

# Agenda

## Planning and regulatory committee

Date: **Wednesday 27 February 2019**

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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:

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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**

**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 EL Holton**  
**Councillor TM James**  
**Councillor MD Lloyd-Hayes**  
**Councillor FM Norman**  
**Councillor AJW Powers**  
**Councillor NE Shaw**  
**Councillor WC Skelton**  
**Councillor SD Williams**

## 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 declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.</p>	
4.	<p><b>MINUTES</b></p> <p>To approve and sign the minutes of the meetings held on 23 January 2019.</p>	11 - 50
5.	<p><b>CHAIRPERSON'S ANNOUNCEMENTS</b></p> <p>To receive any announcements from the Chairperson.</p>	
6.	<p><b>183841 - CAR PARK, STATION APPROACH, HEREFORD.</b></p> <p>Hybrid application including a full application for student accommodation, comprising 178 no. Bedrooms, including hard and soft landscaping and an outline application for a standalone ancillary commercial element.</p>	51 - 126
7.	<p><b>174097 - MILE END, BROAD LANE, LEOMINSTER, HEREFORDSHIRE, HR6 0AL</b></p> <p>Retrospective permission for the use of the land for wood chipping with wood storage yard and buildings to include; office building, chip stores, drying floor, fan house and boiler house with biomass plant to generate 80kw of electricity.</p>	127 - 162
8.	<p><b>183083 - MAGNOLIA FARM, CANON BRIDGE, HEREFORD, HR2 9JF</b></p> <p>Use of agricultural buildings and land to residential development (use class c3). Including demolition, conversion and extensions of agricultural buildings to form 3 no. Dwellings.</p>	163 - 184
9.	<p><b>180573 - LAND AT SHUTTFIELD COPPICE, STORRIDGE, MALVERN</b></p> <p>(Retrospective) storage building.</p>	185 - 194
10.	<p><b>DATE OF NEXT MEETING</b></p> <p>Date of next site inspection – 12 March 2019</p> <p>Date of next meeting – 13 March 2019</p>	





## **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).
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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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You should vacate the building in an orderly manner through the nearest available fire exit and make your way to the Fire Assembly Point in the Shire Hall car park.

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 EL Holton	Herefordshire Independents
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 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.

### How an application is considered by the Committee

The Chairperson will announce the agenda item/application to be considered, invite public speakers to move from the public gallery and take their seats in the council chamber, and explain any particular procedural matters relevant to the application.

The case officer will then give a presentation on the report.

The public speakers will then be invited to speak in turn (Parish Council, objector, supporter). Having spoken they will be asked to return to the public gallery. (see further information on public speaking below.)

The local ward member will be invited to start the debate (see further information on the role of the local ward member below.)

The Committee will then debate the matter.

Officers are invited to comment if they wish and respond to any outstanding questions.

The local ward member is then invited to close the debate.

The Committee then votes on whatever recommendations are proposed.

### 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.

#### **Role of the local ward member**

The ward member will have an automatic right to start and close the member debate on the application concerned, subject to the provisions on the declaration of interests as reflected in the Planning Code of Conduct (Part 5 section 6).

In the case of the ward member not being a member of the Committee they would be invited to address the Committee for that item.

In the case of the ward member being a member of the Committee they move to the place allocated for the local ward member to sit, do not vote on that item, and act as the ward member as set out above.

To this extent all members have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Committee concerned.



**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 23 January 2019 at 10.00 am**

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

**Councillors:** BA Baker, CR Butler, PJ Edwards, KS Guthrie, TM James, MD Lloyd-Hayes, FM Norman, AJW Powers, NE Shaw and SD Williams

**In attendance:** Councillors EPJ Harvey, JG Lester, D Summers and EJ Swinglehurst

**96. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors DW Greenow, EL Holton and WC Skelton.

**97. NAMED SUBSTITUTES**

None.

**98. DECLARATIONS OF INTEREST**

**Agenda items 6 and 7: 182191 and 182347 – Lodge Farm, Monkton Farm Lane, Ocle Pychard**

Councillor MD Lloyd-Hayes declared an other declarable interest because she knew some of the objectors.

Councillor FM Norman declared an other declarable interest because she knew some of the objectors.

Councillor AJW Powers declared an other declarable interest because he knew two of the public speakers.

**Agenda item 8: 182775 – Land to the north of the Royal Arms, Llangrove**

Mr K Bishop, Lead Development Manager declared an other declarable interest because the applicant's agent had at one time worked for the authority's planning department.

**Agenda item 9: 172076 – Land adjacent to Herriot Cottage, Glewstone**

Councillors Cutter, Hardwick and Swinglehurst declared other declarable interests as members of the Wye Valley AONB Joint Committee.

Councillor SD Williams declared an other declarable interest as he had at one time lived at Withington.

**99. MINUTES**

**RESOLVED:** That the minutes of the meetings held on 18 December 2018 be approved as a correct record and signed by the Chairman.

**100. CHAIRPERSON'S ANNOUNCEMENTS**

None.

**101. 182191 - LODGE FARM AND HIGHWAY FARM, MONKTON FARM LANE, OCLE PYCHARD, HEREFORDSHIRE**

*(Proposed erection of polytunnels for strawberry table top production and the necessary infrastructure, including internal farm access tracks, a sustainable drainage scheme with attenuation ponds, seasonal worker accommodation and facilities, fruit chiller, cold store and loading bay with landscaping and environmental enhancement measures.)*

The Principal Planning Officer (PPO) 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.

She highlighted a correction that the proposed polytunnels would cover 35.06 hectares rather than 37.02 hectares as set out in the report.

In accordance with the criteria for public speaking, Mr G Blackmore of Ocle Pychard Parish Council spoke in opposition to the Scheme. Mr R Williams spoke in objection on behalf of the Campaign to Protect Rural England and local residents. Mr G Leeds, the applicant, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor JG Lester, spoke on the application. He made the following principal comments:

- The applicant had held a comprehensive consultation event.
- Polytunnels were a necessary part of modern soft fruit production. The application did have economic benefits. However, these had to be weighed against the negative impacts on the local community.
- There had been 17 letters of support. However, there had been objections from the Parish Council, two neighbouring parish councils, the Campaign to Protect Rural England, a petition, and over 200 individual letters of objection. This demonstrated the local community was opposed to the application.
- There was concern about the impact on the highway network. The proposal would create 23 full time jobs and work for over 300 temporary workers. Even though the applicant proposed to provide buses to transport agricultural workers to amenities there would be a significant impact on a narrow lane currently used by a few households.
- The size and width of the polytunnels was considerable and would have a significant impact. They would be in place for some 9 1/2 months. They would use 30 hectares of farmland.
- The Landscape Officer, as set out at paragraphs 4.6 and 6.53 of the report, had concluded that the impact of the development would not be significant. This was based on the view that polytunnels and caravans were temporary in nature and could be removed. However, a judgment on whether something was temporary or not should be based on how long it would be in place, not on how easy it was to remove it. There was no time limit on the proposed operation. Insufficient weight had been given to the adverse impact the Polytunnels would have on the environment.



- In addition insufficient weight had been given to the impact of the presence of 330 seasonal workers whose accommodation was in proximity to existing residents. However sound the management arrangements the applicant put in place there would be an impact.
- The Ocle Pychard Neighbourhood Development Plan could be afforded significant weight. The proposal was contrary to policy OPG1 and could not be considered sustainable development given the need to transport some 300 people by bus to Hereford to shop.
- It was also contrary to policy OPG11. The proposal would cover over 30 hectares with polytunnels. This could not be considered to protect, conserve or enhance the natural environment. It also did not meet the requirements of OPG 13
- It did not comply with the requirement in Core Strategy Policy RA6 that developments should be commensurate with their location and setting and not have unacceptable adverse impacts to the amenity of nearby residents.
- He acknowledged the need for polytunnels and seasonal workers to realise the economic benefits of soft fruit production. However, the scale of the proposal, located in the heart of Ocle Pychard, would have an adverse effect on the whole local community and was unacceptable to it.

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

- There would be an economic benefit. However, there would also be a negative impact on the landscape with the change from fields being used for dairy and arable farming to land covered by polytunnels.
- A key consideration was the extent to which the application could be considered to comply with Policy RA6.
- The investment the applicant had to make was considerable and the scale of the development was likely to be commensurate with that.
- The provision of mature screening would be important. It would also be beneficial to wildlife and horse riders if a suitable hedgerow could be provided along the field side of the bridleway where it passed through the polytunnels. It was requested that this be conditioned.
- The scale of the development was too large and its impact was significant. A Member observed that permission had, however, been given for larger developments of this nature.
- The weight of local objection was noted and the reasons for Ocle Pychard Group Parish Council's objection as set out at paragraph 5.1 of the report were highlighted.
- The applicant had sought to reduce the visual impact.
- The proposal in an agricultural area was consistent with policy.
- There was no need to use grade 2 agricultural land for the growing method proposed.
- Reservations were expressed about the quality of accommodation to be provided for the seasonal workers to live in for several months.
- Concern was expressed about the possible impact on tourism.
- In terms of the highway impact account needed to be taken of the use that workers would make of taxis.
- Whilst there were references to the proposal being temporary, there was no time limit on the development

- The economic benefit was uncertain and the proposal clearly failed to provide social and economic benefits. A number of appeals, locally and nationally, against refusal of permission for developments of this nature had been dismissed by inspectors. One inspector had commented that the planning system was there to protect the public rather than private interests. It was proposed that the application should be refused on the grounds that it was contrary to paragraphs 75 and 112 of the National Planning Policy Framework, CS policies SS6 RA3, RA6, LD1, E1 and E4, and OPG NDP policies 1, 7, 11 and 13.

In response to questions raised the PPO commented:

- The feasibility of increasing the width of the public right of way and bridleway governed by condition 22 would need to be investigated if Members wished this to be pursued.
- She was not aware that there had been any progress in developing other colours of plastic for use on the polytunnels and did not know of any instances of such use in the county.
- Additional planting could be considered within the recommended condition in relation to a landscaping scheme.
- The application had been reduced in scale from the original proposal. Officers considered that it did meet the requirements of policy RA6.
- Water quality monitoring would be undertaken by the applicant and considered by the council and the River Lugg Internal Drainage Board.
- Condition 13 provided for the caravans and polytunnels to be removed in certain circumstances confirming their temporary status.
- She clarified the basis on which a reservoir on the site, referred to at paragraph 3.2 of the report, had received planning approval. The Lead Development Manager commented that this matter did not form part of the application.

The Lead Development Manager commented that appeal decisions in the county had been quite supportive of the development of polytunnels and their economic benefits and this had been given weight in a number of previous cases in the county. He acknowledged the views expressed by several members that the adverse social and economic benefits outweighed the economic benefits of the application before them. However, he cautioned, that there were no objections to the proposal from officers and the Landscape Officer had commented that she considered the impact on the landscape to be moderate adverse. Policy grounds for refusal had been identified in the debate. However, he noted that some policies within the OGP NDP could be quoted in support of the application and the matter had to be considered in the round.

The local ward member was given the opportunity to close the debate. He did not agree with the view that the impact of the proposal was minimal. He considered that more weight should be given to this aspect of the proposal and this approach would be in line with the relevant policies. The sheer scale of the proposal was not commensurate with the local setting as those policies indicated a proposal of this nature should be.

A motion that the application be refused on the grounds that it was contrary to paragraphs 75 and 112 of the National Planning Policy Framework, CS policies SS6 RA3, RA6, LD1, E1 and E4, and OPG NDP policies 1, 7, 11 and 13. was lost on the Chairperson's casting vote.

Councillor Baker proposed and Councillor Shaw seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried

on the Chairperson's casting vote there having been 4 votes in favour, 4 against and 4 abstentions.

**RESOLVED:** 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 approved plans**  
**Pre-Commencement Conditions**
3. **G11 Landscaping scheme – implementation**
4. **G14 Landscape management plan**
5. **The recommendations for species and habitat enhancements set out in the ecologist's report from Chris Seabridge and Associates dated July 2018 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 any protected species present together with an enhancement plan integrated with the landscaping scheme should be submitted to the local planning authority in writing prior to any works commencing on site. The plan shall be implemented as approved.**

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

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

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

- 6 **Prior to the first occupation of any of the caravans hereby approved a 'Site Management Plan' which clearly sets out the arrangements for the use and occupation of the development hereby approved (to include amongst other issues; provision of recreation facilities, contact details and address of caravan site manager, type and position of the accommodation units, the maintenance of buildings and common areas, litter collection and disposal, recreation and leisure provision including the control of amplified music, lighting, car parking arrangements) shall be submitted to and approved in writing by the local planning authority. The operation and use of the site shall thereafter be in accordance with the approved management plan.**

**Reason: In the interests of amenity of nearby residents and to ensure compliance with PolicySD1 of the Herefordshire Local Plan Core Strategy 2011-2031**

**7 No development approved by this permission shall be commenced/occupied until a the following information has been submitted to and approved in writing by the Local Planning Authority:**

- 1. Detailed drawings of proposed surface water attenuation features, wetlands and outfall structures;**
- 2. Demonstration that an appropriate Panel Engineer has been consulted in the design of proposed attenuation features with capacity greater than 10,000m<sup>3</sup> set above the natural level of the surrounding land; and assessment of potential failure of above-ground attenuation features, including assessment of residual risks to downstream receptors, and proposed mitigation and management measures;**
- 3. Detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system, including conveyance systems;**
- 4. Detailed drawings of the foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features;**
- 5. If infiltration of foul water is proposed to be discharge to the ground, infiltration rates at the location(s) and proposed depth(s) of any proposed foul water drainage fields, undertaken in accordance with BS6297 and Building Regulations Part H;**
- 6. Demonstration that the risk of water backing up the surface water drainage system from any proposed outfall has been considered and, if necessary, how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves;**

**The approved details shall be implemented before the first use of the development here by approved and maintained throughout the life time of the development hereby approved.**

**Reason: in order to secure satisfactory drainage arrangements are provided and to comply with Polices SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**8 E01 Site investigation - archaeology - It would be secured via 'programme of work'.**

**9 I33 External lighting**

**10 H03 Visibility splays – Highways Farm Access**

**11 H05 Access gates**

**Restrictive conditions**

**12. In the event that the polytunnel development hereby approved in the opinion of the local planning authority ceases to be functionally used, the polytunnels and all associated infrastructure shall be removed from the site within 9 months of the local planning authority indicating to the applicant that the polytunnels have ceased to be operational the land restored to its former condition.**

**Reason: In the interest of visual amenity and to comply with policy LA1 of the Herefordshire Local Plan Core Strategy 2011- 2031**

- 13** In the event that the polytunnel development hereby approved in the opinion of the local planning authority ceases to be functionally used, the use of the land to house seasonal workers accommodation shall also cease. Subsequent to this and within 12 months of the local planning authority indicating to the applicant that the polytunnels have ceased to be operational all units of accommodation including ancillary buildings or structures on the site shall be removed and the land restored to its former condition.

**Reason:** The local planning authority would not have granted planning permission for this use unless it was required in support of the polytunnel development hereby approved as it would have been contrary to policy RA3 of the Herefordshire Local Plan Core Strategy 2011- 2031.

- 14** The occupation of the accommodation hereby permitted shall be limited solely to persons employed by Withers Farm Ltd to work on land at Ocle Pychard, and shall be limited to providing accommodation for no more than 330 workers at any one time, and subject to a maximum number of 72 static caravans stationed on the land at any one time. For the avoidance of doubt the development hereby permitted shall not at any time be occupied as a sole or principal residency by any individual or group of individuals.

**Reason:** Planning permission has only been granted having consideration for the needs of the proposed agricultural enterprise to operate at Lodge Farm and Highway Farm in Ocle Pychard, and to maintain control over the scale of accommodation provided in order to clarify the terms of this planning permission to conform with Policy RA3 of the Herefordshire Local Plan Core Strategy 2011-2031.

- 15** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking and re-enacting that order with or without modification, no caravans or any other form of habitable accommodation shall at any time be placed on the land which is under the control and/or ownership of the applicant as defined by drawing no. PL – 01 Land Ownership Plan, other than the 72 identified on PL-15 (Lodge Farm Landscaping details – dated 31-10-18)

**Reason:** In order to clarify the terms of this planning permission and to maintain control over the scale of accommodation provided in the interests of visual and residential amenity to conform with the Herefordshire Unitary Development Plan.

- 16** The seasonal polytunnels hereby permitted shown on drawing PL – 04A Rev 2 (dated 16-5-2018) in fields A12, A11, A8, A3, A2 and A1 shall only be covered in polythene between 1st February and 15th November in any calendar year, unless otherwise agreed in writing by the local planning authority.

**Reason:** To ensure that the polytunnels hereby permitted are not covered in polythene outside the growing periods, thus ensuring that the visual impact is reduced in accordance with policy LA2 of the Herefordshire Unitary Development Plan, Guideline 6 of the adopted Polytunnel Supplementary Planning Document and having regard to the aims of the National Planning Policy Framework.

- 17 Unless otherwise agreed in writing by the local planning authority, none of the seasonal polytunnel in fields A12, A11, A8, A3, A2, and A1 shall exceed more than 4.5 metres in height above existing ground level. No year round polytunnel in fields A10, A7, A5, A4, A1 and A2 shall exceed 5.2metres in height above the existing ground level.

Reason: To control the impact of the development within the landscape in accordance with policy LA2 of Herefordshire Unitary Development Plan 2007.

18. A buffer zone shall be installed around T5 of 15m positioned in field A12 to ensure the development does not detrimentally affect the tree condition and shall be maintained for the lifetime of the development.

Reason

To comply with part 11 National Planning Policy Framework recommendations – Conserving and Enhancing the Natural Environment.

- 19 Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan: Agricultural Development at Ocle Pychard Ecological Enhancement & Resource Protection Policy May 2018.

Reason

For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance and National Planning Policy Framework.

20. Except where otherwise stipulated by condition, the development shall be carried out in accordance with the Fruit Traffic Management Plan dated December 2018 unless agreed in writing by the Local Planning Authority.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

21. G02 – Retention of existing trees and hedgerows

22. To ensure the public right of way and bridlepath is not obstructed and to conform with the requirements of Policy MT1 there shall be no polytunnel erected within 2 metres of the centre line of any public right of way and no polytunnel sited within 3 metres of the centre line of the bridleway.

Reason: To ensure that that the enjoyment of the PROW and Bridlepath is not harmed and to conform with the requirement of Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

23. Prior to the occupation of any of the seasonal workers caravans hereby permitted, detailed plans and an amenity strategy shall be submitted to and approved in writing by the local planning authority which shall include, but not be limited to the following;
- Internal arrangement of the amenity building,
  - Construction details required, which should also include noise attenuation measures ;

- The hours of use which the employees will be able to access the facilities; and
- Details of any external lighting required to amenity area.

The development shall be carried out in accordance with the provisions of the approved plans and details.

**Reason:** In order to protect the residential amenity of adjacent properties and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

The buildings forms an integral part of the visual environment and this condition is imposed to ensure that the development conforms preserves and conforms to the requirements of Policies SD1 and LD1 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. 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. HN01 – Mud on Highway
3. HN04 – Private Apparatus within Highway
4. HN05 - Works within the Highway
5. HN10 – No drainage to discharge to Highway
6. The applicant's attention is drawn to the comments received by the Lugg Drainage board and the requirements of the Bye Laws and S15 OF THE Land Drainage Act 1991 to leave a permanent 9 metre access strip along the Little Lugg, Kymin Section, Lateral No. 2 within the development site, for watercourse maintenance purposes. The written consent of the Board must be obtained for any structure or tree planting within 9m of any Board controlled watercourse measured from the top of the bank or on the landward side of any embankment. Clear unimpeded access for heavy plant is required to and throughout the maintenance area. Any works must not compromise the stability of the bank or create a gradient of more than 1:20 towards the watercourse
7. HN02 Public rights of way affected
8. N11C General Wildlife and Countryside Act 1981
9. N18 European Protected Species
10. The applicants are reminded that they are required to completed an application for Ordinary Watercourse Consent for any proposed structures

**within an ordinary watercourse or works within 8m of an ordinary watercourse**

- 11 In relation to condition 23 above, the applicants are advised that should the Local Planning Authority form the opinion that the proposed alterations and changes are of such a scale and form that they alter the character and appearance of the building then a separate planning application could be required.**

*(The meeting adjourned between 11.35am – 11.50 am)*

**102. 182347 - LODGE FARM, MONKTON FARM LANE, OCLE PYCHARD, HR1 3QQ**

*(Proposed change of use of agricultural buildings to provide two units of farm managers accommodation, residential curtilage and parking.)*

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

In accordance with the criteria for public speaking, Mr G Blackmore of Ocle Pychard Parish Council spoke in opposition to the Scheme. Mr G Leeds, the applicant, spoke in support.

