

Agenda

Planning and regulatory committee

Date: Wednesday 22 August 2018

Time: 2.00 pm (or on the conclusion of the meeting held in the morning if later)

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

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

For any further information please contact:

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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 in advance of the meeting.

Agenda for the meeting of the Planning and regulatory committee

Membership

Chairperson	Councillor PGH Cutter
Vice-Chairperson	Councillor J Hardwick
	Councillor BA Baker
	Councillor CR Butler
	Councillor PJ Edwards
	Councillor DW Greenow
	Councillor KS Guthrie
	Councillor TM James
	Councillor MD Lloyd-Hayes
	Councillor FM Norman
	Councillor AJW Powers
	Councillor A Seldon
	Councillor NE Shaw
	Councillor WC Skelton
	Councillor SD Williams

Agenda

	Pages
GUIDE TO THE COMMITTEE	
1. APOLOGIES FOR ABSENCE	
To receive apologies for absence.	
2. NAMED SUBSTITUTES (IF ANY)	
To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
3. DECLARATIONS OF INTEREST	
To receive any declarations of interest by Members in respect of items on the Agenda.	
4. CHAIRPERSON'S ANNOUNCEMENTS	
To receive any announcements from the Chairperson.	
5. 180889 - LAND ADJACENT CHURCH TERRACE, ALMELEY, HEREFORDSHIRE, HR3 6LB	9 - 20
Proposed erection of 2 detached dwellings with detached garages.	
6. 174517 - LAND ADJOINING THE CHALET, FAWLEY, KINGS CAPLE, NR ROSS-ON-WYE	21 - 30
Proposed erection of replacement dwelling and garage.	
7. DATE OF NEXT MEETING	
Date of next site inspection – 18 September 2018	
Date of next meeting – 19 September 2018	

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.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- 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.

Public Transport Links

- 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 Chairperson 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 (Chairperson)	Conservative
Councillor J Hardwick (Vice-Chairperson)	Herefordshire Independents
Councillor BA Baker	Conservative
Councillor CR Butler	Conservative
Councillor PJ Edwards	Herefordshire Independents
Councillor DW Greenow	Conservative
Councillor KS Guthrie	Conservative
Councillor TM James	Liberal Democrat
Councillor MD Lloyd-Hayes	It's Our County
Councillor FM Norman	Green
Councillor AJW Powers	It's Our County
Councillor A Seldon	It's Our County
Councillor NE Shaw	Conservative
Councillor WC Skelton	Conservative
Councillor SD Williams	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 chairperson and vice chairperson.
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.

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	22 August 2018
TITLE OF REPORT:	180889 - PROPOSED ERECTION OF 2 DETACHED DWELLINGS WITH DETACHED GARAGES AT LAND ADJACENT CHURCH TERRACE, ALMELEY, HEREFORDSHIRE, HR3 6LB For: Mr Mokler per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Hereford, Herefordshire HR2 0SN
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180889&search=180889
Reason Application submitted to Committee – re-direction	

Date Received: 8 March 2018**Ward: Castle****Grid Ref: 333195,251593****Expiry Date: 30 June 2018**

Local Member: Councillor WC Skelton (Councillor RJ Phillips is fulfilling the role of local ward member for this application.)

1. Site Description and Proposal

- 1.1 The site lies on the north side of C1079, just to the west of St Mary's Church, on the edge of the built-up area of Almeley. There is a hedgerow frontage, with a group of small trees towards the western boundary. The land rises from the road towards the rear of the site. The site lies within the Almeley Conservation Area and in close proximity to the Grade I listed St Mary's Church, Grade II* Almeley Manor and Grade II Almeley House.
- 1.2 The scheduled monument Almeley Castle lies on the opposite side of road.
- 1.3 The proposal is for the erection of two detached 3-bed houses of natural stone and slate finish. Ridge heights are just under 7.3m. Plot A includes a detached double garage and Plot B a single detached garage. New individual vehicular accesses are proposed. The existing building in the south west corner of the site is to be removed.
- 1.4 This application was deferred from the 25th July meeting to allow account to be taken of significant relevant provisions in the new National Planning Policy Framework, published on 24 July, of which account needed to be taken allow update of the NPPF references and to allow a site inspection.

2. Policies

- 2.1 The Herefordshire Local Plan Core Strategy

SS1 Presumption in Favour of Sustainable Development

Further information on the subject of this report is available from Mr M Tansley on 01432 261815

- RA1 Rural Housing Distribution
- RA2 Housing in settlements outside Hereford and the Market Towns
- MT1 Traffic Management, Highway Safety and Promoting Active Travel
- LD1 Landscape and Townscape
- LD2 Biodiversity and Geodiversity
- LD4 Historic Environment and Heritage Assets
- SD1 Sustainable Design and Energy Efficiency
- SD3 Sustainable Water Management and Water Resources

2.2 National Planning Policy Framework

- Section 2 Achieving sustainable development
- Section 4 Decision making
- Section 5 Delivering a sufficient supply of housing
- Section 6 Building a strong, competitive economy
- Section 8 Promoting healthy and safe communities
- Section 12 Achieving well designed places
- Section 14 Meeting the challenge of climate change, flooding and coastal change
- Section 15 Conserving and enhancing the natural environment
- Section 16 Conserving and enhancing the historic environment

2.3 Almeley Neighbourhood Development Plan has reached Regulation 16. The consultation period expires 22 August 2018. At this time the NDP is a material consideration but has no weight in the decision making process until the end of that process. An update will be provided in the schedule of updates issued the day before the meeting.

