist or bat worker. Habitat boxes should be suitably hard wearing and durable e.g. Schwegler woodcrete, Greenwood habitat's 'ecostyrocete' or similar. No external lighting should illuminate any of the enhancements, surrounding woodland habitat or other boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative (DEFRA/NPPF Guidance 2013).
6. **Welsh Water Advisory Notes**

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](http://www.dwrcymru.com)

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. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** 174466

**SITE ADDRESS :** 8 COTTERELL STREET, HERFORD, HEREFORDSHIRE, HR4 0HQ

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