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

He noted that the Parish Council had expressed concern about potential conflict with the Neighbourhood Development Plan. However, he considered that the proposal appeared to sit within Core Strategy policy RA5. It represented good use of agricultural buildings for accommodation. The objections received related to the overall development that had been the subject of the previous agenda item (application 182191). He had no objections in principle to the proposal.

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

- The proposal was consistent with policy RA5.
- It was proposed that in considering approval of the roofing material a condition should be added requiring the provision of bat tiles.
- It was questioned whether the positioning of the mature landscaping proposed meant there was enough space for it to be implemented. The PPO commented that officers would seek to ensure implementation in accordance with the plan accompanying the application.
- It was questioned why the application had not been considered as part of application 182191, the subject of the previous agenda item.

The Lead Development Manager commented that the application was in accordance with Neighbourhood Development Plan policy OPG 2 and with Core Strategy policies RA3 and RA5.

The PPO commented in relation to a suggestion that an agricultural tie should be imposed that condition 5 imposed restrictions on occupation of the dwelling.

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



Councillor Shaw proposed and Councillor Baker seconded a motion that the application be approved in accordance with the printed recommendation with the provision of bat tiles. The motion was carried with 12 votes in favour, none against and no abstentions.

**RESOLVED: 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 approved plans**
3. **C01 Samples of external materials**
4. **F14 Removal of permitted development rights**
5. **The occupation of the dwellings (unit A and Unit B) hereby permitted shall be limited to a person solely or mainly employed or last employed in the business occupying the buildings and land edged in blue on land ownership plan ref. OCLE PYCHARD PL-01 dated 24-05-18**

**Reason: In order to conform with Policy SD1 of the Herefordshire Local Plan – Core Strategy, OPG13 of the Ocle Pychard Neighbourhood Plan and the National Planning Policy Framework so as to safeguard the residential amenity of the occupants.**

6. **Prior to the commencement of development, a detailed drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include / address the following;**
  1. **Detailed drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system, including conveyance systems;**
  2. **Detailed drawings of the foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features;**
  3. **If infiltration of foul water is proposed to be discharge to the ground, infiltration rates at the location(s) and proposed depth(s) of any proposed foul water drainage fields, undertaken in accordance with BS6297 and Building Regulations Part H;**
  4. **Confirmation of ongoing management of drainage systems.**

**The drainage strategy shall be implemented before the first occupation of the dwellings hereby approved and maintained thereafter in accordance with the approved details.**

**Reason: in order to secure satisfactory drainage arrangements are provided and to comply with Polices LD2, SD3 and SD4 of the Herefordshire Local Plan – Core Strategy, Policy OPG11 of the Ocle Pychard Neighbourhood Development Plan and the National Planning Policy Framework.**

7. **The recommendations for species and habitat enhancements set out in the ecologist's report from Chris Seabridge and Associates dated July 2018 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 any protected species present together with an enhancement plan integrated with the landscaping scheme should be submitted to the local planning authority in writing. The plan shall be implemented as approved.

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

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

To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031, Policy OPG11 of the Ocle Pychard Neighbourhood Development Plan and to meet the requirements of the National Planning Policy Framework (NPPF).

8. I16 Restriction of hours during construction
9. I42 Scheme of refuse storage (residential)

**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. HN10 No drainage to discharge to highway
3. HN01 Mud on highway
4. N11A Wildlife and Countryside Act 1981
5. N18 European Protected Species Licence

**103. 182775 - LAND TO THE NORTH OF THE ROYAL ARMS, LLANGROVE, HEREFORDSHIRE**

*(Proposed erection of five residential dwellings (C3) along with associated parking, roads, new highway access and associated infrastructure.)*

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr A McRobb, of Llangarron Parish Council spoke on the Scheme. Mr P Nottage, a local resident, spoke in objection. Mr M Tompkins, the applicant's agent, spoke in support.

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

She made the following principal comments:

- She acknowledged the efforts made by the applicant to seek to meet local concern. However, local concern remained.
- There had been 28 letters of objection. She had received a phone call in support that she had been asked to bring to the committee's notice.
- There was local concern about the intensification of housing in the village reaching a point where it was starting to feel congested. The Neighbourhood Development Plan had limited weight leading to frustration at the level of local control of development.
- There was concern about the capacity of the road network, specifically the road from Llangarron to Whitchurch, noting the cumulative impact in conjunction with another development for 18 houses that already had approval.
- Pedestrian safety within the village was an issue and she highlighted the Transportation Manager's comments on the benefit of footway provision.
- Concerns had been expressed about sewage treatment plant capacity. She noted that Welsh Water had had no objection to the application.
- There was also concern about surface water run-off from what was a sloping site. The proposed mitigation was a balancing pond. However, she had concerns about the outfall and the ongoing maintenance.
- She highlighted the comments of the Conservation Manager at paragraph 4.4 of the report that the removal of a hedge to provide visibility splays would dramatically alter the character of the western end of the settlement, making the approach suburban in character and not reflective of Llangrove's distinctiveness.
- The owner of the Royal Arms public house adjoining the site had concern that the development would change its character, losing its unique selling point as a country pub. There was also concern about disruption during the construction phase. She hoped it would be possible to store and move material from one field to another within the applicant's land holding avoiding having to use the road, so protecting the pub and the village from disruption.
- There was a possibility that proximity of the development to the pub would lead to complaints from the new residents.
- In order to provide the visibility splay the hedge could not be retained. However, she requested that consideration be given to setting it back and replanting, with the footway internally to that, both to increase pedestrian safety and to connect to the open space and the village.
- She endorsed the Parish Council's request that the planting be as early as possible with trees as mature as it was feasible to use.

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

- It was noted that the applicant had responded to local concerns and sought to address them, for example by reducing the number of dwellings and amending the layout.
- The landscaping was a key issue. There was support for translocation of some of the hedgerow at the front of the lane opposite the public house assisting it to retain the character of a village pub. It was also suggested that a walkway could be provided in combination within the hedge.
- The planting scheme was important to maximise the appearance of the scheme and minimise the loss of amenity and views of the pub in the short term as well as the long term and protect it as a community asset.

- The pub had suffered during the construction of another development. It appeared that it might be possible to reduce the impact of construction works associated with the proposed development by storing and moving material from one field to another within the applicant's landholding and this should be pursued.
- There was concern about use of the Llangarron to Whitchurch Road as a rat-run.
- There was a need for improved pedestrian facilities where possible.
- It was requested that bat tiles be required.

The Lead Development Manager commented that hedge could be translocated. He noted that part of the hedge on the entry to the village was to be retained.

With regard to a question as to whether the hedge could be retained in situ until those properties opposite the pub had been constructed, so reducing the impact of construction, he commented that this would probably be difficult because the visibility splays would have to be created to enable safe access to the site.

He was concerned that providing a short length of footpath would not be in keeping with the character of the village.

There was scope to locate the site compound in a way that reduced the impact on the pub through condition 13. An additional condition could be added covering hours of working.

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

Councillor Edwards proposed and Councillor Guthrie seconded a motion that the application be approved in accordance with the printed recommendation with an additional condition that the hedgerow be moved back. The motion was carried with 11 votes in favour, none against and 1 abstention.

**RESOLVED: 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. **Development in accordance with the approved plans**
3. **All foul water from the dwellings approved under this Decision Notice shall discharge through a connection to the local Mains Sewer network unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2 and SD4.**

4. **Surface water will be managed through an appropriate Sustainable Drainage System (SuDS) and soakaway system within the development site on land under the applicant's control. The surface water management system shall be implemented and hereafter maintained as approved unless otherwise agreed in writing by the Local Planning Authority.**

**Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2 and SD3.**

5. **The ecological protection, mitigation, compensation and working methods scheme including the detailed biodiversity enhancements as recommended**

in the submitted ecology report by AVA Ecology dated July 2018, along with the use of bat tiles and or boxes, are incorporated into each dwelling shall be implemented in full as stated unless otherwise approved 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 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

6. **Prior to commencement of any site clearance or works on site a detailed hedgerow translocation and establishment plan; and a Wildlife Pond Method and Management Statement, should be supplied to this planning authority for approval. The approved plans shall be implemented in full as stated 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 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

7. **H03 - Visibility splays, 2.4m X 42m eastbound, 35m x 2.4m westbound**
8. **H06 - Vehicular access construction**
9. **H09 - Driveway gradient**
- 10 **H13 - Access, turning area and parking**
- 11 **H20 - Road completion in 2 years**
- 12 **H21 - Wheel washing**
- 13 **H27 - Parking for site operatives**
- 14 **H29 - Secure covered cycle parking provision**
- 15 **C01 - Samples of external materials and finishes**
- 16 **F14 - Removal of permitted development rights**
- 17 **F16 - No new windows, dormers or rooflights in any elevation or roof slope**
- 18 **G02 - Retention of trees and hedgerows**
- 19 **G04 - Protection of trees/hedgerows that are to be retained**
- 20 **G10 - Landscaping scheme**
- 21 **G11 - Landscaping scheme – implementation**
- 22 **G14 - Landscape management plan**
- 23 **G15 - Landscape maintenance arrangements**

**24 G16 - Landscape monitoring**

**25 During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.**

**Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

**INFORMATIVES:**

- 1. IP1 - Application approved without amendment**
- 2. HN01 - Mud on highway**
- 3. HN04 - Private apparatus within highway**
- 4. HN05 - Works within the highway**
- 5. HN10 - No drainage to discharge to highway**
- 6. HN24 - Drainage other than via highway system**
- 7. HN28 - Highways design guide and specification**

**104. 172076 - LAND ADJACENT TO HERRIOT COTTAGE, GLEWSTONE, ROSS-ON-WYE**

*(Site for proposed erection of nine dwellings. Construction of new vehicular access, turning area and private roads. Layout and construction of associated works.)*

*(Councillor James had left the meeting and was not present during consideration of this application.)*

The Principal Planning Officer (PPO) gave a presentation on the application.

In accordance with the criteria for public speaking, Mr A Cronshaw a local resident, spoke in objection. Mr S Barton, spoke in support on behalf of the applicant's agent.

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

She made the following principal comments:

- The application site was within the Wye Valley AONB. As such it had to be considered under paragraph 172 of the NPPF and required great weight to be given to conserving and enhancing the landscape. The proposal was contrary to paragraph 172 of the NPPF and Core Strategy policies SS6 and LD1 and should be refused.
- The Landscape Officer had commented that the proposal did not comply with LD1, referencing the engineering works to facilitate the access in conjunction with the loss of hedgerow.
- There were landscaping schemes in mitigation. The residual harm would have to be weighed against the scheme's benefits.

- Tranquillity and darkness were other aspects of an AONB that should be considered. Consideration should be given to controlling any proposed use of passive infrared sensor lighting that would urbanise the area.
- Glewstone was classified as an RA2 settlement despite completely lacking amenities (no bus service, no pub, no village hall, no church, no school). She questioned if the proposal was compliant with SS7 which stated development should be in sustainable locations seeking to reduce the need to travel by car. It appeared in conflict with RA2 (3) and SS4 which reflected this theme. There was no public transport. It was not safe to walk along the narrow lanes. It was not possible to cycle on the A40. There was no alternative to travel by car to reach any services. Much of Glewstone also lacked reasonable broadband access, a further issue of sustainability.
- Objectors were concerned about the safety of schoolchildren waiting for the school bus at the crossroads. A refuge had been offered in mitigation in response to views of the Area Engineer. The local view was that this was not sufficient.
- The site was in the AONB on rising ground and would have a landscape impact. That had to be weighed against the benefits. The mitigation would not offset the harm.
- If the Committee was minded to approve the application she requested that consideration should be given to the amenity and light of the neighbouring Herriot's cottage at the reserved matters stage along with external lighting and sustainable design.

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

- One view was that the site was in a hollow and the landscape impact on the AONB could be mitigated. A contrary view was that the proposal was intrusive in the AONB landscape. It was on a steep slope and would require considerable engineering works.
- Lighting and materials should be carefully considered at the reserved matters stage.
- Natural England had no objection.
- In relation to reserved matters, it was questioned how the ongoing management costs of the proposed community orchard would be met. Bat tiles should be considered at the reserved matters stage.
- Concern was expressed about the location's sustainability given the absence of local amenities. In addition, an Inspector had recently dismissed an appeal elsewhere on the grounds of sustainability given its lack of fast broadband.
- Highway safety was a concern noting the proposed provision of a pedestrian refuge. The PPO commented that a kerbed footway raised above the road level was proposed creating a platform within the land in highway control and the adjoining property wall.
- It was questioned whether the size of houses proposed met the area's needs.
- The site was not an RA2 settlement and was one of several examples that needed to be addressed in the scheduled review of the Core Strategy.

The Lead Development Manager commented that the Core Strategy identified the area as sustainable and suitable for proportionate growth under RA2. There was no Neighbourhood Development Plan.

He commented that the scope of the scheduled review of the Core Strategy had yet to be determined. It was expected that the review would take some years.

He clarified that at the time when an earlier appeal against refusal of permission had been dismissed the relevant policy had defined the site as being in the open countryside.

The application had some benefits such as the pedestrian refuge. The housing mix comprised single and two storey dwellings. The proposal could be viewed as organic growth. It was in keeping with the character of the area.

The local ward member was given the opportunity to close the debate. She commented that the key issue was the landscape impact on a site in the AONB and in her view this attracted greater weight than any benefits.

A motion that the application be approved was lost.

Councillor Lloyd Hayes proposed and Councillor Guthrie seconded a motion that the application be refused on the grounds that it was contrary to policy LD1, Paragraphs 15 and 172 of the NPPF and the Wye Valley AONB Area Management Plan. The motion was carried with 7 votes in favour, 4 against and no abstentions.

**RESOLVED: That planning permission be refused on the grounds that the application was contrary to policy LD1, Paragraphs 15 and 172 of the NPPF and the Wye Valley AONB Area Management Plan and officers named in the scheme of delegation to officers be authorised to detail the reasons for refusal.**

#### **Appendix - Schedule of Updates**

The meeting ended at 1.35 pm

**Chairman**



# **PLANNING COMMITTEE**

**Date: 23 January 2019  
Morning**

## **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

**182191 - PROPOSED ERECTION OF POLYTUNNELS FOR STRAWBERRY TABLE TOP PRODUCTION AND THE NECESSARY INFRASTRUCTURE, INCLUDING INTERNAL FARM ACCESS TRACKS, A SUSTAINABLE DRAINAGE SCHEME WITH ATTENUATION PONDS, SEASONAL WORKER ACCOMMODATION AND FACILITIES, FRUIT CHILLER, COLD STORE AND LOADING BAY WITH LANDSCAPING AND ENVIRONMENTAL ENHANCEMENT MEASURES. AT LAND AT LODGE FARM AND HIGHWAY FARM, MONKTON FARM LANE, OCLE PYCHARD, HEREFORDSHIRE,**

**For: Mr Leeds per Mr Phil Plant, Offley House, 18 Church Street, Shifnal, TF11 9AA**

### ADDITIONAL REPRESENTATIONS

Since the report was published a further 3 letters of objection have been received, all from previous objectors. A summary of the letters received is given below;

- Survey within ecological assessment of the hedge sited on the proposed reservoir site is inadequate as from our own surveys several other species have been identified.
- Extremely concerned about the impact on the wildlife, especially barn owls and their hunting ground, as well as many birds, all of which need extensive areas of open ground to hunt.
- The proposed development will have a detrimental impact on the setting of Ocle Pychard Church from The Green, which is within the Conservation Area of Ocle Pychard
- It is believed that the Officer report should have stated 307 objections

The agent for the application has also submitted a supporting letter which is summarised below;

- The site extends to approximately 145ha, with 35.74ha proposed for poly tunnels following a reduction in the site area from 37.02ha, due to ecological factors.
- The seasonal worker accommodation is temporary, and therefore the use of the land to site the caravans is a temporary use, and will not lead to the permanent loss of agricultural land. This is ensured through the appropriate use of condition 13 requiring the removal of the caravans in the event that the polytunnels cease to be functionally used.
- The applicant has provided the Planning Authority with a detailed Economic Need and Impact Statement detailing the very significant economic benefit to the farming business and to the wider economy by ensuring the on-going success of the local packhouse, Wye Fruits Ltd, and local trade suppliers to Withers Fruit Farm. Withers Farm Ltd currently employs 26 permanent staff in addition to George, Richard and Nicholas Leeds. The proposals will provide an estimated 23 additional, full time, permanent jobs in the business. These will be advertised locally for local people.

Whilst the seasonal fruit pickers are likely to be Eastern European workers, some of the skilled seasonal jobs such as tractor drivers and irrigation staff will also be advertised locally with the aim of employing local people wherever possible.

## **OFFICER COMMENTS**

The assessment and hedgerow referred to relate to application 181150 which was granted permission on 30<sup>TH</sup> May 2018 and does not form part of this application. This application proposes the translocation of a section of road side hedgerow at Highway Farm on the A465.

For clarification a total of 311 letters of objection have been received from a total of 265 objectors. A number of objectors have submitted more than 1 letter of objection. Since the report was published, a total of 3 of the letters notifying objectors of the committee have been returned confirming that the objector is 'not known' at the address given. The case officer has also taken a total of 5 telephone calls from 'objectors' confirming they never wrote in.

### ***Correction within the report***

- Paragraphs 1.11 and 1.13 should read 35.74ha of polytunnels (not 37.4ha)
- Paragraph 1.13 should identify 16.04ha of seasonal polytunnels covering the upper slopes (not 17.31ha)
- Paragraphs 6.71 Remenham House and Ocle Court are not listed buildings
- Condition 16 should read November 15<sup>th</sup>

## **NO CHANGE TO RECOMMENDATION**

**182347 - PROPOSED CHANGE OF USE OF AGRICULTURAL BUILDINGS TO PROVIDE TWO UNITS OF FARM MANAGERS ACCOMMODATION, RESIDENTIAL CURTILAGE AND PARKING. AT LODGE FARM, MONKTON FARM LANE, OCLE PYCHARD, HR1 3QQ**

**For: Mr Leeds per Mr Phil Plant, Offley House, 18 Church Street, Shifnal, TF11 9AA**

## **ADDITIONAL REPRESENTATIONS**

Since the report was published a further 3 letters of objection have been received, all from previous objectors. A summary of the letters received is given below;

- Survey within ecological assessment of the hedge sited on the propose reservoir site is inadequate as from our own surveys several other species have been identified.
- Extremely concerned about the impact on the wildlife, especially barn owls and there hunting ground, as well as many birds, all of which need extensive areas of open ground to hunt.
- The proposed development will have a detrimental impact on the setting of Ocle Pychard Church from The Green , which is within he Conservation Area of Ocle Pychard

## **OFFICER COMMENTS**

The assessment and hedgerow referred to relate to application 181150 which was granted permission on 30<sup>TH</sup> May 2018 and does not form part of this application. This application is for the conversion of the rural buildings into living accommodation and does not propose the removal of any hedgerow.

## **NO CHANGE TO RECOMMENDATION**

**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 23 January 2019 at 2.45 pm**

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

**Councillors:** BA Baker, CR Butler, PJ Edwards, DW Greenow, KS Guthrie, MD Lloyd-Hayes, FM Norman, AJW Powers, NE Shaw and SD Williams

**In attendance:** Councillors WLS Bowen, H Bramer and BA Durkin

**105. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors EL Holton, TM James and WC Skelton.

**106. NAMED SUBSTITUTES**

None.

**107. DECLARATIONS OF INTEREST**

None.

**108. CHAIRPERSON'S ANNOUNCEMENTS**

None.