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

3. Planning History

3.1 163430 - Erection of two houses - refused 31 July 2017

3.2 143462 - Erection of 2 houses withdrawn

3.3 140977 - Erection of 2 houses withdrawn.

4. Consultation Summary

4.1 Statutory Consultations

4.1.1 Historic England

Thank you for your letter of 27 March 2018 regarding the above application for planning permission. We refer you to our letter of 30 November 2016 drawing your attention to the potential impact of the development on the significance of Grade I and II* listed buildings and the scheduled remains of the motte and bailey castle and the advice contained in our Historic Environment Good Practice in Planning 3: The Setting of Heritage Assets. We have no comments to make in addition to those set out in our previous letter.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. If you would like detailed advice from us, please contact us to explain your request.

2016 letter

Thank you for your letter of 10 November 2016 notifying us of the application for planning permission relating to the above site. We do not wish to comment in detail, but offer the following general observations.

Historic England Advice

The application site lies in the heart of the Almeley Conservation Area in the historic core of the village close to the Grade I listed church, the Grade II* listed Almeley Manor and the scheduled remains of the motte and bailey castle. The proposed development which includes the demolition of an existing outbuilding will thus have an impact upon the significance of this ancient village and the setting of heritage assets of the highest significance.

Given the sensitivity of the location we would draw your attention to our published Historic Environment Good Practice Advice in Planning: 3 The Setting of Heritage Assets and the policy set out in paragraphs 129, 131 and 134 of the NPPF. (now 190, 192 and 196)

The quality of construction and detailing is critical to the success of C21st century homes designed in a traditional style; if you are minded to approve the application conditions should be imposed requiring prior approval of materials, details such as window cills, lintels, recesses, eaves and verge details, rainwater goods and a sample panel of stonework.

Recommendation

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice. It is not necessary for us to be consulted again. However, if you would like further advice, please contact us to explain your request

4.1.2 Welsh Water – no objection subject to condition re surface water drainage.

4.1.3 Natural England – no objection subject to appropriate mitigation.

4.2 Internal Council Consultations

4.2.1 Historic Buildings Officer -

Recommendations: The proposals would alter the setting of the grade 2* listed Almeley Manor, however it is felt that this is less than substantial harm at the lowest end of the scale and this should be weighed against the benefits of the proposals. Conditions should be imposed relating to materials, joinery details, guttering, colour scheme and landscaping.

Background to recommendations: There are a number of heritage assets nearby including Almeley Manor (Grade 2*), the Grade 1 listed Church and the site is within the Almeley Conservation Area. As such the proposals should seek to enhance or preserve the character of the conservation area and not harm the setting of historic buildings. We would recommend that the Council's Planning Archaeologist is contacted regarding the setting of the Castle and Historic England is also consulted regarding the setting of the high status heritage assets.

Comments: The proposals have taken into consideration the setting of the Manor by setting the housing away from the road, this also takes into consideration the typical response of vernacular housing to topography and orientation. The design of the housing takes into consideration the vernacular characteristics relating to form and design. Whilst there is a clear change to the setting of nearby buildings causing less than substantial harm this is at the lowest end of the scale.

4.2.2 Archaeologist - Clearly the development would occupy a sensitive location within the historic village, and it is also clear that *some* harm to the neighbouring heritage assets would occur.

Further information on the subject of this report is available from Mr M Tansley on 01432 261815

From my standpoint, there is a concern that - potentially - the development would compromise the setting of the nearby castle. Having looked at this matter in some detail, I have concluded that any harm in this respect would be less than substantial.

Having regard to the other heritage matters in this case, I therefore have no objections.

On the other hand, it seems to me there is reasonable likelihood of below ground remains of moderate value being disturbed by the development. Mitigation via archaeological recording (NPPF Para 141) should be required, in the event of the application being approved.

4.2.3 Ecologist no objection subject to conditions re mitigation proposals. The application has been screened under Habitat Regulations Act, - no likely significant effect.

4.2.4 Environmental Health (Contamination) - no objection suggests advisory notes.

4.2.5 Transportation Manager no objection subject to conditions.

5. Representations

5.1 Almeley Parish Council – object

It is fundamentally the same application that has come before the Parish Council before. The minor changes made do not override previous objections and worries. The application is also contrary to the emerging NDP that is soon to be submitted at Regulation 16. As a result the Parish Council wish to continue to object to this application.