**109. 181523 - CASTLE FARM, UPTON BISHOP, ROSS-ON-WYE, HR9 7UW**

*(Proposed extension and expansion of existing B1 facility comprising of: 1) change of use of grain store to new production facility, 2) extension to provide additional office space and research and development facilities, 3) additional car parking provision, and 4) production waters treatment plant.)*

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

In accordance with the criteria for public speaking, C Rusby, of Upton Bishop Parish Council spoke in opposition to the Scheme. Mr M Rusby, a local resident, spoke in objection. Mr J Lambe, the applicant, and Mrs V Simpson, the applicant's agent, spoke in support.

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

He made the following principal comments:

- The applicant's company was ethical, well-run, contributed to economic prosperity and he supported its expansion. He agreed with the comments of the cabinet member – economy and communications supporting the application as set out in the schedule of updates.
- The local community wanted the company to prosper. However, there was concern about the volume and weight of traffic the proposal would generate and the highway impact on the U70004. He highlighted the provisions of policy MT1 (1). He referred to differences of opinion over road usage statistics between the applicant and objectors. The C1286 servicing the site was marked unsuitable for HGVs.
- Paragraph 6.24 of the report referred to the requirement that the applicant produce a travel plan and the requirement that passing bays be created. A draft travel plan had been produced but had not been progressed since October 2018 and no detail had been agreed on proposed passing places. Although there was good communication between the applicant and the community, the production of this document and consultation on it with the local community would quite possibly have led to an acceptable outcome.
- There was a concern as to whether passing places would be in keeping with the area which was in the open countryside.
- It had to be born in mind that the U70004 was also used by large farm vehicles.
- Objectors supported the business but wanted measures to control traffic levels. A travel plan was therefore required to ensure mitigation was provided.

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

- Reference was made to the provisions of policy RA6 that development should not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, noise, dust, lighting and smell; and should not generate traffic movements that cannot safely be accommodated within the local road network.

Potential traffic and noise nuisance were identified as the key issues. Several members commented on the importance of a travel plan being in place. It was proposed that officers should be authorised to grant permission subject to an acceptable travel plan and assurance that noise levels associated with the waste water treatment plant would not affect the amenity of neighbouring properties.

- The economic benefits of the proposal were noted. It was registered that there were issues where the success of companies encouraged expansion that became out of keeping with their location bringing economic objectives into conflict with development control and this might require more consideration in future. However, it was acknowledged that that did not appear to be the case in this instance.
- The PPO commented that a draft travel plan had been received. Some of the measures had been trialled as referred to in the schedule of updates. These had resulted in a significant reduction in traffic volumes. The proposed water treatment package would reduce movements. The proposed conditions would include the ability to monitor performance and amend the plan as necessary.
- The Lead Development Manager clarified that the application stated that working hours would be 7am until 6pm. No complaints regarding noise had been received and the Environmental Health Officer (EHO) had assessed the potential noise nuisance from the proposed water treatment plant and had had no objection to the application. If an issue arose there were powers available to address the situation. In relation to travel it would be an option to make a pre-commencement condition that

no works should commence on site until a travel plan had been agreed. Applicants had to agree to pre-commencement conditions, hence a delegated authority to grant planning permission subject to that agreement was sought. If the applicant did not agree to this the application would be brought back before the Committee. The size of vehicles to be used would form part of the travel plan discussions.

- There appeared to be conflicting evidence on traffic volumes and how much traffic was attributable to the applicant's business and would therefore be controlled by a travel plan.

The Lead Development Manager commented in conclusion that the benefit to the rural economy had to be weighed against other factors as set out in policy RA6. He noted that the Transportation Manager considered the highway network could accommodate the development with a travel plan. He reiterated that the EHO had no objection and had powers to address an issue if it arose.

The local ward member was given the opportunity to close the debate. He sought assurance that the ability of the treatment plant to operate within acceptable noise levels would be ensured. The road was used by farm vehicles. The draft travel plan would require further work. In particular the proposed passing places were not fully explored. He did not consider the business had outgrown the site, the transportation issues being the sole concern. It was to be hoped that these could be addressed by the travel plan.

The Lead Development agreed to provide further information to the local ward member on the noise assessment.

Councillor Edwards proposed and Councillor Greenow seconded a motion that officers be authorised to grant planning permission subject to the applicant agreeing to a pre-commencement condition for a travel plan acceptable to the authority would be agreed, and subject to the conditions as set out in the printed recommendation. The motion was carried with 12 votes in favour, none against and no abstentions.

**RESOLVED: That officers be given delegated authority to grant planning permission, subject to the applicant agreeing that a prior to commencement condition is acceptable for a travel plan and also 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. **B02 - Development in accordance with approved plans and materials**
3. **The recommendations for species and habitat enhancements set out in the recommendations of the ecologist's report from Elizabeth Breakwell dated February 2015 and the enhancement plan dated April 2018 should be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved.**

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

4. **Prior to commencement of the development, an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to inspect the site and implement any reasonable avoidance measures recommended to ensure there is no impact upon**

protected species by development of the buildings and clearance of the area. The results and actions from the inspection and survey shall be relayed to the local planning authority upon completion.

**Reason: 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).**

5. H09 - Driveway gradient
6. H13 - Access, turning area and parking
7. H17 - Highway improvement/off site works
8. H20 - Road completion in 2 years
9. H27 Parking for site operatives
10. H30 - Travel plans
11. Clarification of the orifice size required to restrict the flows from the proposed attenuation tank to 1l/s shall be provided to the Local Planning Authority prior to the installation of the drainage facilities for written approval and thereafter maintained as approved.

**Reason: To ensure the drainage arrangements are of an appropriate specification and to comply with Herefordshire Core Strategy policies SD3 and SD4.**

12. The buildings hereby approved shall be used for agricultural and B1 use only and for no other purpose (including any other purpose in Class B of the Schedule to 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).

**Reason: The local planning authority wish to control the specific use of the land/premises, to align with previous planning permissions on the site to which the development hereby approved relates and in the interest of local amenity and to comply with Policy SS1, LD1, RA6 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

#### **INFORMATIVES:**

1. IP1 - Application approved without amendment
2. HN01 - Mud on highway
3. HN04 - Private apparatus within highway
4. HN05 - Works within the highway
5. HN10 - No drainage to discharge to highway
6. HN24 - Drainage other than via highway system
7. HN28 - Highways design guide and specification



8. **HN16 - Sky glow**
9. **HN25 - Travel plans**
- 10 **HN07 - Section 278 agreement**

**110. 181908 - LAND AT LOVERS WALK, GORSLEY, ROSS-ON-WYE**

*(Outline planning application for 9 proposed dwellings with all matters reserved except access and layout.)*

The Principal Planning Officer (PPO) 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.

An appeal decision dismissing an appeal against refusal of permission, as referred to at paragraph 3.1 of the report, had been previously circulated as a supplement to the agenda papers.

With reference to a road traffic accident resulting in a death adjoining the site referred to in the update the PPO clarified, in response to a question, that this had occurred in a nearby layby. He commented that the Highways team had been mindful of this in its assessment alongside the other highway considerations. One of the mitigation measures proposed was the closure of the layby.

In accordance with the criteria for public speaking, Mr A Reeves of Linton Parish Council spoke in opposition to the Scheme. C Reeve, the applicant's agent, spoke in support.

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

He made the following principal comments:

- He referred to the comments of Gorsley and Kilcot Parish Council, a neighbouring Parish, reiterated in the schedule of updates, quoting its concerns about highway safety (page8/9 of the update paragraphs 6 ("We believe...") to 10 "In June 2014...").
- He also referred to the appeal decision dismissing an appeal in relation to a previous application on the site on highway safety grounds and significant harm and impact on the character and appearance of the area. He quoted paragraphs 16 and 17 of the decision letter in relation to footway widths in the context of highway safety.
- He could see no reason for supporting the application in view of the objections expressed.

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

- Account should be taken of the dismissal of the appeal in relation to a previous application on highway safety grounds. The Transportation Manager at paragraph 4.4 of the report did not robustly state that he had no objection.
- There were significant concerns about pedestrian safety in seeking to access facilities, noting the narrowness of the footways and the road.
- The proposal should be refused on the grounds that it was contrary to policies SS4 and MT1.

- Traffic speed was a significant issue. If approved, a reduction in the speed limit would not be sufficient. Additional traffic management measures would be needed.
- Noting the Planning Inspector's comments about impact on the character of the area a smaller development might be considered preferable, although this would not address the highway safety concerns.
- Development of the site would be compliant with policy RA2. The site was suitable for development if appropriate traffic management measures were taken. The stretch of road by the site did not have a significant history of traffic accidents.
- Reference was made to the representations from Linton Parish Council at paragraph 5.1 of the report. It was noted that the minimum Core Strategy target for housing growth in the area was 14%. This had been exceeded. Clarification was sought on the Parish Council's question as to what constituted a limit to incremental growth. The application also raised the issue of housing mix and what mix an area needed to be provided as opposed to what developers argued was viable.

The Lead Development Manager commented that having reached the minimum target one of the considerations in assessing further growth would be the impact on social cohesion. He did not consider that the proposed growth in this case would have sufficient impact to represent a ground for refusal that would be defensible at an appeal. A significant number of additional dwellings would have to be involved to meet this test. The argument in respect of social cohesion had been successfully advanced in relation to development proposals at Bartestree. Condition 16 would require the proposed housing mix of the development to comply with the Housing Market Assessment.

The Transportation Manager commented on the 20 year accident history. Aside from the recent fatality in the layby near the access, there were some reasonably recent collisions at the staggered crossroads adjacent to the site, and quite a significant cluster at the Roadmaker Inn, quite a few of which predated the installation of a pelican crossing. He noted that data was not held on the road beyond the county boundary which was at the junction just to the east of the site. The proposed design aspects of the access would meet all the relevant standards. The proposed pedestrian crossing facility appeared satisfactory, subject to the detailed design. The narrowness of the footway on the northern side was of some concern, was like others in the village, but perhaps not ideal for connecting to the school and that might be a consideration.

The Lead Development Manager commented that if the Committee was minded to refuse the application on highway safety grounds they had to have regard to the severity of that impact in accordance with the provisions of paragraph 109 of the NPPF.

The local ward member was given the opportunity to close the debate. He commented that pedestrians would have to use the narrow footpath to access the proposed crossing. The application would pose a significant danger to road users as well as those entering and leaving the site.

Councillor Greenow proposed and Councillor Guthrie seconded a motion that the application be refused on the grounds that it was contrary to policies SS4 and MT1 and paragraph 109 of the NPPF. The motion was carried with 9 votes in favour, 2 against and 1 abstention.

**RESOLVED: That planning permission be refused on the grounds that the application was contrary to policies SS4 and MT1 and officers named in the scheme of delegation to officers be authorised to detail the reasons for refusal.**

**111. 180403 - 21 THE MALTINGS, DORMINGTON, HEREFORD, HR1 4FA**

*(Retention of residential use of former converted carport for ancillary accommodation and retention of the non-material conversion works required to be reversed by enforcement notice EN2017/002562/ZZ.)*

*(Councillors Lloyd-Hayes and Norman had left the meeting and were not present during consideration of this application. Councillor Hardwick 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.

It was noted that the application had been considered by the Committee on 25 July 2018 when the Committee had declined to determine it.

In accordance with the criteria for public speaking, Mr D Lloyd, of Dormington and Mordiford Parish Council, spoke in opposition to the Scheme. Mr A Allen, a local resident, spoke in objection. Mr E Wilson, the applicant, spoke in support.

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

He made the following principal comments:

- The applicant had a history of ignoring planning law requirements over some 10 years by making alterations to the annex, resulting in the current situation.
- The local community had not objected retrospectively to the initial conversion to an annex, without planning permission, because of sympathy for the applicant's unfortunate personal circumstances. However, the current additional development had represented a step too far.
- The parking and delivery arrangements had caused problems over the past 2 years. Even though the report suggested that the proposed solution to the parking issues would be effective the evidence of the past two years proved that it would be unsustainable and unworkable. He noted that 21A had been vacant in recent months masking the extent of the problems.
- He considered the application should be refused. The proposal was detrimental to neighbouring residents and contrary to policy SD1.

In the Committee's discussion of the application there was consensus that the application would be detrimental to the amenity of neighbouring residents. Some delivery vehicles had also had to reverse onto the highway because of lack of turning space. An alternative was to reverse in but this was also dangerous. The proposal should therefore be refused on the grounds it was contrary to policies SD1 and MT1 and contrary to paragraph 124 of the NPPF.

The Lead Development Manager indicated that he considered determination of the application to be the right course and that the grounds for refusal were sound.

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

Councillor Edwards proposed and Councillor Baker seconded a motion that the application be refused on the grounds that it was contrary to The motion was carried with 9 votes in favour, none against and 1 abstention.

**RESOLVED: That planning permission be refused on the grounds that the application was contrary to policies SD1 and MT1 and paragraph 124 of the NPPF.**

**112. 183678 - IVY GREEN COTTAGE, ABBEYDORE, HEREFORD, HR2 0AD**

*(Proposed garage.)*

*(Councillors Lloyd-Hayes and Norman had left the meeting and were not present during consideration of this application.)*

The Development Manager gave a presentation on the application.

Councillor WLS Bowen had fulfilled the role of local ward member for this application and in accordance with the Council's Constitution spoke upon it. He expressed support for the application, noting that it complied with the Neighbourhood Development Plan and there were no objections to it.

Councillor Edwards proposed and Councillor Baker 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 1 abstention.

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

- 1. A01 Time limit for commencement (full permission)**
- 2. B02 Development in accordance with approved plans and materials**
- 3. F07 Domestic use only of garage**
- 4. Ecological mitigation (2 bat boxes and 2 bird boxes)**
- 5. I16 Restriction of hours during construction**

**INFORMATIVES:**

- 1. Application Approved Without Amendment**

**113. DATE OF NEXT MEETING**

The committee noted the date of the next meeting.

**Appendix - Schedule of Updates**

The meeting ended at 5.32 pm

**Chairman**

## **PLANNING COMMITTEE**

**Date: 23 January 2019  
Afternoon**

### **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

**181523 – PROPOSED EXTENSION AND EXPANSION OF EXISTING B1 FACILITY COMPRISING OF:**

- 1) CHANGE OF USE OF GRAIN STORE TO NEW PRODUCTION FACILITY**
- 2) EXTENSION TO PROVIDE ADDITIONAL OFFICE SPACE AND RESEARCH AND DEVELOPMENT FACILITIES**
- 3) ADDITIONAL CAR PARKING PROVISION**
- 4) PRODUCTION WATERS TREATMENT PLANT**

**AT CASTLE FARM, UPTON BISHOP, ROSS-ON-WYE, HR9 7UW**

**For: Mr & Mrs Lambe per Mrs Vicky Simpson, Bayton Farm Bungalow, Bayton Farm, Phocle Green, Ross-On-Wye, Herefordshire HR9 7TS**

### ADDITIONAL REPRESENTATIONS

The applicants have provided further comments –

Our planning application should not have instigated a battle between Blue Sky and our neighbours who are upset by traffic on rural roads. This is a national problem and whilst it is understandable to want to blame someone – Blue Sky is not responsible for all of the traffic on the surrounding roads. Please look at the numbers – they are not large and are not significant. 30% (before our reduction) of the total traffic. Our staff drive at 20mph, and show courtesy to all road users, walkers and riders – the same unfortunately cannot always be said of all other local drivers.

Blue Sky vehicles do make up 84% of the traffic on our direct access lane, but as this figure was recorded not far from our driveway and we are at the end of a no-through road, this is of course to be expected – possibly surprising it wasn't even higher!

It's also important to note that our business is **lawfully** using the local highways to gain access to our site, as do every other home & business owner.

We are based on a farm – if we were operating it as a 'regular' agricultural operation there would be still be frequent vehicle movements - large machinery, tractors & trailers, grain lorries, feed lorries, milk tankers, livestock wagons. Instead we have a small number of lorries, vans and a waste water tanker.

### Blue Sky Botanics Traffic Volume Summary

Total Vehicle Movements / DAY	Jul-18	Nov-18	% Decrease
Lorry	5.4	3.6	33.3%
Large Van	8.5	4.4	48.2%
Small Van	15.1	9.6	36.4%
Cars	51.8	37.8	27.0%
Total Vehicle Movements / HOUR			
Lorry	0.6	0.4	
Large Van	0.9	0.5	
Small Van	1.7	1.1	
<b>Total Lorry/Van</b>	<b>3.2</b>	<b>2.0</b>	<b>39.3%</b>

#### Comments

Average Data provided by Resident Rusby's camera over two 4 week periods in Jun/July & Nov-18

Articulated lorries are not permitted by Blue Sky Botanics

Decrease in volume is directly attributable to car sharing and off-site consolidation hub on edge of village

The Planning Policy Framework states that ***“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”***

Whichever way you look at it these numbers are VERY LOW - many people remark that they often drive from our site to the main B road and never even see another vehicle! This is certainly true and I have frequently experienced this myself.

On the other hand it is also possible whilst driving on rural roads for the need to be courteous and to pull to one side, sometimes into a gate / driveway, or maybe even to reverse when you meet another vehicle. This is not unusual or unsafe it's just totally normal practice on rural roads, which are after all **public highways** used by vehicles of all shapes and sizes to **facilitate access** to homes and businesses.

I don't find walking on lanes pleasant anywhere in the country – vehicles in general travel much too fast around blind corners – but fortunately there is an extensive network of off-road footpaths which I find is a much safer option.

The much chanted “too much too fast too heavy” verse could easily be used to describe any road, rural or not, in our country!

In spite of our low traffic impact – we do of course respect our neighbours views and want a harmonious existence, so we have diverted funds, time and energy respond to the traffic objections. We have continued to listen, and have always responded constructively and considerately. We will continue to grit and clear snow from our

neighbours driveways, as we always have done, and support the community where we can.

Despite the entirely lawful and LOW levels of traffic associated with our business we have funded an offsite consolidation operation to reduce delivery traffic and an offsite parking area to help our staff car share from the edge of the village. This is not without its inconveniences & cost to us, but we have willingly done this in response to concerns.

It should be noted however that whilst the courier vans are leaving Blue Sky parcels at our offsite hub, I have noted that these vans are sometimes continuing on into the village to deliver to the residents homes – such is the national impact of internet shopping!

Finally, it is understandable that there are fears that our planning application will support a massive increase in vehicles – and of course that is a natural assumption to make – except for the fact that it is quite simply inaccurate. The reality is that we will just put more boxes / pallets on the SAME vehicles.

- In terms of staff vehicles, the car sharing will continue – and more people can travel in the SAME cars.
- The increase in office & laboratory facilities will enable our staff to have more space and work in more comfortable conditions.
- The extension of our laboratory facility will enable us to continue our exciting research and development programme into green extraction techniques and beneficial plant compounds.
- The installation of a waste water treatment plant will reduce the number of waste lorries needed.
- We really are a rural economic success story that should be supported and encouraged in the true spirit of Herefordshire Economic Vision.

**“Here We Can” and We Really Will – but only if our growth is encouraged and we are not driven out to another more welcoming County that will support us to continue to thrive.**

Further summarised comments on specific elements of the business are –

A summary of the traffic volumes before and after the trial period of transportation mitigation measures shows that collectively (based on average 2 x 4 week data), Lorries and Vans have been reduced by 39% and Cars by 27%.

Mitigation measures include –

- Goods Consolidation. We are using a local site on the B road to receive as many incoming deliveries as possible. These are then put onto a small van or a tractor and trailer and transported approx 3 times per week to Blue Sky. This has accounted for the reduction in the Van & Lorry numbers.
- Car Sharing. We are renting an offsite car park in a field off the B road where staff meet and leave cars, and then car share from this point. Other staff are car sharing from their homes in Ross or Newent.



In terms of trying to quantify further our positive impact on Herefordshire economy (in addition to employment) 31 Herefordshire businesses currently supply or provide services directly to Blue Sky Botanics.

To demonstrate the importance of the location of the Castle Farm site 27% of products produced by Blue Sky will be made by using organic plant material grown on site on Castle Farm.

With regards to third party representation, both further letters of support have been received, along with further comments from existing objectors since the Committee Report was written. **38 letters of objection** have been received and a total of **71 letters of support**.

Objectors add in summary –

- The residents have noticed the very recent comments in support of BSB planning application. Their timing and that none of them are from any residents is highlighted
- The concern remains that the fundamental issue of their being Too Many, Too Heavy vehicles using the inappropriate local transport infrastructure.
- BSB have still not produced a Reliable and Sustainable Transport Plan that reduces level of transport.
- We reiterate that we are not against the BSB as a business or against the overall planning application. Our only concern is the transport implications to the community and local infrastructure.
- The planning application should not be progressed until a Verifiable, Reliable and Sustainable Transport Plan has been submitted. Subsequently it must be a Condition of planning to ensure that BSB are held Accountable and limit their transport operation now and in the future to the levels near to those they submitted in their planning application.

Supporters comments reflect those already summarised in section 5.3 of the Committee Report. The high level of interest from the wider business community is noted.

The **Cabinet Member for Economy and Communications** has provided a written representation supporting the application. The Members' comments in full are –

In April 2018 I visited Blue Sky botanics and was hosted by the Managing Director James Lambe and his wife. I made the visit in my capacity as Cabinet member for the Economy and Communications.

The visit included a tour of the facility and I was most impressed by the care and dedication to the environment shown by the applicants. Great care is taken on the working and natural environment and the site doesn't appear to adversely affect other local residents. The work undertaken at the location appears to be hi tech and offers well paid work for highly qualified staff including a number with Phd qualifications.

Highly paid rural jobs are few and far between and whilst Herefordshire Council would ideally like to encourage companies to start up either in Hereford or one of the market towns it must be recognised that we have quite a few businesses like Blue sky botanics whereby an entrepreneur has started and grown a business

incrementally over time in rural locations. These business people do not wish to be relocated and often want to push on with expansion.

As a sparsely populated and rural county I believe that rural business should be encouraged particularly in examples such as Blue Sky where the owners take such a long sighted and responsible attitude towards environmental issues. Encouraging companies to create high quality jobs locally allows our residents of working age to stay in county rather than leaving to seek work elsewhere.

From my experience of driving to and from the site it seemed that road concerns were particularly focussed on tanker movements and other larger vehicles (not all of them related to Blue sky business). Rural business expansion can create friction especially with regard to traffic flows but it appears that in this case whilst staff numbers will increase by five that traffic movements will actually decrease due to reduced tanker movements and a business led travel plan.

In summary I'm supportive of this application.

### **OFFICER COMMENTS**

The above additional comments and representations are noted.

The efforts of the applicant are noted and reflect the Transportation Managers position, amongst others, that the proposal itself, represents an opportunity to secure highway related mitigation and enhancements.

The concerns of local residents is understood and appreciated. These have been considered and assessed in detail and as set out in the recommendation, technical matters are assessed as being acceptably addressed. The trial period of staff and operational mitigation measures that would form part of a Travel Plan show successful workable solutions can be achieved. It must be remembered the site benefits from an existing unrestricted lawful use with regards to highways and vehicular movements and the proposal enables mitigation to be secured by condition.

The volume of support is noted. These comments reaffirm the summarised grounds of support received. The letters of support from other businesses reflects how interconnected and dependant rural businesses are on each other and the cumulative impact that has on the economy, jobs and in turn, spend within Herefordshire.

The comments from the Cabinet Member for Economy and Communications reflects both Herefordshire Council's planning policies and its wider aims and objectives set out in its Corporate Plan.

### **NO CHANGE TO RECOMMENDATION**

**181908 – OUTLINE PLANNING APPLICATION FOR 9 PROPOSED DWELLINGS WITH ALL MATTERS RESERVED EXCEPT ACCESS AND LAYOUT AT LAND AT LOVERS WALK, GORSLEY, ROSS-ON-WYE**

**For: Mr Hickton per Mr Gareth Sibley, Unit 6 De Sallis Court, Hampton Lovett, Droitwich, WR9 0QE**

**ADDITIONAL REPRESENTATIONS**

Gorsley and Kilcot Parish Council *would like to retaliate our comments in our letter dated 3<sup>rd</sup> July 2018 as set out below but with the addition of two further comments:*

- 1) Gorsley & Kilcot Parish Council do not feel that there is a need for any new bus stops.
- 2) Gorsley & Kilcot Parish Council feel that the death of a Gorsley Herefordshire parishioner crossing the B4221 near to the proposed site entry should be considered in the Committee's deliberations.

Gorsley and Kilcot Parish Council (GKPC) wishes to object strongly to the above application.

The Parish of Gorsley & Kilcot lies within the Forest of Dean District and is the neighbouring Parish to Linton Parish. The two Parishes are on the County boundary and residences within the village of Gorsley fall within one or other of the two parishes. As such our parishioners who live in Gorsley, and indeed those who live within the neighbouring village of Kilcot, share the same facilities as the parishioners of Linton and we are in effect one community. The proposed development on land situated between the B4221 and Lovers Walk, Gorsley will therefore affect our parishioners to the same degree as the parishioners of Linton.

The village of Gorsley is entirely rural in nature. Dwellings in the village are widely dispersed, surrounded by agricultural land and services are limited. This development will have a detrimental impact upon the rural character and appearance of the area.

In the Herefordshire Local Plan, the 2013 paper on Rural Housing Background states that growth throughout the County should be proportional to its towns, villages and settlements. Furthermore any such development should be sited within or adjacent to the main settlement area (RA1 in this case). In the Ross Housing Market Assessment the proportional growth for the period 2011 to 2031 is set at 14%.

Gorsley's requirement to meet the minimum target growth of 14% has already been achieved with 13 years of the plan period still to go. The village is growing steadily with small developments of 1 or 2 houses.

This site adjacent to the County Boundary adjoins Gorsley; it is not within or closely adjacent to the existing settlement as indicated by the settlement boundary plan.

Whereas the Council may have issues generally with demonstrating a 5 year supply of housing land, this is not the case in Gorsley.

The Herefordshire Strategic Housing Assessment in 2015 identified various sites within the settlement boundary with potential for development during the plan period. Gorsley has a number of sites that offer “medium suitability” for development, but this particular site is identified as having “no suitability during the Plan period.”

It has been previously recognised the Gorsley is a settlement that is predominantly to the South of the B4221 and is an irregular mixture of scattered dwellings with some small clusters along a network of country lanes.

Development along the B4221 is sparse in nature and as such this proposal would create a long frontage which would entirely change the character of the area. No doubt should this proposal be approved it will lead to many more along the B4221 which will create a straggly ribbon development that will stretch from the County Boundary to the M50 Motorway.

We note that the Land to the east of The Old Post Office, Gorsley Road, which is opposite the site, has just had its application for erection of two dwellings rejected for two reasons that are relevant to this application. Firstly, “The proposal by reason of its density, layout, design and landscaping, is not considered to represent an appropriate informed response to its landscape setting and context and as such does not represent a positive contribution to the surrounding environment and its landscape setting resulting in an adverse impact on the character and setting of Gorsley and the countryside” and secondly “The proposal does not respond to local housing need or provide a suitable mix of housing”.

The necessary removal of the roadside hedge and many of its trees to provide the access vision splays, will again have a serious impact on the visual amenity and will destroy the rural feel to the approach to the village. Although proposals to replace the hedge further back from the carriageway, this will take many years to mature, by this time the harm has been done.

We believe that the creation of any further access points on to the B4221 as it passes through the villages of Gorsley and Kilcot is irresponsible bearing in mind the road safety issues arising from the speed of traffic and volume of HGV's. Any development which would result in an increase in the number of cars using the B4221 as an entrance and exit to and from a site is wholly inappropriate in the circumstances.

The 2014 traffic data whilst providing useful information to a degree, its results are somewhat distorted by the disruption to through traffic by vehicles parking at the village shop and post office which were open at the time of the survey. The data was recorded at a point some 85 metres from the shop and post office.

A speed survey undertaken by Gloucestershire Constabulary in February 2014, over an 11 day period, on a similar open stretch of the B4221, approximately 1.5 miles from the proposed site established an 85<sup>th</sup> percentile speed of 60mph (173 vehicles in excess of 90mph, 24 of which were recorded at over 100mph)

Whereas the site entrance may be designed for the 85% percentile speeds it cannot mitigate the risk posed by those who continue to drive at reckless speed along the B4221

In June 2014, The Planning Inspectorate upheld a refusal by Forest of Dean District Council to allow a development adjacent to the B4221, some ¼ mile from the proposed site, because the proposed access would pose “a significant danger for road users on the B4221 as well as those entering and leaving the site.”

Furthermore Forest of Dean District Council when consulted on application P153661/0 objected and held the view that development of this site would “create a long frontage altering the character of the area”.

Such a development would be almost entirely car-dependent, with the situation having been made worse in recent years due to significant reductions in the frequency of the bus service. There is no provision for cyclists and the footway on the north side of the B 4221 is narrow, (as little as 0.5 of a metre in places) overgrown and extremely dangerous for pedestrians, given the sheer size and speed of passing vehicles.

In addition we have grave concerns regarding drainage systems on this site. Properties to the East of the site at present have issues with a degree of flooding in their gardens. We believe the creation of a SuDS with a pond at the eastern corner of the site will pose a severe risk to these properties and any SuDs would require a long-term maintenance agreement.

In summary, allied to the valid points made by Linton Parish Council in their response, Gorsley & Kilcot Parish Council is of the strong opinion that this application should be rejected –

- 1) It is not needed - In the first 7 years of the plan period, Gorsley has more than achieved it's target growth in a controlled and appropriate manner within it's settlement boundary, and will continue to do so.
- 2) It is in the wrong place - The site is on the extreme eastern fringe of Gorsley away from the main settlement and if approved will set a precedent for further sporadic development along the B4221 with an adverse impact on the rural character of the area.
- 3) It creates risk to highway safety and potential flooding of existing properties.

## **OFFICER COMMENTS**

The bus stops form part of the overall package of highways mitigation and was discussed by the applicant with the relevant public transport operators.

The tragic death adjoining the site reaffirms Officers' position the full highways mitigation proposed is essential, and without which, the recommendation would be refusal. One of the measures proposed is the closure of the layby where the incident occurred.

The other comments are already detailed and considered in the Committee Report.

## **NO CHANGE TO RECOMMENDATION**



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>27 FEBRUARY 2019</b>
<b>TITLE OF REPORT:</b>	<p><b>183841 - HYBRID APPLICATION INCLUDING A FULL APPLICATION FOR STUDENT ACCOMMODATION, COMPRISING 178 NO. BEDROOMS, INCLUDING HARD AND SOFT LANDSCAPING AND AN OUTLINE APPLICATION FOR A STANDALONE ANCILLARY COMMERCIAL ELEMENT AT CAR PARK, STATION APPROACH, HEREFORD,</b></p> <p><b>For: Cityheart Partnerships Ltd per Mr Andrew Bates, Office 16 (House 1, 2nd Floor), The Maltings, East Tyndall Street, Cardiff CF24 5EA</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183841&amp;search=183841">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183841&amp;search=183841</a>
<b>Reason Application submitted to Committee – Council Land</b>	

Date Received: 17 October 2018

Ward: Widemarsh

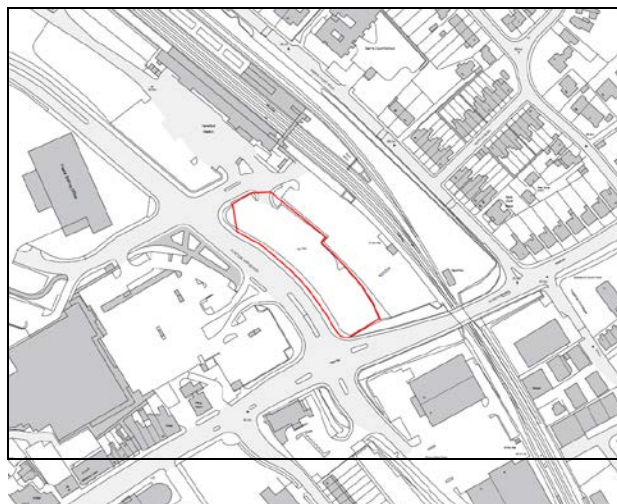
Grid Ref: 351578,240441

Expiry Date: 1 March 2019

Local Member: Councillor PA Andrews

## 1. Site Description and Proposal

- 1.1 The application site lies to the northern side of the newly constructed link road that is known as Station Approach. The application site itself lies to the north of Hereford City centre and to the south east of the Hereford Railway Station. The station car park and railway line lie to the north east. Beyond this is Barrs Court Road that runs parallel with the railway line. Commercial Road lies to its south with the Morrison's store and car parking to the south west on the opposite site of Station Approach. An extract from the 'Location Plan' is inserted below.



Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

- 1.2 The site is currently used as a Council owned car park and is demarked by a timber post and rail fence. Access is from the north and the recently configured access to the station and its car park. The site lies at a lower level than the adjacent roads, but is the same level as the adjoining station car park, the boundary to which is formed by an existing fence and a number of trees. Prior to the construction, widening and reconfiguration of the city link road the site was part of a larger car park that had been formed following the demolition of the building that housed Rockfield DIY store.



*Image: Panoramic view from Commercial Road - from Design and Access statement*

- 1.3 The application is a Hybrid application (seeking planning permission part in full and part in outline) for the erection of a building for student accommodation, comprising 178 no. bedrooms, including hard and soft landscaping (full) and outline permission for a standalone commercial element on the area to the north.
- 1.4 The application was submitted in October 2018. Following a period of consultation, the applicants entered into further discussions with officers and statutory consultees to respond to the comments and objections raised. (These comments are detailed in section 4 below, dated November 2018). An amended scheme and supporting documentation was then submitted in January 2019. A full re-consultation has been undertaken and comments received on the amended plans are dated February 2019 in section 4 below.
- 1.5 The submission describes the applicant's vision as being for the development of the site to provide high-quality student accommodation within a highly sustainable location. The site is primarily to serve as accommodation for students of the Hereford College of Arts and as such the scheme has been designed to achieve a high quality of internal light and space both internally and externally for the display of artwork. The college has subsequently expanded on this vision in a statement contained within the Covering letter submitted with the revised scheme:

*The following statement has been provided by Hereford College of Arts regarding the design ethos for the development, along with the benefits the development will deliver for higher education in Hereford and the economic benefits for the wider City. The statement also expresses the College's commitment to the showcasing of student artwork on site:*

*"The ambition for this project is that Station Approach becomes a beacon building for Hereford, speaking to both the city's past and future. The site couldn't be better for HCA - mid way between its teaching and learning campuses and the city centre, it will give residential students easy access to all the social and cultural resources of the city and help connect them with the wider community.*

*Hereford's lack of purpose-built student housing puts off students who might otherwise move to the city for their higher education; it is hindering both the growth of HCA and the launch of NMiTE and a barrier to all the benefits a growth in student and graduate population would bring to the city's economic and cultural future.*



*Throughout the design process we have consulted closely with HCA and NMiTE to ensure that student well-being is at the heart of the layout and management of the building. This engagement has included a design workshop with students from both institutions actively involved in developing the design - a process that will continue. As part of that, there are exciting proposals for a large and high quality communal area on the ground floor which will include smaller zones for group and independent study, personal reflection, performance spaces and a fitness gym, games and entertainment zones and with the flexibility to quickly adapt the space for degree shows and exhibitions.*

*We have also focused on ensuring the building remains economic and affordable with room rental at the bottom end of that charged nationally for quality purpose-built accommodation in other student cities.*

*Importantly the building has been designed with the display of creative artwork internally and externally as intrinsic to the overall plan. This includes the ground floor social, exhibition and performance space that will always be visible through the front glazing and able to be opened to the public for events.*

*There will be large external display zones at either end of the building while, subject to obtaining consent and ongoing public consultation, external projection mapping can be used to bring the front of the building alive with still or moving images to celebrate local and national occasions. Additionally, plinths for 3D sculpture will be included on the open terrace in front of the building along with street furniture, some commissioned from the HCA Artist Blacksmithing course. With these internal and external flexible exhibition spaces built into the core design, the approach is entirely different to the 'add on a bit public art at the end' of some developments.*

*We are excited about the way creative display areas of the building will be used to express some of the distinctive features of Herefordshire, past and present, as HCA is already doing in the 'Showcase of Herefordshire' currently being designed for the European Parliament in Brussels".*

*In summary, the proposed development is key to Hereford being able to retain and further develop a competitive Higher Education offer. The enhancement of the Higher Education offer will, of course bring economic and social benefits to the wider City.*

*Hereford College of Arts has been seeking a purpose-built student accommodation scheme for a number of years. The College are confident that this development will greatly increase their ability to attract new applicants and grow their degree student community to 680 over the next five years. This aspiration / target is published in HCA's 'Strategy Overview 2018 - 2023' document.*

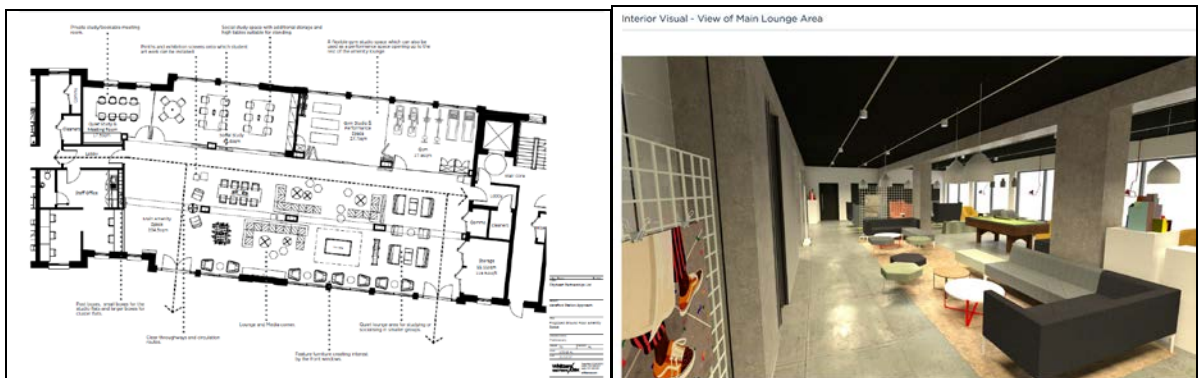
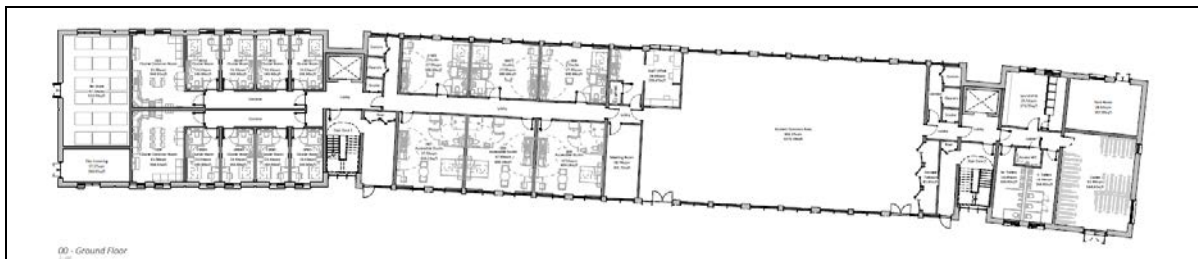
*The scheme is also key to the proposals to establish NMiTE as a new university in the City targeting students for vocational and employment based Engineering programmes with degrees initially validated by the University of Warwick. The proposed accommodation is likely to be shared between HCA and NMiTE initially.*

*The proposed development will also play a vital role, and a catalyst in the unlocking of development sites along the new Link Road, in accordance with the Council's aspirations. The development would also assist with bringing young people into the City centre to support its economic viability and the evening economy*

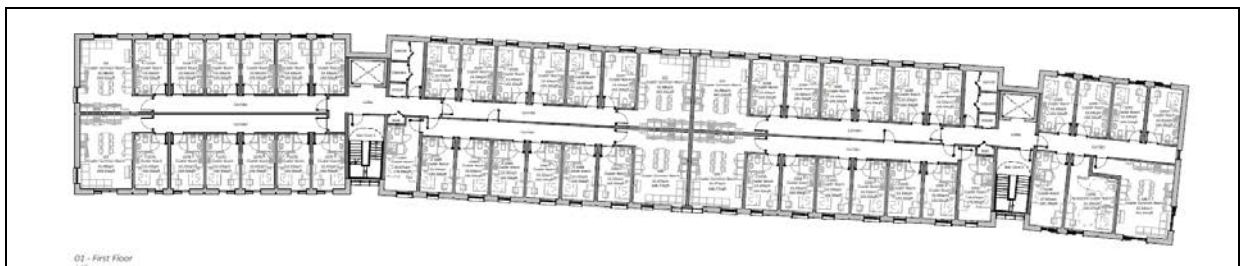
- 1.6 The proposed student accommodation consists of a mix of different types of residential accommodation which has been designed to meet the needs of the individual students. Accommodation consists of a mix of cluster rooms, which benefit from en-suite bathroom

facilities but share kitchen and socialising space within common rooms, and self contained studio rooms and accessible studios for those with particular needs. Provided below is a breakdown of the accommodation per floor:

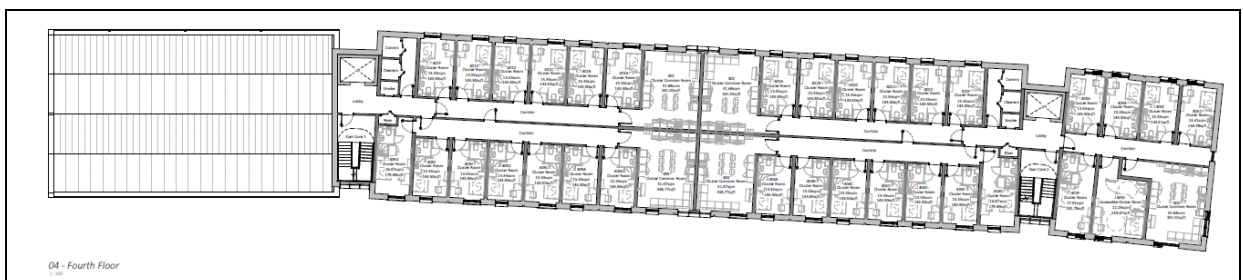
- 1.7 The ground floor comprises a total of 14 no. bedrooms comprising, 8 no. cluster rooms (which share two common rooms, 3 no. studios and 3 no. accessible studios). The ground floor also includes a student common area, a waiting area, along with, bin and cycle storage facilities, plant rooms and bathrooms, staff room and meeting room. How this common space may be used and laid out is explored within the *'Interior Design Concept proposal'* document extracts of which are inserted below:



- 1.8 First, second and third floors replicate each other comprising a total of 44 no. bedrooms, comprising 43 no. cluster rooms and 1 no. accessible cluster room and 7no. common rooms. Lifts provide access to the upper floors.