5.2.1 20 letters of objection have been received raising the following matters

- Damage to historic character of the area and fails to enhance the Conservation Area.
- Outside of the village envelope in the draft NDP
- Known area for wildlife
- Expensive executive houses do not address housing need
- Traffic congestion on narrow lane
- Loss of trees
- History of even earlier refusals in 1976 and 1987
- No need for more housing in Almeley as 14 approved in Woonton and 3 more at Newhouse Farm
- Harm outweighs the 5 yr housing land supply issue
- Street scene drawing is misleading
- Most recently a letter setting out the relevant policies in the Almeley NDP having reached Regulation 16:
 - The proposed development fails to preserve or enhance the character and appearance of the Almeley Conservation Area as required by policies ALM1(b), ALM2(a), ALM10(a).
 - The proposal also fails to conform to the scale, massing, density and building line and layout of this part of Almeley settlement as required by policy ALM10(b) and ALM6(c).
 - The proposal adversely affects the settings of nearby heritage assets, namely Almeley Manor, St Mary's Church, Almeley Castle and medieval fish ponds,

Almeley House, Church House Barn and Manor Cottage in breach of policies ALM4(c) and ALM10(d)

- The proposal by removing the orchard and roadside hedge to the site is in breach of policies ALM3(g), ALM6(f) and ALM10(c). As the proposed development site is outside of the new Almeley Village Settlement boundary it contravenes policy ALM10.
- Immediately to the west of the proposed site access is a blind brow on what is the major highway access to Almeley Village in contravention of policy ALM16.

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=180889&search=180889

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

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

6. Officer's Appraisal

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

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

6.2 The National Planning Policy Framework (NPPF) has 'sustainable development' central to planning's remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The NPPF is a material consideration in the assessment of this application.

6.3 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means that where the development plan is absent, silent, or relevant policies are out of date, granting permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted.

6.4 Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 state the following respectively:-

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

"In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

- 6.5 As such The LPA has a strict duty under Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the impact of development on the setting of listed buildings and character and appearance of conservation areas.
- 6.6 NPPF section 16 sets out the position regarding conserving and enhancing the historic environment. Specific principles and policies relating to the historic environment and heritage assets and development are found in paragraphs 184 – 202. Paragraphs 189 – 192 set out what and how LPAs should consider, and how, in determining planning applications featuring heritage assets. This includes:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 advises that

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 194 advises that

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*

Paragraph 196 advises that

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

- 6.7 The minimum housing target for Almeley parish originally stood at 33. Since then 23 houses have been approved, (8 of which have been built). Consequently there remains a need for 10 more to achieve this minimum target. At present the Council has a 4.54 year housing land supply (April 2017). The Almeley NDP was deposited for Regulation 16 stage consultation on 27 June. However until the completion of that stage, 22 August, it can be afforded no weight in the consideration of this application. The 'presumption in favour' set out in para 11 of the NPPF therefore applies. An update will be provided in the schedule of updates issued the day before the meeting.
- 6.8 Almeley is designated an RA2 settlement where 'sustainable growth will be supported in or adjacent to those settlements'... Consequently the main consideration is whether any adverse impacts associated with the development would significantly and demonstrably outweigh the public benefits thereof.
- 6.9 In this instance the main source of harm would be upon the heritage assets as set out in para 1.1 and 1.2 above. In addition to policy LD4 paragraphs 193-196 of the NPPF apply.

Further information on the subject of this report is available from Mr M Tansley on 01432 261815

- 6.10 Following the previously refused application the current proposal has been discussed with the Historic Building Officer, and further minor changes have also been submitted. The conclusion is that the impact of the development upon the heritage assets is less than substantial harm. The Archaeologist comes to a similar conclusion. It is therefore necessary to weigh this less than substantial harm, along with other material considerations against the public benefits of the scheme.
- 6.11 The Transportation Manager has no objection subject to conditions which include setting back the hedge 1m behind the visibility splays. The Ecologist has recommended conditions to the provision of appropriate mitigation/enhancement to satisfy policy LD2. A HRA screening assessment concluded 'no likely significant effect'. In terms of residential amenity it is not considered that the proposal will have any unreasonable impact upon the privacy or amenity of nearby residents.

Planning balance and conclusion

- 6.12 The Core Strategy policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The application in this case is for housing and in the light of the housing land supply deficit must be considered in accordance with the tests set out by paragraph 11 and SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole, or if specific policies in the NPPF indicate development should be restricted.
- 6.13 Almeley is identified by the Core Strategy as a sustainable settlement where there is a presumption in favour of proportionate housing growth. In the absence of a NDP which has reached a stage of progression where it may be afforded weight, the village does not have a defined settlement boundary and hence the application has been considered against the locational tests set out in CS policy RA2. The site in this case is considered to be within or adjacent to the settlement, being contiguous with the main built up form of the village. The site is therefore considered to be sustainable in locational terms.
- 6.14 Matters with regards to the potential impact of the proposal upon the setting of designated heritage assets have been carefully considered. The proposals would alter the setting of the Grade I listed St Mary's Church, Grade II* Almeley Manor and Grade II Almeley House, however it is considered that this is less than substantial harm at the lowest end of the scale and this should be weighed against the public benefits of the proposals. The harm to the setting of the castle would also be less than substantial. In accordance with paragraph 196 of the NPPF, this harm should be weighed against the public benefits of the proposal bearing in mind the policy at NPPF 193; which reminds the decision-taker to give "great weight" to the conservation of heritage assets and that the more important the asset, the greater the weight should be.
- 6.15 Whilst a number of permissions have been achieved recently in the settlement, the parish as a whole has not reached its minimum growth target of providing of 33 new dwellings over the plan period and the scheme would contribute to meeting this shortfall. The proposal has also been designed in a manner which has shown due regard to the form, layout and character of the site's setting and would consequently ensure the development would be read as being proportionate to the settlement as a whole. The principle of the development is supported by CS policy RA2.
- 6.16 The identified shortfall in deliverable housing sites represents a material consideration which affords significant weight in favour of the scheme. The scheme would boost the supply of housing within the parish, and this would have consequent social benefits in terms of enhancing and maintaining the vitality and social cohesion of the rural community. In the economic dimension, the scheme would introduce investment in jobs and construction to the area, and