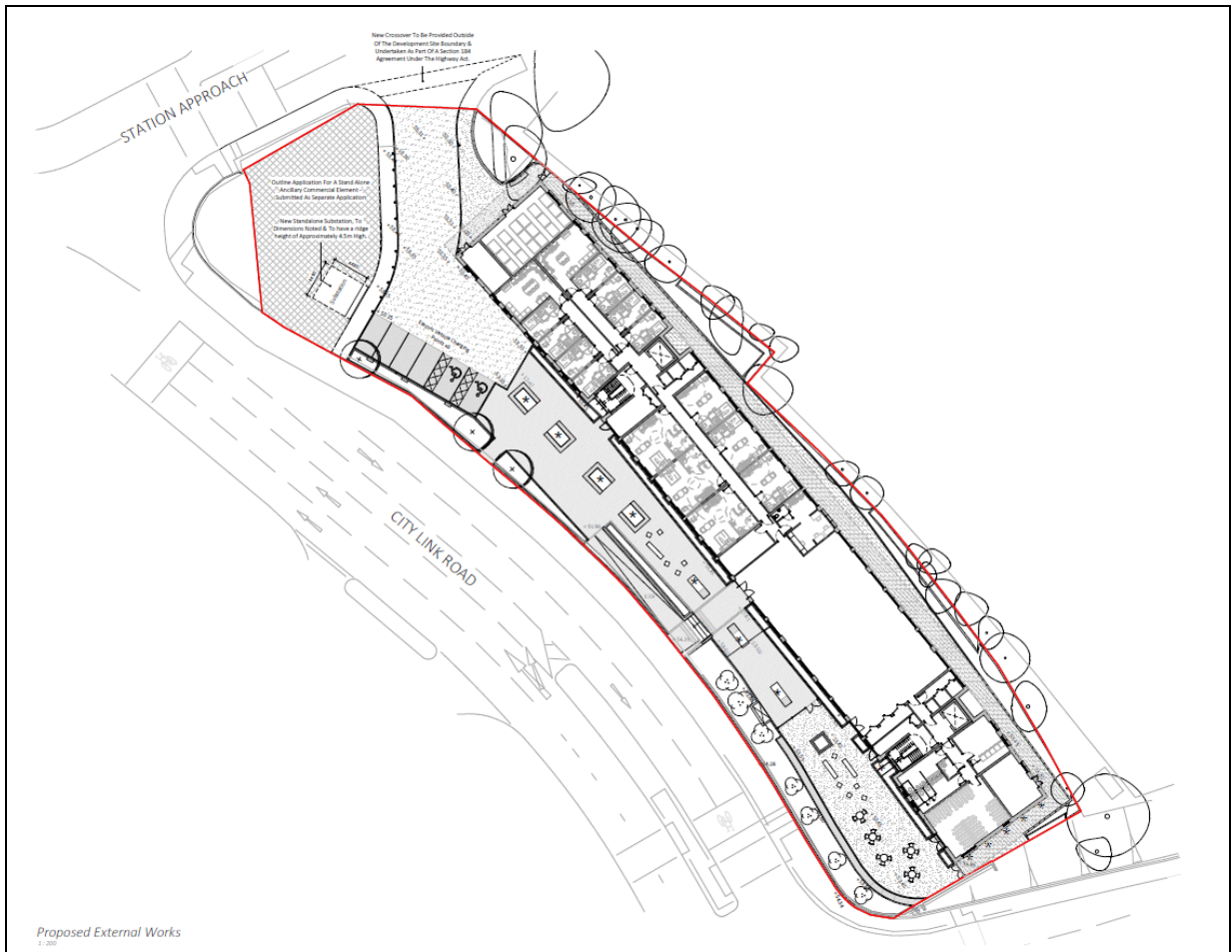


- 1.9 The fourth floor, reduces in numbers, reflecting the reduction in scale to the north of the building. This floor comprises a total of 32 no. bedrooms, comprising 30 no. cluster rooms and 1 no. accessible cluster room. The fourth floor also includes 5 no. common rooms.



Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

- 1.10 The building is sited to the east / rear of the site as detailed on the external works drawing inserted below. The front of the building will be formed by a hard landscaped area that makes provision for an area of seating and the display of artwork. The site also makes provision for 6 parking spaces and access for service vehicles. The revised external works layout drawing also includes a substation which is required to serve both the proposed student accommodation and the future commercial development on the site. Matters of hard and soft landscaping are also addressed and the details are explored in more depth later in this report.



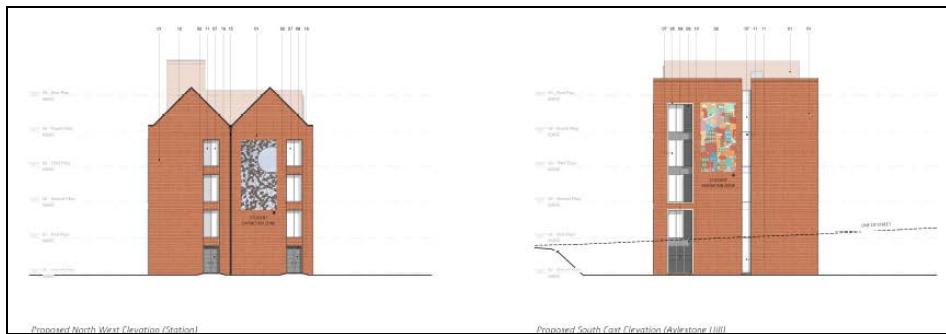
- 1.11 Turning to the external appearance of the building, this amended scheme represents a significant change in terms of design from that originally proposed in October 2018. The elevational plans are inserted below for ease of reference.
- 1.12 The building is approximately 96m in length and 18.8m in height to ridge at its highest point (central ridge). The element alongside Commercial Road is 16.6m in height, but as can be seen on the plan, the majority of the ground floor lies below 'street' level due to the topography of the site and its surrounds. The element of the building closest to the railway station (north) is around 15.9m in height.



1.13 The materials to be used are described as a mix of red brick, stone (or light brick), a profiled black metal cladding, standing seam roof, louvre panels, aluminium windows and rainwater goods.



1.14 Panels are detailed to both the north and south 'end' elevations as inserted below and it is intended that these will be used to display artwork from the students at the art college (as detailed in the statement above).



1.15 To address matters of scale and context, proposed contextual plans have been provided as part of the amended plans and documentation. Inserted below, these show the Grade II listed station in a 'street scene' of Station Approach and a contextual image of the proposed building.







- 1.16 The submission also addresses the matter of scale with an elevational drawing of the building from Commercial Road, with the dwellings on Barrs Court Road also detailed. An illustrative contextual drawing looking at this aspect from the other side of Commercial Road (KFC) also provides a useful tool to understand the scale of the proposed building.



- 1.17 The revised application submission is supported by the following documents:
- Conservation Officer Design Response Document (Addendum to the Design & Access Statement);
  - Landscaping Plan - Ecus Environmental Consultants Dwg No. LD-01 Rev E;
  - Energy Strategy Report Clarification (Ridge) (dated 21<sup>st</sup> December 2018);

- Highways & vehicular access / circulation - including revised Tracking Details Drawing (Dwg No. 69753-CUR-00-00-DR-TP-001-02) and Entrance Crossover Drawing (Dwg No. S2832-SK-CO-01 RevPI);
- Flood Risk - Response to the Environment Agency's letter dated 21st December 2018 including Supplementary Information to the MBCE Flood Risk Assessment Rev O October 2018;
- Drainage Strategy & Associated Plan and details
- Construction Environmental Management Plan (CEMP) (Construction Phase SHE Plan Hereford Student Accommodation Rev 2);
- Information regarding the need for the proposed student accommodation, the benefits the development will bring to Hereford and the commitment to showcasing student art on the site, including a Statement from Hereford College of Arts (within covering letter)
- Interior Design Concept Proposal.

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy

The following policies of the Herefordshire Local Plan – Core Strategy are relevant:

*SS1 - Presumption in Favour of Sustainable Development*

For decision-taking, SS1 requires that planning applications that accord with the policies in the Core Strategy (and, where relevant with policies in other Development Plan Documents and Neighbourhood Development Plans) be approved, unless material considerations indicate otherwise.

*SS4 - Movement and Transportation*

SS4 requires new development to be designed and located to minimise the impacts on the transport network and where practicable that development should be accessible by and facilitate a genuine choice of modes of travel including walking, cycling and public transport. Development proposals that generate high journey numbers should be in sustainable locations, accessible by means other than the private car.

*SS6 - Environmental Quality and Local Distinctiveness*

Development proposal should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, which includes settlement pattern and heritage assets.

*SS7 - Addressing Climate Change*

At a strategic level this will be achieved by focussing development to the most sustainable locations, but at a detailed level, ensuring design approaches are resilient to climate change impacts, including the use of passive solar design for heating and cooling and tree planting for shading. Developments must also, inter alia, demonstrate water efficiency measures to reduce demand on water resources.

*HD2 - Hereford City Centre*

This policy sets a vision for the city centre, Within the context of the urban village, reference is made to the identification of opportunities for new commercial, tourism, education (including tertiary facilities), leisure, health, civic and fire and police uses to meet identified need.

*HD3 - Hereford Movement*

HD3 sets out a range of measures to reduce reliance on the private motor car for short-distance journeys in particular and for improvements to public transport infrastructure enabling improved access and integration between bus and to rail services – a Hereford Transport Hub.

*SC1 - Social and Community Facilities*

Development proposals which protect, retain or enhance existing social and community infrastructure or ensure that new facilities are available as locally as possible will be supported. Such proposals should “be in or close to settlements, have considered the potential for co-location of facilities and where possible be safely accessible by foot, by cycle and public transport.”

Paragraph 5.1.37 identifies that some of the main social-economic outcome of the sustainable community strategy are to improve educational attainment, increase the number of young people entering education or training.

The policy states that the provision of improvement of higher education facilities and continuing enhancement of existing, or provision of new, training and skills facilities will be actively promoted.

*OS1 - Requirement for open space, sports and recreation facilities*

This recognises the need, when providing residential development, to consider the provision for open space, sports and recreation facilities

*MT1 - Traffic Management, Highway Safety and Promoting Active Travel*

This policy, in common with several others and a recurring theme within the CS, encourages active travel behaviour to reduce numbers of short distance car journeys and access to services by means other than private motorised transport. All development should be laid out to achieve safe entrance and exit, with appropriate operational space.

*LD1 - Landscape and Townscape*

Development should demonstrate that character of the landscape and townscape has positively influenced the design of the proposal, with incorporation of new landscape schemes to ensure development integrates appropriately into its surroundings.

*LD2 - Biodiversity and geodiversity*

Development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of the County. This includes the retention and protection of nature conservation site and habitats, important species, restoration and enhancement of existing biodiversity and geodiversity features and the creation of new biodiversity features and wildlife habitats.

*LD3 - Green Infrastructure*

Development Proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructure such as the retention of existing green infrastructure corridors: protection of trees is relevant here. Enhancement is also sought along with integration with and connection to the surrounding green infrastructure network.

*LD4 - Historic Environment and Heritage Assets*

Development proposals should protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance.

*SD1 - Sustainable Design and Energy Efficiency*

SD1 is a criteria-based policy requiring development proposals to create safe, sustainable, well integrated environments for all. Among other things, development should make efficient use of land and new buildings should be designed to maintain local distinctiveness, while making a positive contribution to the architectural diversity and character of the area. Developments should also utilise physical sustainability measures that include, in particular, orientation of building, the provision of water conservation measures, storage for bicycles and waste including provision for recycling, and enabling renewable energy and energy conservation infrastructure.

*SD3 - Sustainable Water Management and Water Resources*

This policy requires measures for sustainable water management to be an integral element of new development in order to reduce flood risk; to avoid an adverse impact on water quantity; to protect and enhance ground water resources and to provide opportunities to enhance biodiversity, health and recreation.

*SD4 - Wastewater Treatment and River Water Quality*

In order to support the attainment of river water quality targets for rivers within the county, developments should in the first instance seek to connect to the existing mains wastewater infrastructure network.

*ID1 - Infrastructure Delivery*

Although concerned principally with securing developer contributions towards critical infrastructure, ID1 confirms that provision for new and/or the enhancement of existing infrastructure, services and facilities to support development and sustainable communities, will be achieved through a co-ordinated approach.

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)

## **2.2 National Planning Policy Framework (2018)**

The NPPF, revised in 2018, is a significant material consideration; particularly where relevant CS policies are absent, silent or out of date. That is not the case here, yet as the NPPF post-dates the CS it is necessary to consider the policies of the NPPF in accordance with paragraph 212 i.e. "The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication."

213 confirms that due weight may still be given to CS policies that pre-date the publication of the revised NPPF "according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."



The following sections of the NPPF are considered to be relevant:

2. Achieving Sustainable Development
4. Decision Making
5. Delivering a Sufficient Supply of Homes
6. Building a Strong, Competitive Economy
8. Promoting Healthy and Safe Communities
9. Promoting Sustainable Transport
11. Making Effective Use of Land
12. Achieving Well-Designed Places
14. Meeting the Challenge of Climate Change, Flooding and Coastal Change
15. Conserving and Enhancing the Natural Environment
16. Conserving and Enhancing the Historic Environment

### 2.3 National Planning Practice Guidance

### 2.4 Planning Obligations Supplementary Planning Document

### 2.5 Draft Hereford Design Guide Supplementary Planning Document:

The principles in the design guide have been informed by engagement with key stakeholders through meetings and workshops. This process will continue with a formal six week consultation process commencing on 28 January 2019. Given its early stage of consultation it has very limited weight in the decision making process.

[https://www.herefordshire.gov.uk/consultations/article/10114/draft\\_hereford\\_design\\_guide\\_consultation](https://www.herefordshire.gov.uk/consultations/article/10114/draft_hereford_design_guide_consultation)

## 3. Planning History

- 3.1 P181974/A Proposed advertisement to show a visual interpretation of future development on the site.
- 3.2 P131240/CD - Redevelopment of site to provide a public car park with associated lighting, signage and parking meters. Approved 01/08/13
- 3.3 P130788/D - Prior notification of the proposed demolition of the former DIY Superstore. Allowed
- 3.4 P130405/D - Prior notification of proposed demolition of former DIY Superstore. Allowed

### Road applications

- 3.5 P170809/AM - Non-material amendments DMCE/092576/F – relocate toucan crossing at the North side of Prior Street and amend retaining wall at junction of City Link Road with A465 Commercial Road. Approved 23/03/17
- 3.6 P153105/AM - Proposed non-material amendment to planning permission DMCE/092576/F - Removal of temporary culvert, re-alignment of the permanent culvert. Approved 06/11/15
- 3.7 P150790/AM - Proposed non-material amendment to planning permission DMCE/092576/F (demolition of existing buildings and construction of new highway, cycleway, drainage, landscaping and associated works between the A49 (T) Edgar Street and A465 Commercial Road, Hereford, along with a new link to Unclassified Road 80332 Blackfriars Street and U80335 Canal Road, a new junction with Widemarsh Street and associated highway improvement works including to the junction of the A49 (T) Edgar Street and B4359 Newtown Road and the junction of A465 Aylestone Hill and C1127 Barrs Court Road, Hereford – Approved 23/03/15

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

## 4. Consultation Summary

### Statutory Consultations

#### 4.1 Historic England (November 2018)

The application site forms part of the setting of the Aylestone Hill and Central Area Hereford Conservation Areas and contributes to their significance in terms of their historical and evidential value although its current appearance makes a negative contribution to their aesthetic value. Historic England has no objection to the principle of development on the site but is concerned that the scale, mass, orientation and design of the proposed development represents a change in setting that will harm significance and offers no heritage benefits to outweigh this harm. Historic England is therefore unable to support the scheme in its current form.

#### *Historic England Advice*

The site is located between the Central Area Hereford Conservation Area and the Aylestone Hill Conservation Area with two further conservation areas to the northwest (Bulmer Garden Suburb) and east (Bodenham Road). The Scheduled remains of the medieval Blackfriars Friary lie to the west and the Grade II listed station building to the north.

In the medieval period the area in which the site is located was low-lying, open, marshy land beyond the city walls controlled by the religious houses of Blackfriars and St Guthlac and crossed by the Eign Brook and the medieval road to the Lugg valley and Bromyard. The road encouraged the growth of a small suburb beyond the walls in the post medieval period while the brook provided power for mills and later for industry. The industrial character of the area was confirmed by the construction here of the wharf and terminus of the Hereford and Gloucester Canal and the railway sidings and station. Suburban residential development skipped beyond this low-lying industrial area in the eighteenth century to the more attractive rising ground along the road up Aylestone Hill where large and medium sized houses set in their own grounds and gardens were laid out for prosperous Herefordians. In the late nineteenth and early twentieth century population growth was such that denser terraced housing infilled the areas between the earlier suburbs but much of the area between the city walls and the railway remained industrial.

This general history of development is clearly traceable in the morphology of the city core and its suburbs and in the structure, grain, density and texture of the cityscape and is protected by its conservation areas, listed buildings and scheduled monuments. These characteristics are experienced as you walk around the city but are more easily appreciated from higher vantage points looking into the city from outside and to best effect from the cathedral tower. From this vantage point the historical development of Hereford and much of the reason for its location are easily understood in the relationship of building form to landscape context. In very few cases is the pattern obscured by big footprint tall buildings. This reflects the high survival rate of historic fabric across the city and contributes to Hereford's status as an outstanding historic city.

The application site forms part of this context and so forms part of the setting of the designated assets around it. In its current form it contributes to their significance in terms of their historical and evidential value as the scale of development currently upon it does not obscure an understanding of their interrelationship. The site's poor appearance however, makes a negative contribution to their significance in terms of aesthetic value. The site thus presents opportunities for redevelopment that would improve its appearance and enhance significance but is of a scale and design that maintains its contribution to the historical and

evidential value of surrounding heritage assets. Paragraphs 192 and 200 of the NPPF specifically address this issue stressing the importance of new development making a positive contribution to local character and enhancing or better revealing the significance of heritage assets. Section 12 of the NPPF (paragraphs 127 and 130) on achieving well-designed places is also relevant in this respect and is echoed in the advice to Herefordshire Council provided by Historic England's Urban Panel which recognised the place-making opportunities presented by NMiTE. The Urban Panel's recommendations included the development of a clearly identifiable architectural language for 'Hereford University' buildings, a design code for new student accommodation and a city-wide masterplan to ensure that new development responds to the particularly high quality of Hereford's heritage with a specific recommendation on the importance of high quality design in improving the sense of arrival at Hereford Station.

In this context, Historic England has no objection to the principle of development on the site but is disappointed that the proposed building is of a scale, mass and orientation that will visually sever the Aylestone Hill Conservation Area from the Central Area Hereford Conservation Area, will obscure the historical relationship between them and result in harm to their significance. The building's combination of a big footprint and height are in sharp contrast with the scale and texture of the conservation areas and the listed railway station and will not, in our view, contribute positively to local character and distinctiveness. We do not find the colour palette of the brickwork convincing as a response to buildings that make a positive contribution to local character or contribute to the aesthetic value of the conservation areas. We are disappointed that the form and alignment of the proposed building and the limited works to public realm do not positively address the place-making potential of the site recognised in the Urban Panel's recommendations or required by Section 12 of the NPPF. We do not consider that the proposal offers any heritage benefits and are concerned that it results in harm that could be avoided by an alternative design for a reduced number of units. We are therefore unable to support the proposals in their current form.

#### *Recommendation*

Historic England has concerns regarding the application on heritage grounds.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of sections 12 and 16 of the NPPF.

In determining this application you should bear in mind the statutory duty of sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and of preserving or enhancing the character or appearance of conservation areas., Also section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If, however, you propose to determine the application in its current form, please treat this as a letter of objection, inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

#### **4.2 Historic England (February 2019)**

Thank you for your letter of 24 January 2019 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

## *Summary*

The amended plans do not address the key concerns raised in our letter of 13 November 2018. Therefore, while we have no objection to the principle of redevelopment on this site, we refer you to our concerns set out in letter above and object to the application on heritage grounds.

## *Historic England Advice*

Historic England welcomes the applicant's review of the design for this development, the colour palette, analysis of existing roofscape and greater level of information on landscaping provided. However, we are disappointed that advice offered at the meeting in your office on 28 November has not led to changes of an order that address our primary concerns regarding amount, scale, mass, orientation, height and design quality. We remain of the view stated in our letter of 13 November 2018 that the proposal offers no heritage benefits, results in avoidable harm to the designated heritage assets affected (and is not justified in terms of paragraphs 193, 194 and 196 of the NPPF), does not deliver the requirements of new development set out in paragraphs 127, 130, 192 and 200 of the NPPF and does not accord with our Urban Panel's recommendations to you in delivering the regeneration of this part of the city.

## *Recommendation*

Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 127, 130, 192, 193, 194, 196 and 200.

In determining this application you should bear in mind the statutory duty of section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and of preserving or enhancing the character or appearance of conservation areas. Also section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Your authority should take these representations into account in determining the application. If you propose to determine the application in its current form, please inform us of the date of the committee and send us a copy of your report at the earliest opportunity.

### **4.3 Environment Agency (December 2018)**

Thank you for referring the above application which was received on the 5 December 2018. We **object** to the proposed development, as submitted, and request further information as detailed below.

Flood Risk: The site proposed for the student accommodation is currently a car park and falls within Flood Zone 2 (Medium Probability as defined in Table 1 of the Planning Practice Guidance) of the Widemarsh Brook, classed as an ordinary watercourse, on our Flood Map for planning. The site lies on lower land compared to Station Approach and the A465 which run to the south and east of the site respectively. However, whilst the site is afforded protection by the Yazor Brook Flood Alleviation Scheme (FAS), the submitted Flood Risk Assessment (FRA) WSP Memo has confirmed significant depths of flooding across the site should the FAS not be operational (Blockage).

Sequential Test (ST): The NPPF details the requirement for a risk-based ST in determining planning applications. See paragraphs 157-158 of the NPPF and the advice within the Flood Risk and Coastal Change Section of the government's NPPG.

*The NPPF requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a ST. It states that 'Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding'.*

Further detail is provided in the NPPG; 'Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test (ET) if required.

Section 4.1 of the submitted FRA seeks to address matters relating to the ST and confirms that your Council are seeking to promote the parcel of land for the proposed use. We are aware of your aspiration for the ongoing development of this part of Hereford City which we have been historically engaged with. We would leave your Council to consider and address the ST issue. Providing you are satisfied, we would make the following comments on the FRA. We would expect a robust assessment of flood risk to be provided as detailed further below.

Flood Risk Assessment: A FRA has been prepared by MBCE Projects Ltd (Rev 0 dated October 2018). However, it is currently inadequate as it does not fully address the flood risk to the site over the lifetime of the development from all forms of flooding. Also the FRA will need to demonstrate that flood risk elsewhere will not be increased as a consequence of the redevelopment of the site i.e. by impacting upon flood flow routes or reducing flood storage capacity. In fact section 2.1.1 of the FRA states that "a detailed model of the site had been requested from Herefordshire Council. At the time of writing this has not been provided". The FRA does contain some pre-application advice from Balfour Beatty in Appendix D and this also highlights that the site is located within an area of significant risk of surface water flooding. However, the FRA does not contain any modelled information for the Widemarsh Brook. We have not been approached for any pre-planning application advice, both for this site or the wider ESG redevelopment, which may have helped ensure a more robust submission.

The FRA is correct in that flood risk to this site will be reduced as a consequence of the upstream Yazor Brook Flood Alleviation Scheme (FAS) where some of the flows are diverted at Credenhill and channelled directly to the River Wye thus reducing flood risk in the City Centre. However, no undefended or defended modelled flood levels or flood maps have been included in the FRA or its appendices and it is therefore not possible to confirm whether the site is at flood risk including climate change impacts/a failure of the FAS and whether the finished floor level for the accommodation building is adequate.

Development Proposals: The proposed use would be considered 'More Vulnerable' as defined in Table 2 of National Planning Practice Guidance (student halls of residence). The design flood (1% flood level fluvial, plus climate change allowances) should be used to inform the consideration of flood risk impacts, mitigation/enhancement and ensure 'safe' development. For 'more vulnerable' development (as defined within Table 2 - Flood Risk Vulnerability Classification, Paragraph: 066 Reference ID: 7-066-20140306 of the NPPG) e.g. housing, the FRA should use the 'higher central' climate change allowance (35%) as a minimum to inform built in resilience; but demonstrate/aim to incorporate managed adaptive approaches/measures for the 'upper end' allowance (70%) where feasible.

The proposed building has 4 floors and the majority of the 178 student rooms are proposed on the upper floors. However, it is key that the finished floor level of the ground floor is set correctly so that internal flooding does not occur even in the worst case scenario e.g. extreme events or during a blockage of the FAS where more flows would be directed towards and inundate parts of the City Centre. This is of particular relevance as there are a number of student rooms, including 3 accessible studios, located on the ground floor. Appendix G of the FRA indicates that the ground floor will be set at 53.60mAOD but this is based on the assumption that there will be no flooding at the site. Our preferred ground floor use in the floodplain would be 'Less Vulnerable' uses - we note there are some uses of this type proposed in this application such as offices, launderette, storage etc

Paragraph 054 of the NPPG advises on how a development might be made safe from flood risk. Paragraph 039 provides detail on access and egress.

Again the FRA states that safe access and egress will be maintained at design storm events but does not contain any modelled flood information to demonstrate this or show how this risk would be managed.

WSP Memo: As a subsequent compliment to the FRA, WSP have produced a brief memo for the application (dated 14 November 2018) and this had been based on modelling of the Yazor Brook and includes the latest climate change allowances (35 and 70% for residential accommodation). However, page 3 of the memo confirms that the modelling takes into account a diversion of the Widemarsh Brook to the west of the site and an attenuation basin of the new link road, neither of which has been constructed yet.

Figure 1 shows that there is some flooding of the site when the FAS is in operation but depths of 900mm on the site in a 1 in 100 year plus 35% events when the FAS is blocked (Figure 2).

One concern in terms of the memo is the section entitled 'Other Considerations'. This highlights the deficiencies of the Yazor Brook modelling, including not having undertaken sensitivity analysis, and questioning whether the flows used are accurate. It also questions the benefit of the FAS and suggests that blockage scenarios will need to be carried out on a plot by plot basis for the Edgar Street Grid (ESG) developments but this application does not contain any blockage scenarios and how this may affect the site. It also goes on to confirm that other sources of flooding have not been considered and in line with national planning policy FRAs should consider all forms of flooding. This all adds to our concerns with the FRA in that the application has been made prior to fully understanding flood risk in the location. This is a major development as it is for a 178 unit student accommodation but there are questions about the current suitability of the modelling and therefore sustainability of the development.

The memo goes on to suggest different finished floor levels for the proposed student accommodation building. This includes 54.80mAOD which was used in the ESG modelling which would involve raising the site by up to 1.7 metres. However, as this is well above all of the modelled scenarios (Table 2) it does continue that the finished floor level may be reduced and still be deemed appropriate. This could be either 54.0mAOD or 53.7mAOD. We presume these supersede the flood level of 53.60mAOD in the FRA? Clarification on floor levels is therefore required to inform a safe development.

In addition to the above concerns, the FRA/memo does not assess the potential impacts of raising the site (ground levels) by over a metre. Presumably there will be no impact on fluvial flood risk if the site does not lie in the defended 100 plus 35% defended extent? What about other flood risk reduction measures? Impact with other sources? (We note Balfour Beatty suggested there is a significant risk of surface water flooding).

## Flood Warning and Evacuation Plan

The NPPG (paragraph 056) states that one of the considerations for safe occupation is whether adequate flood warning would be available to people using the development.

We do not normally comment on or approve the adequacy of flood emergency response and flood evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users if they sign up to the Flood Warnings Service.

The NPPG places responsibilities on LPAs to consult their Emergency Planners with regard to specific emergency planning issues relating to new development. We would advise that you take account of the guidance within NPPG Paragraph: 057 Reference ID: 7-057-20140306.

We would advise that the Flood Warning and Evacuation Plan should identify a flood level that will initiate evacuation of people and vehicles, and any subsequent closure of the building/car park. This trigger level should be when the access/egress is still 'dry' i.e. flood-free, to avoid any question of what is an acceptable level of flood risk to occupants.

The FRA does state that an evacuation plan, and the demonstration of safe access, should be agreed with Herefordshire Council, and their Emergency Planners which is especially important due to the current proposed ground floor sleeping accommodation. However there is no further detail within either the FRA or Memo; although separate correspondence from your colleague, Peter Gebbie (Emergency, Resilience & Business Continuity Advisor) is noted.

Flood Warning Contributions: In this instance, to make the development acceptable in planning terms, the management of flood risk to the development, including safe access and egress, relies on the provision of our Flood Warning Service. We have a flood gauge on Three Elms. In this instance we would seek a contribution of £5,000, from the applicant, towards maintaining and operating this service.

It is reasonable that planning permission should be subject to an appropriate unilateral undertaking requiring a financial contribution to provide this contribution to maintain and improve this service/system.

Note: As the memo states, a meeting did take place between Herefordshire Council, WSP, Balfour Beatty and the Environment Agency but the design criteria listed in Table 1 of the memo was not agreed. We sought updated modelling to be produced and some clarification prior to agreeing the design parameters. This has not yet been received.

We have had no pre-application engagement on this application site, or recent discussion on the wider ESG area. As such, we concur that we have not formally agreed to the ESG assessment criteria in Table 1 of WSP's memo particularly on the potential off site impacts of redeveloping ESG on third party land and showing flood risk impacts and reduction are understood. It is recommended that engagement recommences to allow an understanding of this key area of development in flood risk planning terms.

Notwithstanding the above, we are aware of the work in relation to further modelling on the key watercourses in Hereford which is currently being undertaken as part of the Integrated Catchment Strategy (ICS). This work may help to further inform flood risk in the city. However, as submitted, the FRA and associated Memo do not represent a robust assessment of flood risk.

The proposal is considered contrary to the NPPF and your adopted local plan Policy SD3 as submitted. We will be in a position to comment again on the flood risk issues once the above points have been clarified.

Meeting and/or detailed document review: Should the applicant wish to discuss the proposals further or for us to review technical reports, outside of the formal statutory process, this will be chargeable in line with our cost recovery service.

#### 4.4 Environment Agency (February 2019)

I refer to additional information received in support of the above application and, specifically, our current objection on flood risk grounds. We have reviewed the additional information in the form of Geraint John Planning's letter of 23 January 2019, the Supplementary Information to the MBCE FRA (Rev 0 dated October 2018), the updated memo from Balfour Beatty dated 13 February 2019 and MBCE's FRA Addendum Rev2, and are in a position to **remove our objection**. We would recommend the following comments and condition be applied to any permission granted.

**Flood Risk:** As previously stated the site proposed for the student accommodation is currently a car park and falls within Flood Zone 2 (Medium Probability as defined in Table 1 of the Planning Practice Guidance) of the Widemarsh Brook, designated ordinary watercourse, on our Flood Map for planning. The site lies on lower land compared to Station Approach and the A465 which run to the south and east of the site respectively.

I taking into account the flood risk vulnerability of land uses and applying the Exception Test (ET) if required.

**Sequential Test (ST):** The NPPF details the requirement for a risk-based ST in determining planning applications. See paragraphs 157-158 of the NPPF and the advice within the Flood Risk and Coastal Change Section of the government's NPPG.

The NPPF requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a ST. It states that *'Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding'*.

Further detail is provided in the NPPG; 'Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, Section 4.1 of the submitted FRA seeks to address matters relating to the ST and confirms that your Council are seeking to promote the parcel of land for the proposed use. We are aware of your aspiration for the ongoing development of this part of Hereford City which we have been historically engaged with. We would leave your Council to consider and address the ST issue. Providing you are satisfied, we would make the following comments on the FRA.

**Flood Risk Assessment:** As previously stated, the proposed use would be considered 'More Vulnerable' as defined in Table 2 of National Planning Practice Guidance (student halls of residence). The design flood (1% flood level fluvial, plus climate change allowances) should be used to inform the consideration of flood risk impacts, mitigation/enhancement and ensure 'safe' development. For 'more vulnerable' development (as defined within Table 2 - Flood Risk Vulnerability Classification, Paragraph: 066 Reference ID: 7-066-20140306 of the NPPG) e.g. housing, the FRA should use the 'higher central' climate change allowance (35%) as a minimum to inform built in resilience; but demonstrate/aim to incorporate managed adaptive approaches/measures for the 'upper end' allowance (70%) where feasible.



Following receipt of the FRA addendum we are satisfied that the proposed finished floor level of 53.60m AOD will be adequate to protect the development from fluvial flooding. This is 870mm above the 100 year plus 70% climate change modelled flood level with the upstream Flood Alleviation Scheme (FAS) in operation as provided in Balfour Beatty's memo. It is also 820mm above the 1 in 1000 year modelled level (residual risk scenario) and the building would remain dry (albeit with a reduced freeboard) with a total blockage of the upstream FAS. We are therefore satisfied with a level of 53.60m AOD. This is key given that there is More Vulnerable uses proposed on the ground floor including accessible unit living accommodation.

In our previous response we also raised a concern that the modelling assumed that a diversion of the Widemarsh Brook upstream of the site had already taken place when in reality this has not been undertaken (although is in Balfour Beatty's programme of works). However, we understand that the Yazor Brook modelling assumes ground levels on the plot adjacent to the diverted section are raised so if this diversion did not take place there should be additional flood storage available. Again, the proposed finished floor level also reduces the concerns about the diversion not taking place. We have also raised concerns that the Yazor Brook modelling has not included the usual robustness and sensitivity tests (e.g. channel roughness, flows, blockage scenarios) you would expect with hydraulic modelling. Again given the fact that this site lies in Flood Zone 2 on our Flood Map for Planning, and the flood outlines shown in Figure 1 and 2 of Balfour Beatty's Memo of 13 February 2019, we are satisfied that the proposed development will not be at risk. MBCE have produced topographic evidence to suggest that a blockage of the Widemarsh Brook culvert upstream of Morrison's (at Canal Road) and downstream of the site at Commercial Road would not impact upon the development.

**Condition:** Finished floor levels shall be set no lower than 53.60m AOD as stated in MBCE's Flood Risk Assessment Rev 0 dated October 2018 unless otherwise agreed in writing by the LPA.

**Reason:** To protect the proposed dwellings from flood risk for the lifetime of the development

It should be emphasised that this approach has been accepted in this instance given the relatively low flood risk to this plot on the Edgar Street Grid development and the precautionary finished floor level. This approach would not be acceptable on some of the other plots where we would expect robust modelling with suitable sensitivity tests and modelled blockage scenarios to be undertaken. We understand that WSP will shortly be producing further robustness and sensitivity testing on the modelling following a recent meeting.

**Safe Access, Flood Warning and Evacuation Plan:** The NPPG (paragraph 056) states that one of the considerations for safe occupation is whether adequate flood warning would be available to people using the development.

We do not normally comment on or approve the adequacy of flood emergency response and flood evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users if they sign up to the Flood Warnings Service.

The NPPG places responsibilities on LPAs to consult their Emergency Planners with regard to specific emergency planning issues relating to new development. We would advise that you take account of the guidance within NPPG Paragraph: 057 Reference ID: 7-057-20140306.

We would advise that the Flood Warning and Evacuation Plan should identify a flood level that will initiate evacuation of people and vehicles, and any subsequent closure of the building/car park. This trigger level should be when the access/egress is still 'dry' i.e. flood-free, to avoid any question of what is an acceptable level of flood risk to occupants.

We are aware from the meeting held on 13 February 2019, and the FRA Addendum Rev 2, that discussions have been held with the Emergency Planner to form a suitable Flood Evacuation and Management Plan. It is not our remit to approve such plans though we recommend that such a plan had been approved by the Emergency Planner prior to occupation of the building. The plan should include full details of proposed awareness training and procedure for evacuation of persons and property (including vehicles), training of staff; and method and procedures for timed evacuation. It should also include a commitment to retain and update the Plan and include a timescale for revision of the Plan.

**Flood Warning Contributions:** In this instance, to make the development acceptable in planning terms, the management of flood risk to the development relies on the provision of our Flood Warning Service. We have a flood gauge on Three Elms. In this instance we would seek a contribution of £5,000, from the applicant, towards maintaining and operating this service.

It is reasonable that planning permission should be subject to an appropriate unilateral undertaking requiring a financial contribution to provide this contribution to maintain and improve this service/system.

**Foul Drainage:** We would have no objection to the connection of foul water to the mains foul sewer, as proposed. The LPA must ensure that the existing public mains sewerage system has adequate capacity to accommodate this proposal, in consultation with the relevant Sewerage Utility Company.

#### 4.5 **Welsh Water (November 2018)**

We have reviewed the information submitted as part of this application with particular focus on the Flood Risk Assessment October 2018 Rev 0 and the Utilities Report dated 11/10/2018 which shows the proposed foul and surface water drainage arrangement. We draw your attention to the fact that the proposed development is to be located in very close proximity to a 1200mm public combined sewer with the approximate position being marked on the attached Statutory Public Sewer Record, although we note that the applicant has undertaken a survey to accurately locate the sewer. Due to the size, depth of the sewer being 6 - 6.5m and the volume of sewage it conveys we define this as an asset of strategic importance and one that needs careful consideration as part of any development activity.

We are working proactively with the applicant and their engineers to assess the health and safety aspects of any new structure in this location to ensure that effective protection measures are provided and that sufficient access is maintained in the event that we need to excavate to comply with our duties to repair or maintain the sewer network.

Our involvement to date have centred around discussing options and assessing proposals to design out the risk of building in close proximity to a large diameter sewer that ranges from 6 - 6.5 meters in depth across the proposed site. We have not yet reached a position where our concerns have been fully satisfied and we continue to engage proactively and a further meeting is scheduled for Friday 23 November.