Further information on the subject of this report is available from Mr M Tansley on 01432 261815

would support businesses and services in the surrounding area by increasing customer base. The scheme also offers benefits in the environmental sphere in terms of biodiversity and green infrastructure enhancement through the landscaping measures and ecological enhancement scheme. Public benefits are hence identified within the three dimensions that constitute sustainable development, as set out in paragraph 8 of the NPPF, and these benefits are considered to outweigh the less than substantial harm which has been identified to nearby heritage assets. It is your officers' assessment, therefore, that the test prescribed at NPPF 196 is 'passed'.

- 6.17 All other matters have been considered, and there are no issues identified of such material weight that would suggest the scheme would not constitute a sustainable form of development when undertaking the pre-weighted balancing exercise at paragraph 11 of the NPPF (limb 1). The proposal would accord with the relevant policies of the NPPF and the CS, and the application therefore benefits from the positive presumption set out in SS1 and at paragraph 11. The application is therefore recommended for approval subject to the conditions below.

RECOMMENDATION

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

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans (drwg nos 01,02 rev A, 03 rev A)**
- 3. C01 Samples of external materials**
- 4. D02 Approval of details**
- 5. F14 Removal of permitted development rights**
- 6. G10 Landscaping scheme**
- 7. G11 Landscaping scheme - implementation**
- 8. I51 Details of slab levels**
- 9. CAC 2m with the hedgerow centre line set back 1m behind the visibility splay and maintained as such.**
- 10. CAK for each property**
- 11. CAZ**
- 12. H06 Vehicular access construction**
- 13. H05 Access gates**
- 14. H09 Driveway gradient**
- 15. H27 Parking for site operatives**
- 16. Prior to commencement of the development, a detailed scheme for the creation and securing in perpetuity the habitat security and management of the 'Biodiversity**

Further information on the subject of this report is available from Mr M Tansley on 01432 261815

Corridor' should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning 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.

- 17. 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 with bitumen felt); TWO bird nesting boxes and ONE pollinating insect habitat home built in to, or attached to each of the new dwellings or on land or buildings under the applicant's control, should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the LPA. Habitat boxes should be made of a long-lasting material such as Schwegler Woodcrete or Geenwood Ecohabitats Ecostyocrete. No external lighting should illuminate any habitat enhancement above pre- development nocturnal illumination levels.**

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. Dark Skies Guidance Defra/NPPF 2013.

- 18. L02 No surface water to connect to public system**
- 19. E03 site observation – archaeology**
- 20. 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. It is possible that unforeseen contamination may be present on the site as a result of its former agricultural/orchard use alongside a possible potentially infilled well. Consideration should be given to the possibility of encountering contamination on the site as a result of its former uses and specialist advice be sought should there be any concern about the land.**
- 3. I11**
- 4. I09**
- 5. I45**
- 6. I05**

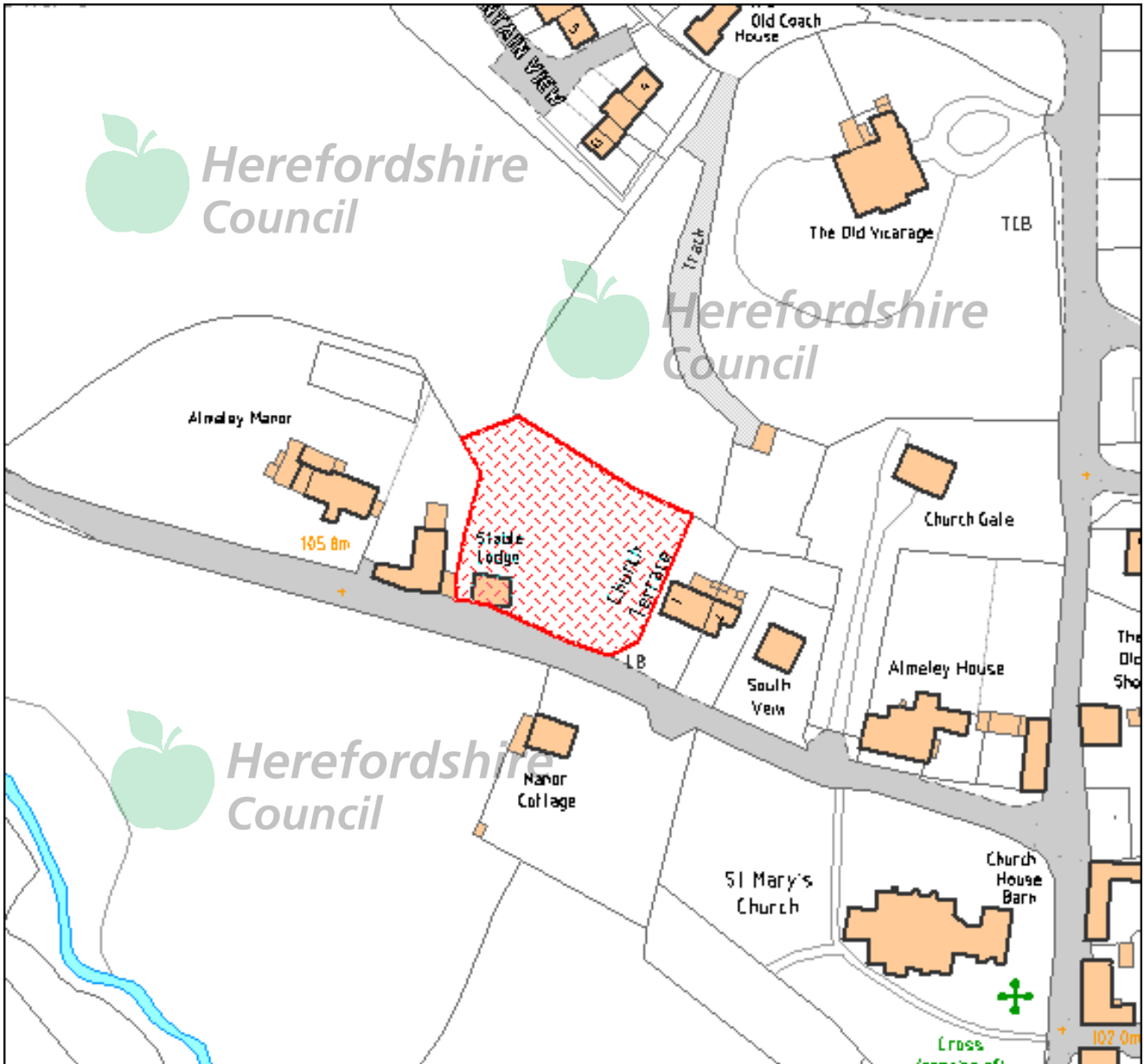
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 180889

SITE ADDRESS : LAND ADJACENT CHURCH TERRACE, ALMELEY, HEREFORDSHIRE, HR3 6LB

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Further information on the subject of this report is available from Mr M Tansley on 01432 261815

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	22 AUGUST 2018
TITLE OF REPORT:	174517 - PROPOSED ERECTION OF REPLACEMENT DWELLING AND GARAGE AT LAND ADJOINING THE CHALET, FAWLEY, KINGS CAPLE, NR ROSS-ON-WYE. For: Mr Phillips per Mr Paul Smith, 1a Mill Street, Hereford, Herefordshire, HR1 2NX
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=174517&search=174517
Reason Application submitted to Committee – Member Redirection and Departure from Local Plan	

Date Received: 30 November 2017 Ward: Old Gore Grid Ref: 357231,229818

Expiry Date: 12 February 2018

Local Member: Councillor BA Durkin

1. Site Description and Proposal

- 1.1 The site is located within an open countryside location within the Wye Valley Area of Outstanding Natural Beauty outside of the defined settlement boundary of Kings Caple as shown in the Kings Caple Neighbourhood Development Plan.
- 1.2 The site comprises an infill undeveloped unused vacant plot of land that is read in conjunction with an outlying collection of dwellings arranged in a linear pattern on the north side of the highway.
- 1.3 The application is an outline application for the proposed erection of a replacement dwelling and garage. Details relating to the layout, access, landscaping and scale of development proposed are under consideration, appearance is a reserved matter however an indicative drawing accompanies the application. The proposal is promoted as a 'swap' with lawful residential development use on an adjoining site given up in return.

2. Policies

- 2.1 National Planning Policy Framework
- 2.2 The National Planning Policy Framework (NPPF) has 'sustainable development' central to planning's remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life.

Further information on the subject of this report is available from Mr C Brace on 01432 261947

- 2.3 The National Planning Policy Framework has been considered in the assessment of this application. The following sections are considered particularly relevant:
- 2 Achieving sustainable development
 - 5. Delivering a sufficient supply of homes
 - 11. Making effective use of land
 - 12. Achieving well-designed places
 - 15. Conserving and enhancing the natural environment
- 2.4 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or 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.
- 2.5 NPPF Paragraph 124 states *The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.* Paragraph 127 outlines that planning decisions should ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 2.6 Policies specific to protected landscapes (including AONBs) are detailed at paragraph 172 that states *Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty. The scale and extent of development within these designated areas should be limited.*
- 2.7 Herefordshire Core Strategy
- SS1 – Presumption in favour of Sustainable Development
 - SS2 – Delivering new homes
 - SS4 – Movement and transportation
 - SS6 – Environmental quality and local distinctiveness

Further information on the subject of this report is available from Mr C Brace on 01432 261947

SS7 – Addressing climate change
RA1 – Rural Housing Strategy
RA2 – Herefordshire’s villages
RA3 – Herefordshire’s countryside
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 – Waste water treatment and river water quality

2.8 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

2.9 Kings Caple Neighbourhood Development Plan (NDP)

Policies SB1, SB2, E1,E2,E4.H2,BD1,BD2,BD3,BD4,BD5.

https://www.herefordshire.gov.uk/downloads/file/11245/neighbourhood_development_plan_july_2017

3. Planning History

3.1 DCSE2006/0886/O – Erection of 1 No. new residential unit – Refused, Appeal Dismissed

DCSE2004/3765/U – Use of chalet for residential accommodation as a single dwellinghouse – Approved