In light of the above we are not in a position to provide a comprehensive or substantive response to the planning application and seek your co-operation to allow an extension so that these discussions can continue. Once we are in a position to comment further we will respond again formally in due course.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

## 4.6 Welsh Water (February 2019)

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We write further to our previous letter dated 16/11/2018 in direct response to the further/amended information which has been submitted following constructive dialogue between ourselves, the applicant and their representatives. The discussions have revolved around the measures taken to protect the 1200mm public combined sewer which crosses through the proposed development site at a depth of between 6.5 meters and 5 meters across the site.

We refer specifically to drawing numbers S2862-SKWWS01 Revision P8, S2862-SKWWS02 Revision P8, S2862-SKWWS03 Revision P2, S2862-WWDS-101 Revision P3 and PL115 Revision B. Whilst there are elements of the technical drainage strategy which are still to be refined and agreed we can accept the broad principles of the proposal. Therefore we can offer our support to the determination of the application and confirm that we are content for discussions to continue and for these outstanding matters to be addressed post determination subject to your cooperation to impose suitable conditions.

With regards to surface water disposal the application form and Flood Consequence Assessment report it is unclear as to the destination off site discharge. The FCA indicates this will be to a public sewer, however it is not clear whether this is to a surface water sewer which has an outfall to a culverted watercourse or combined sewer. If the discharge is to the public surface water sewer in the adjacent road Welsh Water is owned by Glas Cymru – a ‘not-for-profit’ company’ then we are satisfied to accept the proposed discharge rate of 44.1 l/s (ie which equates to the current discharge from the existing site).

Finally, the current potable water network in this area does not have the required capacity to accommodate the proposed development, however a scheme is underway and due to the extent of works required we anticipate that these works will be completed by 31st March 2020. Therefore any occupation should coincide with the completion of these works.

In light of the above if you are minded to grant planning permission we request that the following **Conditions** and **Advisory Notes** are included within any subsequent consent.

### Conditions

- Notwithstanding the submitted plans, no development 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 demonstrate how the site will be effectively drained; the means of disposal of surface water and indicate how foul flows will communicate to the public sewerage system. Thereafter, the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further surface water or land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

- The approved building shall not be brought into beneficial use earlier than 31st March 2020, unless the upgrading of the potable water network that would serve the development has been completed and written confirmation of this has been received by the Local Planning Authority.

Reason: To ensure satisfactory mains water supply is available to properties at all times

#### 4.7 **Network Rail (November 2018)**

Thank you for your email dated 26 October, together with the opportunity to comment on this proposal.

After studying the proposals detailed in the application, Network Rail **objects** to the above application in its current form. The red line plan submitted shows the applicant's ownership is incorrect, the applicant has included a section of land in our ownership (see attached plan which shows Network Rail's ownership in Green). Network Rail has not been served with the correct notice as land owner which invalidates this application.

Network Rail is likely to withdraw any objection if an acceptable solution can be found and the applicant removes our land from the redline plan. Once we have received the amended plans, we will then be in a position to submit our comments, until then, our objection will remain.

#### 4.8 **Network Rail – (December 2018)**

Further to our email dated 16 November objecting to the above proposal, after confirmation that the land in question is not within Network Rail's ownership, I can confirm that Network Rail formally withdraws its objection.

Notwithstanding the above, I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

It should be noted that any works on site must not disrupt the day to day operation of the station and prevent access to the station for passengers.

As the station Hereford (Barrs Court) is listed grade II, the impact this development may have on the setting of the station should be assessed.

##### FORMER BR LAND

The development is located on an area of land previously under the ownership of Network Rail. Often these sites are sold and are subject to a demarcation or covenant agreement which may include particular rights in relation to the safe operation of the railway and associated infrastructure. It must be considered that Network Rail has access rights over the development site; access must not be blocked or restricted at any time. The applicant must comply with all post sale covenants in the demarcation agreement and understand the implications this will have on the implementation of this development.

Any representations made are without prejudice to those rights and obligations and on the basis that they do not imply that Network Rail's approval under the demarcation agreement will be given for the proposed development or for any part of it.

##### FOUNDATIONS

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

##### DRAINAGE

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

#### GROUND DISTURBANCE

The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

#### FENCING

If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

#### SITE LAYOUT

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

#### PILING

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

#### EXCAVATIONS/EARTHWORKS

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

#### SIGNALLING

The proposal must not interfere with or obscure any signals that may be in the area.

#### NOISE

Network Rail would remind the council and the applicant of the potential for any noise/vibration impacts caused by the proximity between the proposed development and the existing railway, which must be assessed in the context of the National Planning Policy Framework (NPPF) and the local planning authority should use conditions as necessary. The current level

of railway usage may be subject to change at any time without prior notification including increased frequency of trains, night time train running and heavy freight trains. There is also the potential for maintenance works to be carried out on trains, which is undertaken at night and means leaving the trains' motors running which can lead to increased levels of noise. We therefore strongly recommend that all future residents are informed of the noise and vibration emanating from the railway, and of potential future increases in railway noise and vibration.

#### LANDSCAPING

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

#### PLANT, SCAFFOLDING AND CRANES

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

#### LIGHTING

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

#### SAFETY BARRIER

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

#### SECURITY OF MUTUAL BOUNDARY

Security of the railway boundary will require to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Engineer.

#### ACCESS POINTS

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

In order to mitigate the risks detailed above, the Developer should contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk). The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

#### 4.9 **Network Rail (February 2019)**

Thank you for your email dated 24 January, together with the opportunity to comment on this proposal.

Whilst there is no objection in principle to this proposal I give below my comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

It should be noted that any works on site must not disrupt the day to day operation of the station and prevent access to the station for passengers.

As the station Hereford (Barrs Court) is listed grade II, the impact this development may have on the setting of the station should be assessed.

#### FORMER BR LAND

The development appears to be located on an area of land previously under the ownership of Network Rail. Often these sites are sold and are subject to a demarcation or covenant agreement which may include particular rights in relation to the safe operation of the railway and associated infrastructure. It must be considered when Network Rail has access rights over the development site; access must not be blocked or restricted at any time. The applicant must comply with all post sale covenants in the demarcation agreement and understand the implications this will have on the implementation of this development.

Any representations made are without prejudice to those rights and obligations and on the basis that they do not imply that Network Rail's approval under the demarcation agreement will be given for the proposed development or for any part of it.

#### FOUNDATIONS

Network Rail offers no right of support to the development. Where foundation works penetrate Network Rail's support zone or ground displacement techniques are used the works will require specific approval and careful monitoring by Network Rail. There should be no additional loading placed on the cutting and no deep continuous excavations parallel to the boundary without prior approval.

#### DRAINAGE

All surface water drainage should be directed away from Network Rail's land to the public mains system. Soakaways are not acceptable where the following apply:

- Where excavations which could undermine Network Rail's structural support zone or adversely affect the bearing capacity of the ground
- Where there is any risk of accidents or other acts leading to potential pollution of Network Rail's property/infrastructure
- Where the works could adversely affect the water table in the vicinity of Network Rail's structures or earthworks.

#### GROUND DISTURBANCE

The works involve disturbing the ground on or adjacent to Network Rail's land it is likely/possible that the Network Rail and the utility companies have buried services in the area in which there is a need to excavate. Network Rail's ground disturbance regulations applies. The developer should seek specific advice from Network Rail on any significant raising or lowering of the levels of the site.

#### FENCING

If not already in place, the Developer/applicant **must** provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

## SITE LAYOUT

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

## PILING

Where vibro-compaction/displacement piling plant is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of Network Rail's Asset Protection Engineer prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

## EXCAVATIONS/EARTHWORKS

All excavations / earthworks carried out in the vicinity of Network Rail's property / structures must be designed and executed such that no interference with the integrity of that property / structure can occur. If temporary compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Engineer should be undertaken.

## SIGNALLING

The proposal must not interfere with or obscure any signals that may be in the area.

## NOISE

Network Rail would remind the council and the applicant of the potential for any noise/vibration impacts caused by the proximity between the proposed development and the existing railway, which must be assessed in the context of the National Planning Policy Framework (NPPF) and the local planning authority should use conditions as necessary.

The current level of railway usage may be subject to change at any time without prior notification including increased frequency of trains, night time train running and heavy freight trains.

There is also the potential for maintenance works to be carried out on trains, which is undertaken at night and means leaving the trains' motors running which can lead to increased levels of noise.

We therefore strongly recommend that all future residents are informed of the noise and vibration emanating from the railway, and of potential future increases in railway noise and vibration.

## LANDSCAPING

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

## PLANT, SCAFFOLDING AND CRANES

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.



## LIGHTING

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

## SAFETY BARRIER

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

## SECURITY OF MUTUAL BOUNDARY

Security of the railway boundary will require to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Engineer.

## ACCESS POINTS

Where Network Rail has defined access points, these must be maintained to Network Rail's satisfaction.

In order to mitigate the risks detailed above, the Developer must contact the Network Rail's Asset Protection Wales Team well in advance of mobilising on site or commencing any works. The initial point of contact is [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk). The department will provide all necessary Engineering support subject to a Basic Asset Protection Agreement.

### 4.10 **Natural England (February 2019) - NO OBJECTION**

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

Natural England's advice on other natural environment issues is set out below (see in full on website)

### **Internal Council Consultations**

#### 4.11 **Service Manager Built and Natural Environment comments: Historic Buildings Conservation (November 2019)**

##### **Recommendations:**

Recommend Refusal/Request More Information: In their current form the proposals would cause less than substantial harm to the setting of the Grade 2 listed station and in terms of design would not take full advantage of the opportunities presented by the site. As such policies 130 and 196 of the NPPF would apply.

The building should allow a clear transition and mediation between the character and scale of development to the East and West. It should help to create a sense of arrival with a clear definition of the character of Hereford City for visitors arriving at the station and ideally contribute to the legibility of the townscape and the distinctiveness of Hereford as a place.

Street scene type elevations, such as those included within the D&A statement, if provided as part of the application would aid in the communication of the scheme.

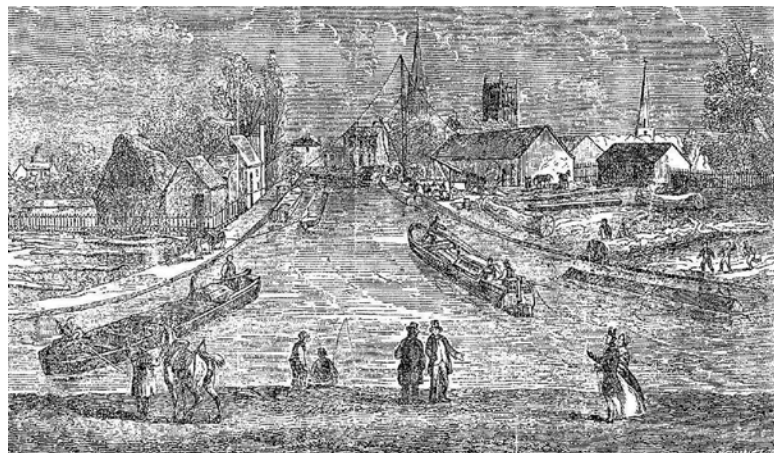
### Background to recommendations:

The site is situated between the Hereford and Aylestone Hill Conservation Areas. To the North West of the site lies Hereford Station, a grade 2 listed building dating from 1855.

Pre-application discussion have taken place, however due to unexpected discovery of additional site constraints and the need to keep to programme for the proposals these were unfortunately cut short in order to bring forward the planning application. These comments are therefore very much a continuation of the pre-application process and are intended both to advise the applicant as well as to provide heritage advice to the Local Planning Authority.

Whilst not entirely atypical of a city (for example Bristol Temple Meads) the separation of the listed Railway Station from the city is an opportunity for redevelopment of the land between it and the city centre. The forecourt is currently something which doesn't contribute to the significance of the building and as part of the wider proposals for a transport hub in this location, the opportunity exists for development around the site to create an environment which is welcoming, creating a sense of arrival, but also one which relates to the history of the site and the character of architecture and townscape in the wider city.

Hereford retains a legible medieval street pattern. The area to the North of the city is one which has the capability to link the station building to the commercial centre and expand the town. The Old Market Development shows how this can be successfully achieved by considering the scale of buildings and creating a legible series of streets and spaces which respond to the character of the existing city, whilst creating a new, distinct layer in the history of Hereford. The development between the Old Market and the railway station has the capability to continue this success and create a clear definition of Hereford as a place upon the arrival to the city and the start of a legible route into the city centre.



Above: An engraving of the canal basin shortly after it opened in 1845

Historically this area was known as Widemarsh and was largely uninhabited due to its marshy nature. The coming of the railway and canal created an area of industry and warehousing in what was a sparsely populated area. On and around the site there were historically canal wharfs and timber merchants as well as other light industries. A nolle plan of the city clearly shows the area as it currently is, an area of opportunity where creating a transition between the dense urban spaces of the city centre and the housing of Aylestone Hill, whilst extending the urban form of the city towards the north would be advantageous. Currently the area is one of carparks and the type of buildings more currently experienced outside of a City Centre.



© Donald Insall Associates 2018

### Comments:

Overall there are a number of features of the design which, when combined, give the impression of overpowering the station building and would not respond strongly to creating a sense of place. The architectural approach, massing and composition are all factors which could mitigate these factors.

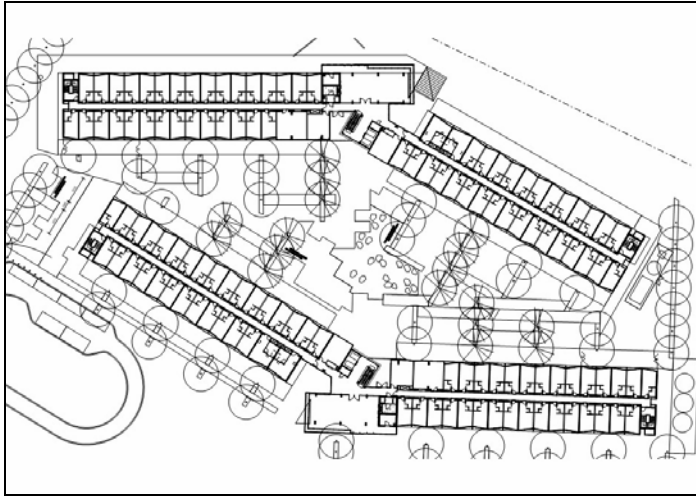
- **Architectural Language:** There is the opportunity to relate the approach taken to the scale of buildings in the wider area, their materiality and local distinctiveness. There are some elements which appear unresolved. For example, the vertical slot gives the impression of a Crenel but isn't fully defined and the linking elements could be more defined by having greater transparency and set back. In terms of distinctiveness and being of Hereford as a place, the building could either take cues from buildings in the area or use characteristics in a more abstract way to create its own personality.
- **Massing:** There are theoretically a number of approaches to massing which could have been used. Several of these would be discounted due to the presence of a mains sewer on much of the site. For example, having a series of deeper blocks running north/south would be precluded for this reason. However the design doesn't commit to one particular approach to its massing. It is felt that either a carefully designed series of blocks or a strong linear feature as approaches could both potentially work. If the current approach is retained and adapted, we would recommend placing the building on piloti, this would enhance the appearance of the buildings linearity. If the approach of a series of separate blocks with stronger articulation is used, reference should be made to the buildings within the centre, however it is felt that an overly literal approach would not be successful as there needs to be a transition between the different character areas of the city.
- **Directionality:** It is felt that there is an opportunity for making each end different (and each side too?) to reflect the different character of each side of the building. The orientation of the building and the character of the site to each side may also be a factor. For those rooms facing south and the road, acoustics and solar gain/glare may be factors which need to be considered. The Western elevation may need to respond more to the Station and the urban space created by its forecourt. The Eastern end may need to respond to views from Aylestone Hill and Commercial Road.

- Plan Form: Would recommend either a straight building or one with a clear, defined kink (see attached sketch.) There is a danger the slight kink would look like a surveying error and detract from the design of the building.
- Materials: The light colour brick unfortunately doesn't relate strongly to context, it may be that this represents the tonality of stone buildings such as the cathedral. Whilst not as fundamental as the massing or architectural language to the success of the scheme, if the materials proposed had a clear rationale and supported the aim of reinforcing local distinctiveness, this would contribute to a building which would have a positive impact upon its environment.
- Distinctiveness: The site offers the opportunity to create a sense of place, a sense of arrival and a sense of what it means to be in Hereford. A building with a distinct personality, responding to the cues of buildings around it and in the wider area. A building with a distinct character would not only help to define the station forecourt and the arrival in Hereford as a place, but it would also make clear the aspirations new University.

For the small building:

- It looks like the idea is for a small modern vernacular building, perhaps relating to lineside huts and signal boxes on railway lines or the type of structure which might have been associated with the canal wharf and sawmills previously on the site? It is felt that the defining idea for the building needs to be drawn out so that the design can then follow on from it.
- The idea of a single, small architectural object is a good one, however it is felt that the single storey element may need refinement – could this be a simple glazed box like pavilion (like Philip Johnson's Glass House perhaps?).
- In the buildings current form it is not felt that the design if fully resolved, for example the proportions of the openings to the single storey element appear domestic. This and the scale of the openings may be at odds with the context of the student accommodation and station building.
- Street scene type elevations would be beneficial in understanding how the building relates to both the new building and the railway station.





The building above (Monash University Housing, by BVN.) shows how greater articulation of the façade, a clear architectural language, directionality and definition of the ends of building can provide a successful building. The articulation is something which could help respond to local distinctiveness. Depending upon the massing strategy chosen, a more linear approach could also work well, provided that it is mindful of context.

The Birmingham Foyer building by Ian Simpson Architects (below) shows how such a building can be composed to respond well to the scale of the buildings around it. The raising of the building on piloti minimises the apparent height and the façade is different on each side, with a more solid elevation facing the road.







The scheme below by Sheppard Robson for St Andrews University, shows how large scale buildings can be successfully integrated into an area, the second photo showing how it fits into the urban grain of the city.





Broadcasting place, Leeds, by Fielden Clegg Architects. Whilst the tower element is perhaps out of scale for the site in Hereford, this scheme shows how building heights and massing can relate to the scale of buildings around them and help to create spaces between buildings. The Architectural language is also distinctive.

4.12 Service Manager Built and Natural Environment comments:  
**Historic Building Conservation (February 2019)**

Recommendations:

We note that significant efforts have been made to improve the design of the building, however we would still have a concern over the height at the North Western end. As such it is felt that the proposals would cause less than substantial harm to aspects of the setting of the Grade 2 listed station which contribute to its significance and any harm should be weighed against any public benefits of the proposals. As such policy 196 of the NPPF would apply.

If subsequently approved at committee we would recommend that the following conditions are imposed. This does not imply a recommendation for approval

- External materials, details and samples
- Details of heads, cill and reveals of window openings
- External Joinery details
- Landscape scheme
- Details of any solar shading.
- Details of rainwater goods, external plant, vents etc.

Background to recommendations:

These comments should be read in conjunction with previous consultation responses to the proposals which cover in more detail the significance of nearby buildings and the context of the site.

Comments:

There has been some improvement in the design, notably the materiality is more 'of Hereford' and the building has more directionality, responding to the station forecourt. There are minor details which may need resolution, for example the junction of pitched roofs with the lift/stair cores. The massing is improved, however from the street scene/contextual elevations there is still a concern about height at the Western end of the building. Treatment of the fenestration is also much improved. Whilst the building doesn't have a strong architectural personality, it does make some effort to respond to context in the references to warehouse and industrial buildings. That the north elevation is more recessive than the south is welcomed as this minimising any potential dominance over the housing set above the railway lines towards Aylestone Hill.

The Railway Station is significant architecturally, historically and communally. It is a statement of the aspirations and prosperity of Hereford and the railway company at the time of

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

construction. The design reflects the growth of railways in England in the mid C19. The building has a relatively small scale for a city, being of two storeys with projecting gables, although the floor to ceiling heights are relatively large. Railway buildings are liminal places, they are locations for the start and finish of journeys and the point of entry into a town or city. The space in front of the station and the experience of it is closely related to the significance of the building as this point of arrival in Hereford. Whilst the site is not within a Conservation Area and there is no statutory protection for the setting of a Conservation Area, policies within the NPPF allow this to be a planning consideration. Whilst there would still be some impact upon the experience of the Conservation Area, it is felt that with the change in design, the main issue would be height and the impact upon the experience of the station forecourt and the experience of the architectural significance of the station building.