CE2001/2716/O – Site for proposed dwelling – Refused, Appeal Dismissed

CE2000/3179/O – Site for proposed dwelling on land adjacent to the British Lion – Refused

4. Consultation Summary

4.1 Statutory Consultations

4.2 Natural England has no objection subject to appropriate mitigation being secured as Natural England considers that without appropriate mitigation the application would:

- have an adverse effect on the integrity of River Wye Special Area of Conservation
- damage or destroy the interest features for which River Wye / Lugg Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Foul sewage to be disposed in line with Policy SD4 of the adopted Herefordshire Core Strategy. Where a package treatment plant is used for foul sewage, this should discharge to a soakaway or a suitable alternative if a soakaway is not possible due to soil/geology.
- Surface water should be disposed of in line with Policy SD3 of the adopted Herefordshire Core Strategy and the CIRIA SuDS Manual (2015) C753.

Natural England advise that an appropriate planning condition or obligation should be attached to any planning permission to secure these measures. Subject to the above appropriate mitigation being secured, we advise that the proposal can therefore be screened out from

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further stages in the Habitats Regulations Assessment process, as set out under Regulation 62 of the Habitats Regulations 2017, as amended.

4.3 Internal Council Consultations

4.4 The Transportation Manager has no objection on the basis requested conditions are imposed on any permission.

4.5 The Conservation Manager – Ecology, notes that the proposed PTP will have a soakaway drainage field on adjacent land. This should be made part of the approved plans so as to ensure that the required Habitat Regulations screening (River Wye SSSI/SAC) returns a NO unmitigated ‘*Likely Significant Effect*’ result.

The ecology report appears relevant and appropriate and providing standard best practice ecological working methods are used there should be no immediate ecological issues. As these best practice working methods form part of the applicants/developers/builders obligations under UK Legislation no specific Condition is required/reasonable.

In line with NERC Act, NPPF Guidance and Core Strategy all developments should demonstrate how they are going to enhance the local biodiversity potential. To secure this I would request a relevant Condition is included on any Planning Consent granted.

5. Representations

5.1 Kings Cople Parish Council objects to the proposal as it does not conform to the Kings Cople NDP policy SB2 and the Core Strategy policy RA3 (specifically point 3 as explained in para. 4.8.25) in that it proposes a dwelling in a different location to the one it claims to replace but does not provide technical justification for the need for the re-siting. The application site does not include the area to which the Certificate of Lawfulness. Following reconultation on further details submitted, the Parish Council are of the opinion that the additional information submitted does not provide any justification for the relocation of the proposed dwelling outside the lawful domestic curtilage of the one it claims to replace.

The Parish Council believes that the application is, therefore, still contrary to the policy RA3 of the Core Strategy and policy SB2 of the Kings Cople NDP and the Parish Council remains opposed to it.

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

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

Legislation and Policy context

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:

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

6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material

consideration. It is also noted that the site falls within the Kings Cople Neighbourhood Area, which published a made Neighbourhood Development Plan (NDP) on 16 October 2017.

- 6.3 The legal framework for AONBs in England and Wales is provided by the Countryside and Rights of Way Act (CROW) 2000 which reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty, and sets out responsibilities for their management. In particular relevance to the application are the following sections –

Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty.

Section 84 confirms the powers of local authorities to take appropriate action to conserve and enhance the natural beauty of AONBs.

Section 85 places a duty on all public bodies and statutory undertakers to 'have regard' to the 'purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

Herefordshire Core Strategy

- 6.4 Core Strategy policy SS6 – *Environmental quality and local distinctiveness* describes proposals *should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.*
- 6.5 Policy SS6 then states in its list of criteria: *Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.*
- 6.6 Policy RA2 states settlement boundaries (or a reasonable alternative) for those settlements listed in Policy RA2 will be defined in neighbourhood development plans. In the period leading up to the definition of appropriate settlement boundaries the Council will assess any applications for residential developments against their relationship to the main built up form of the settlement. Outside of these settlements new housing will be restricted to avoid unsustainable patterns of development. Outside of these defined areas residential development is limited to the exceptions listed under Policy RA3 which includes the replacement of an existing dwelling with a lawful residential use that is comparable in size and scale with, and is located in the lawful domestic curtilage of the existing dwelling.
- 6.7 Policy RA3 – *Herefordshire's countryside* states: in rural locations outside of settlements, as to be defined in either neighbourhood development plans or the Rural Areas Sites Allocations DPD, residential development will be limited to proposals which satisfy one or more of the following criteria:
1. meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or
 2. accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4; or
 3. involves the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling; or
 4. would result in the sustainable re-use of a redundant or disused building(s) where it complies with Policy RA5 and leads to an enhancement of its immediate setting; or

5. is rural exception housing in accordance with Policy H2; or
6. is of exceptional quality and innovative design satisfying the design criteria set out in Paragraph 55 of the National Planning Policy Framework and achieves sustainable standards of design and construction; or
7. is a site providing for the needs of gypsies or other travellers in accordance with Policy H4
- 6.8 Core Strategy policy LD1 – *Landscape and townscape* criteria requires new development must achieve the following:
- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
 - conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management

Wye Valley AONB Management Plan

- 6.9 The Wye Valley AONB Management Plan is a material consideration in the assessment of this application and the following policies are particularly applicable –

WV-D2 – Encourage and support high standards of design, materials, energy efficiency, drainage and landscaping in all developments, including Permitted Development, to ensure greater sustainability and that they complement and enhance the local landscape character and distinctiveness including scale and setting and minimise the impact on the natural environment. *[see also WV-L3, WV-D4, WV-U1, WV-U3, WV-T2, WV-S4 and WV-P5]*

WV-D3 – Resist inappropriate development which will create a persistent and dominant feature out of keeping with the landscape of the AONB and/or if it damages Special Qualities in the AONB, including through high levels of noise and/or light pollution or any SAC, SPA or Ramsar site or other sites designated as environmentally important. *[see also WV-L3, WV-F3, WV-U1, WV-U3, WV-T2 and WV-S4]*

Kings Caple Neighbourhood Plan

- 6.10 The made Kings Caple NDP has consistency and conformity with the Herefordshire Core Strategy and has a defined settlement boundary. Outside of the settlement boundary Policy H2 states proposals must comply with the criteria of Herefordshire Core Strategy Policy RA3; such proposals for development will not be supported if located on sites where the visual sensitivity of the site is high or very high.

Assessment

- 6.11 This is an interesting and somewhat unique situation where there is a policy conflict tension however a pragmatic approach represents a better solution. It is suggested a hard line policy approach undermines wider aims and objectives with regards the safeguarding and enhancing the character and appearance of the AONB and achieving sustainable design quality aims and objectives.
- 6.12 The proposal is a proposed erection of replacement dwelling and garage offsetting a CLUED for residential use on an adjoining backland site and relocating residential use on to what is considered in landscape terms, a better location for a dwelling.

- 6.13 The site to which the Certificate of Lawfulness for Existing Use or Development (CLUED) relates is located to the north of the application site comprising a rectangular parcel of land encompassing the plot width of Fawley Orchard and the application site served by vehicular access adjoining and to the rear of Fawley Orchard. The Council was satisfied that the chalet still in situ was used as a dwellinghouse for the four years preceding the CLUED application and as such the use was regularised under reference DCSE20043765/U conferring lawful use as *Use of chalet for residential accommodation as a single dwelling house*.
- 6.14 The application site is vacant and unused and adjoins the highway. Development of this site relies upon effectively a 'land swap' whereby adjacent land under the applicants' ownership which benefits from lawful residential use is given up to develop an alternative site. A Section 106 legal agreement would secure the 'swap' and ensure an additional dwelling was not gained. Notwithstanding the tension with Policy RA3 and as such NDP policy H2 it is considered the proposal complies with the spirit of these policies. Furthermore, it is considered this in principle, has significant benefits to the character and appearance of the AONB and character and amenity hereabouts as follows
- Amends the existing lawful situation so development reflects the prevailing development pattern hereabouts, namely development fronts the road
 - Enables landscape and biodiversity enhancements through the uses of the land involved being reconfigured and reclassified and new planting secured
 - Better inter relationship with adjoining land uses and dwellings
- 6.15 The site which benefits from the Certificate of Lawfulness is a backland site and relatively unkempt. Development here through parlaying the CLUED into a replacement dwelling under policy RA3, whilst acceptable, would undermine and detract from the clear historic development pattern hereabouts of dwellings fronting the rural lanes in isolated or small pockets of linear development.
- 6.16 The proposed site, however, fronts the rural lane and represents a natural infill site which would replicate and reinforce the character and pattern of development. A higher quality solution is also achievable vis-à-vis design and impact upon adjoining land uses.
- 6.17 The proposal also allows for the betterment of the CLUED site and enhanced, appropriate landscaping, planting and biodiversity benefits. The application is an outline application, however to ensure some degree of consistency with policy RA3 criterion 3 the replacement of an existing dwelling (with a lawful residential use) that is comparable in size and scale with, and is located in the lawful domestic curtilage, of the existing dwelling a condition limiting the size of the dwelling to 100sq metres is proposed.
- 6.18 The planning history and appeal decisions referenced above are noted, however these relate to stand alone new development and an incomparable situation to the one considered here. As such there is minimal relevance to the assessment and determination of this application except to note the landscape and locational characteristics and presumption against development hereabouts unless exception policies apply.
- 6.19 On the basis of the above, the significant and material benefits of the proposal outweigh, in this case, the conflict with Core Strategy policies RA2 and RA3 and the Kings Caple Neighbourhood Plan. The character and appearance of the Wye Valley AONB and countryside hereabouts would be enhanced, the amenity of adjoining dwellings enhanced and a modest dwelling secured beneficial to the provision of accommodation in the rural locality. On this basis and the compliance with Core Strategy policies SS1, SS6, LD1, LD4 and SD1, and the relevant aims and objectives of the CROW Act, Wye Valley AONB Management Plan and National Planning Policy Framework, approval is recommended.

RECOMMENDATION

That subject to the completion of a Section 106 Town & Country Planning Act 1990 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. C02 – Time limit for submission of reserved matters (outline permission)
2. C03 – Time limit for commencement (outline permission)
3. C04 – Approval of reserved matters
4. C05 – Plans and particulars of reserved matters
5. C07 – Development in accordance with approved plans and materials
6. H09 Driveway gradient
7. H13 Access, turning area and parking
8. H20 Road completion in 2 years
9. H27 Parking for site operatives
10. H29 Secure covered cycle parking provision
11. 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 ONE bat roosting enhancements (habitat boxes, tubes, tiles, bat bricks, raised weatherboarding); TWO bird nesting boxes, ONE Hedgehog House 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; and shall be maintained hereafter as approved unless otherwise agreed in writing by the LPA.

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

12. The dwelling hereby approved shall be limited to a gross internal floor area of 100sq metres, including all internal spaces.

Reason: In order the dwelling, which is essentially a replacement residential use, is commensurate with the lawful residential use the development replaces, in order to comply with the requirements of Herefordshire Core Strategy policy RA3, and in order to safeguard the character and appearance of the locality and one which is within an Area of Outstanding Natural Beauty and to comply with Herefordshire Core Strategy policies SS1, SS2, RA1, LD1 and SD1, The Wye Valley AONB Management Plan and 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.
2. HN01 Mud on highway
3. HN04 Private apparatus within highway
4. HN10 No drainage to discharge to highway
5. HN24 Drainage other than via highway system
6. HN28 Highways Design Guide and Specification
7. It is suggested advice should be sought from an appropriately experience ecologist or bat worker. Habitat boxes should be suitably hard wearing and durable eg Schwegler woodcrete, Greenwood habitat's 'ecostyrocrete' 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).

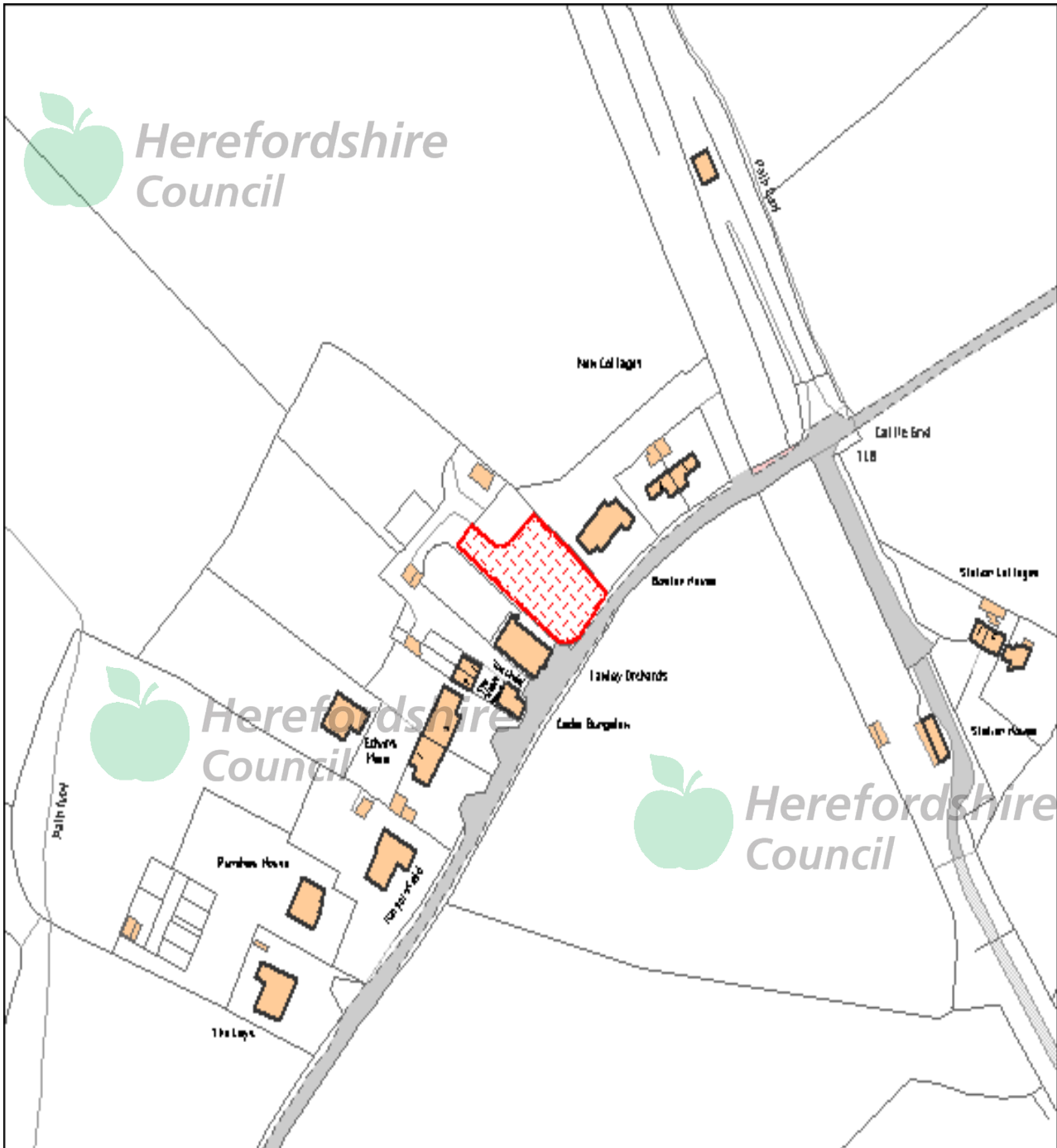
Decision:

Notes:

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