4.13 Service Manager Built and Natural Environment comments:  
**Archaeology Comments (November 2018)**

The site proposed for this prominent new building is in far eastern extremity of the strategic 'ESG' re-development zone, close to the southern corner of the listed Hereford railway station. I use the term 'close' advisedly: to be clear, the development would neither be "next to" or "in front of" the railway station. Currently a deeply terraced-down car park, the site in recent memory was associated with a large retail warehouse, and in more distant memory by a variety of industrial and transport related structures and features. The history and archaeology of this area, summarised in the submitted heritage assessment, was previously appraised in considerable detail as part of the ESG process.

In my view, although the submitted heritage assessment does contain a number of errors, its general content and conclusions are sound. I am also of the view that sufficient knowledge already exists regarding the potential below ground impact of the development for there to be no requirement for (e.g.) a field evaluation in this particular case. In the circumstances, I consider that sufficient good information is already available regarding the significance of the heritage assets that would be affected in the environs of the development. In truth, no more raw data is needed at this stage, and it would be disproportionate to seek it.

That being said, there may well be some potential issues as regards (for instance) the creation of this kind of tall structure so near to a historic access point for the city, and within eyeshot of a number of conservation areas. As is normal, I would defer to any comments the principal building conservation officer makes in those respects, although it does seem to me that given the previous history of the site, the general character of the near locality, and the specific positioning of the principal new build, there would be no compelling objection in principle here. The more weighty issues and possible objections are likely to involve the details of design and execution. It is obvious from comments already received that the form of the new building is causing concern.

The closeness of the site to the functioning railway station, and the development's coincidence with the main pedestrian thoroughfare (such as it is) to the ancient city centre, are key considerations here. I do feel that the submitted heritage assessment, and the application more generally, insufficiently acknowledge the importance and relevance of this. As was justifiably pointed out in the recent Historic England Urban Panel Review, the current 'experience' of entering Hereford from the station across the Link Road is far from satisfactory. It might reasonably have been expected that the application would make some attempt to address this wider conundrum, but it does not. In fact, it may potentially be viewed as contributing to the issues.

As the application fully acknowledges, the site is a 'gateway' site, representing a clear *opportunity* for a significant dividend as regards the historic environment. That being so, I think it entirely reasonable in this case to now seek appreciable enhancement to the link road crossing etc., secured by means of additional design changes / commuted sums of money



under Section 106 (or some other form of appropriate agreement or obligation). For instance - although it is not for me to suggest specifics - a new footbridge might ultimately be appropriate here, or an underpass, or indeed another suitable and agreed arrangement that would aid pedestrian permeability through and appreciation of this gateway.

Were some clear benefits to the historic environment to be provided by this proposal, then the application could be viewed much more in the light of NPPF Para 202 (enabling development), and could accordingly be viewed as sustainable beyond the normal policy position.

Conclusion.

No objection in principle, but further information / commitments sought.

4.14 Service Manager Built and Natural Environment comments:  
**Archaeology (February 2019)**

Having regard to the amended details supplied and representations you have already received (in particular but not limited to the comments made by the principal building conservation officer 08/02/2019) I can confirm that I accept the further design information / changes and have no objections to what is proposed.

I trust that my 14/11/2018 suggestion that appropriate monies be provided from this scheme [to enhance the historic environment locally] is still being given due consideration.

4.15 Service Manager Built and Natural Environment comments:  
**Landscape (November 2018)**

Further landscape design information is required as the application material is conceptual and does not provide the level of detail and therefore evidence of deep thought warranted for a development of this significance and its setting.

In principle, the concept to provide a contemporary living hub with gathering places; areas for students artistic expression; green space and general urban public life is a step in the right direction, more evidence is required to substantiate and validate these ideas and make it relevant to its place and setting, and take into consideration the scale of the building.

*'The issue of good urban design is not about some abstract ideal, it's about creating the right conditions to make places work'*

The Councillor's Guide to Urban Design, CABE

The site constraints (noise, circulation, safety, and setting) need to be carefully considered to make a public realm that is responsive, comfortable and liveable for the participants (residents and visitors), and the wider audience (The large number people who move to and from the station; from Morrisons and passers by such as vehicles, bicycles and pedestrians). This development has a both a private and public responsibility given its location has an important role to connect people and be 'front of house' in line with the sense of arrival attributed to the Hereford Railway Station.

*Relevant Policies:* Herefordshire Local Plan, Core strategy 2011-2031

- SS6 - Environment Quality and Local Distinctiveness
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- LD3 - Green Infrastructure

*Recommendations*

*Scale and vertical green infrastructure*

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

Consider large mature trees with subsequent root provisions (sub surface cell structure system or sufficient soil zones) to allow for trees of stature that complement the scale of the building and the existing tree structure.

The Welsh Water infrastructure is a potential constraint (however is at considerable depth), so all endeavours should be made to maximise the opportunities that do exist and look to other design strategies that could be applied to achieve vertical planting to support the scheme. This may include green walls, structures with climbers, landscaped mounds and tall hedges.

#### *Comfortable places*

Consider the proximity of the outdoor space and roads and determine how an increased density of green infrastructure with insertions of hard space (seating, gathering and art collections), could create a more intimate residential environment that mitigates noise and pollution.

#### *High quality design and materials*

A development of this significance warrants a high quality of design and palette of materials.

#### *Accessibility (Ramp)*

Consider using a 1:21 ramp to avoid handrails and integrate into a soft landscape condition or use a step/ramp as a potential seating 'amphitheatre' space. The more the functional requirements are seemingly integral into the design, the landscape will have a stronger sense of purpose and harmony.

#### *Detailed plans and schedule (Soft landscape)*

Provide soft landscape plan and schedule of planting and trees with species and proposed planting sizes.

#### *Detailed plans and drawings (Hard landscape)*

Provide hard landscape plan (with levels) and detailed drawings of existing conditions and proposed landscape design to demonstrate material selection, colours and interfaces.

#### 4.16 Service Manager Built and Natural Environment comments: **Landscape (February 2019)**

The comments from the Landscape Officer, dated 16/11/2018 still stand in principle.

Review of amended drawing:

- Landscape Proposal Illustrative Strategy Plan, Rev E, dated 22/01/2019

Comments for the revised scheme (Refer to figures 1 to 3) include:

1. Tree structure to reflect the scale of the street, building and public realm. (Observe the surrounding context and use the tree species to enhance a strong character. Consider Plane Trees and Pines.
2. Consider the importance of the existing stand of Plane Trees (figure 3) in place making. (It could be made into a place for people to sit while waiting for a train).
3. Consider the wider context and how this could add value for the development, station and streets.
4. Make it greener. It looks hard for a place of living.
5. Confirm if Welsh Water infrastructure is a real constraint. Are there precedents of planting/trees over/near Welsh Water or similar easements?

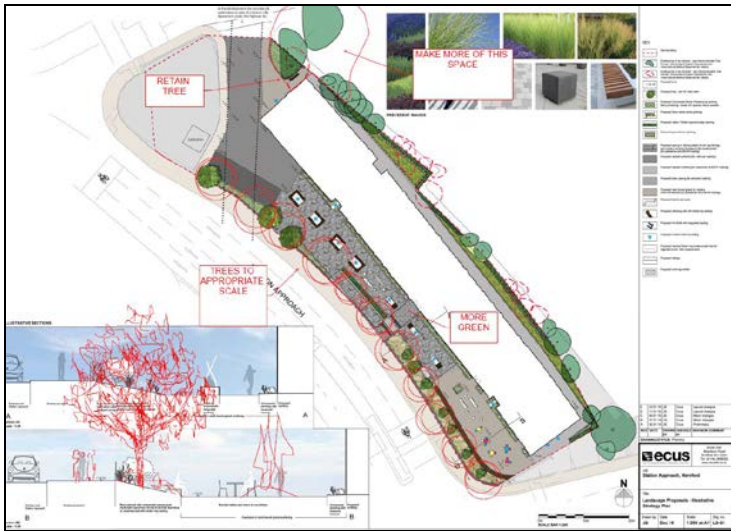


Figure 1: Consider the context, scale relationships and place making.

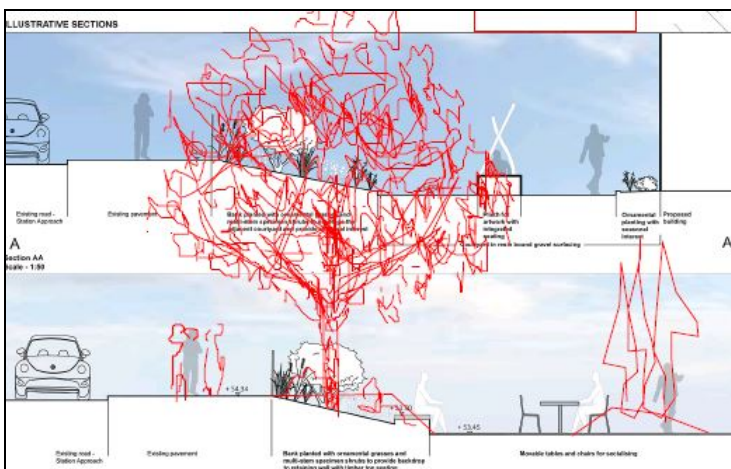


Figure 2: Consider the scale relationship between the streets, building and public realm.



Figure 3: Consider the value of the stand of Plane Trees in place making for the residents and station users.

4.17 Service Manager Built and Natural Environment comments:  
**Tree Officer (November 2018)**

This part of Hereford has high levels of traffic and an extremely low level of green infrastructure, I see this as an opportunity to improve the canopy cover and improve the street scene. The Design and Access and Landscape Concept Plan statement does elaborate on current proposals for soft landscaping.

To avoid trees being dwarfed by the building it would be preferable to have a mix of large and medium trees planted at the front of the building. This will help to break up the façade of the building which appears to be similar in colour to the road and footways, adding some vibrancy visual interest.

Selecting trees/varieties with a conical form should be considered to avoid possible contact with the building. The aspect on this side of the site is south/south westerly and it would be prudent to select species which are tolerant to hot urban conditions.

The larger specimens should also be semi nature nursery stock to ensure that there is immediate visual impact.

To date there is little information with regards to species selection; information is required to elaborate on the species choice taking into account comments made. Sub terrain infrastructure should be taken into consideration demonstrating how the trees can be facilitated by for example cellular structures and root barriers.

Taking my comments into consideration would help the project comply with Herefordshire Core Strategy LD1 & LD3.

4.18 Service Manager Built and Natural Environment comments:  
**Tree Officer (February 2019)**

Tree Losses

Adjacent to the main entrance to the site/car park there is a group of semi mature London Planes. These trees are significant features at a site where there is a lack of high amenity trees and their retention and protection must be maintained. It appears on the plans that one of the trees (see pic) is to be removed unnecessarily, it is referenced as T4 in the Tree Report, category B in accordance with BS5837:2012. I am of the opinion that this tree can be retained by way of facilitation pruning to keep it away from the building. It is unlikely that there will be any root activity in the area of the car park due to the adverse subterranean conditions meaning that there is minimal chance that any building footprint will impinge on the tree, below ground.



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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781



I also consider that the line of trees on the northern boundary is on the whole not appropriate for the change of use. These are large trees with broad spreading canopies that will regularly encroach towards the building, requiring regular pruning. I propose that all of these trees, T5-T27 should be removed and replaced in similar numbers with species which are appropriate for confined spaces.

#### New Trees

I appreciate that the location of the drain puts constraints on the amount of planting and containers have been considered. I don't completely object to this concept but I would like to see a detailed landscape plan which shows the size of containers and trees, both should be large in scale.

As can be seen on the overlaid plans, planting near the northern end of the site is located away from the location of the drain. There are products available that are capable of containing and directing roots so that they can be kept separate from infrastructure. I would urge that such products are researched so that permanent tree planting can be included in the design. If it transpires it is possible then I refer to my previous comments on planting at the front of the building and why there is a need for planting in this part of the city.



So far more trees are being removed to facilitate the design than are being put back; this is contrary to CS strategy LD1 & LD3. As a Herefordshire Council project greater effort needs to be made to improve the green infrastructure of Hereford City.

#### 4.19 Service Manager Built and Natural Environment comments: **Ecology (December 2018)**

##### HRA / drainage

The site falls within the River Wye SAC catchment and within the River Wye SAC Impact Risk Zone "any discharges of water or liquid including to mains sewer" - and so this application is subject to a formal Habitat Regulations Assessment (HRA) process by this local planning authority (LPA) as the competent body in consultation with Natural England.

The initial Habitat Regulations Screening Assessment identifies foul water and surface water as 'likely significant adverse effects'. The applicant has indicated in the planning application that foul and surface water output will be dealt with by existing mains sewer.

*Subject to the required Habitat Regulations Appropriate Assessment being approved by Natural England and these methodologies being subject to relevant implementation Conditions on any planning consent granted, there are NO unmitigated likely significant adverse effects on the River Wye (River Lugg) SAC identified.*

Suggested Conditions are inserted at recommendations section below.

4.20 **Service Manager Built and Natural Environment comments:  
Open Spaces Planning Officer (November 2018)**

These comments relate to the provision of Hereford University student accommodation and ancillary facilities.

Core Strategy OS1 - requires the provision of appropriate open space, sports and recreation facilities for:

- Residential institutions including student accommodation.

The need for open space, sports and recreation will be considered on a site by site basis. On site provision will need to be integral to the functioning of the development. Off site may be sought where appropriate on an equally beneficial basis.

In this instance users of this type of accommodation will need access to either on or off site amenity green space for informal recreation. There is very little in the way of public open space in the vicinity of this proposal. I would therefore advise that as this proposal develops, some form of community garden space is included on-site to allow students informal recreation opportunities within close proximity to their living accommodation. Access to good quality green space helps improve health and well-being.

4.21 **Transportation Manager Comments (October 2018)**

It is understood that the application comprises a full application for a 178 bedroom student accommodation and an outline application for a standalone commercial unit. A Transport Statement accompanies the planning application, however, no swept path analysis plans are provided. The local highway authority (LHA) has concerns regarding the servicing of the site, principally refuse collections and deliveries to the commercial unit. It should be demonstrated that a refuse vehicle can enter the site, park adjacent to the bin store (whilst not blocking the access/egress), turn safely within the site and exit onto the public highway in a forward gear.

Concern is also raised about all of the cycle parking being contained within one secure room. How would security be managed? Consideration should be given to creating a number of smaller rooms so that security is easier to control, for example one room per floor.

A Management Plan (travel plan) should also be provided which sets out how the management company intends to manage the arrival/departure days when students move in and move out at the beginning and end of the term/academic year. This should include where parents/students will park and how they will transport their belongings to the site.

Due to the low usage of the access it would be preferential to have a crossover rather than a junction to give priority to pedestrians, therefore the drawing should be amended. The crossover should be constructed to highway standards to accommodate HGV usage.

Until such information is received the LHA cannot comment further on the application

4.22 **Transportation Manager Comments (February 2019)**

Further to my previous comments on the planning application vehicle tracking has been received which is acceptable and the access has been changed to a vehicle crossover which is considered to be an acceptable arrangement.

However, a Management Plan detailing how the moving in and moving out of students will be managed has not been provided as requested. There could potentially be 178 students moving in or out over one weekend at the beginning and end of each term and therefore how

this will be managed, especially considering the minimal on-site car parking, is an important consideration and the local highway authority is unable to fully comment on the application without such information.

In addition, as previously commented on, the cycle parking is still provided in one large room which will discourage use due to security concerns. If cycle parking is to be provided in one room with the whole building having access then individual cycle lockers should be provided rather than Sheffield stands. Alternatively the cycle parking should be provided in a number of rooms to reduce access to each room, for example, one room per floor with only those students residing on that floor being given access to that particular room.

Informatives: I09, I45, I08, I05, I54, I51, I41, I36  
Conditions: CAE, CAL, CAP, CAZ, CB2, CB3

#### 4.23 **Transportation Manager (February 2019) additional comments**

The local highway authority are pleased to have received a draft Arrivals Procedure document although it is disappointing that it hasn't been progressed further with discussions having already taken place with neighbouring car parks and agreements in principle received regarding their use.

The document sets out the basic principles and procedures that will be applied during the arrival day/weekend. However, the effectiveness of the plan relies on the use of neighbouring car parks and how close those car parks are to the accommodation. If the car parks are some distance away (i.e. over a 5 minute walk) the plans as they stand may be over-ambitious in terms of the number of students arriving during a one hour period, the number of staff on duty and the speed at which students can check-in and move their belongings into their rooms. Should planning permission be granted the local highway authority would wish to approve the final version of the Arrivals Procedure document prior to the completion of the building and at least six months prior to students moving in.

The local highway authority are also still disappointed to see that our comments regarding the cycle parking arrangements have not been taken on-board. One large room with all 178 students having access to all bicycles will deter students from bringing their bicycles, even with CCTV. Should planning permission be granted, as part of the Travel Plan for site, cycle parking use should be monitored and the annual travel survey should identify any barriers to cycling.

#### 4.24 **Waste Management Comments (November 2018)**

Access for the refuse collection vehicle (RCV): The area is serviced by a 26 tonne RCV. Access needs to be suitable for a vehicle of this size and weight, with adequate turning to allow the RCV to enter and exit the site in forward gear. Vehicle tracking should be provided to show, in principle, that the RCV can access and turn within the site.

Location of the bin store:

The distance to the bin store from an external door to the building is over the recommended carry distance of 30 metres. This is not in accordance with "Guidance Notes for storage and collection of domestic refuse and recycling" or ADEPT Making Space for Waste 2010 (section 3.6.1). If waste is to be taken to the bin store by a building management team what arrangements would be put in place to ensure carrying and lifting requirements are suitable?

Collection point of bins:

The D&A statement states bins will be placed out for collection by building management however the collection point of the bins has not been included on the site plans. For 4 wheeled bins this should be within 10 metres of where the RCV can safely access.

4.25 Environmental Health Officer Comments:  
**(Housing) – (November 2018)**

I have no adverse comments

4.26 Environmental Health Officer Comments:  
**Housing – (February 2019)**

After reviewing the amended above planning consultation I would like to provide the following comments in relation to Housing Standards:

We do ask for all planning applications to comply with Herefordshire Council's General Amenity and Facility Standards which has been attached to this email. However we are specifically concerned with the 'Kitchen' section of the Amenity Standards (page 2 of 6 ).

As such we would like to put forward that the 'Kitchen' section in the Amenity Standards (page 2 of 6) is a condition for the Station Approach planning application.

4.27 Environmental Health Officer Comments:  
**Noise and Nuisance – (November 2018)**

My comments are with regard to potential noise and nuisance issues that might arise from development. Noise attenuation

The applicant has supplied a noise impact assessment which examines the impact of existing road and rail traffic noise on the proposed student accommodation. The report does not take into account future potential road traffic noise as a result of a likely increase in road traffic along the link road and also the redevelopment of the adjacent site to the west. (The report in figure 2.1 has rather distorted the risk diagram - the actual ProPG guidance would place the site as a medium risk site)

The report concludes that due to the ambient transport noise in the vicinity open windows cannot be relied upon as the primary source of background ventilation for the large majority of proposed habitable areas. The assessment concludes that for the noise to be sufficiently attenuated to achieve the desirable standards set out in BS8233 windows will need to be kept closed and openable for purge ventilation only. A glazing specification is supplied for the north east, south west and north west elevations with an enhanced specification for double glazing to the south east windows and acoustic trickle vents specified to all windows in habitable rooms.

Our department does not generally support proposals for residential development where the majority of bedrooms have to have their windows closed to achieve satisfactory noise mitigation. We encourage the use of an Acoustic Design process and consideration of how the layout and design of a site can be organised such that transport noise is mitigated. In these circumstances however, this is a city centre brownfield development and we do not object to this proposal on noise grounds and are not of the opinion that there is much more scope to alter the design and layout (- save for additional kitchens to be placed as a buffer to the south east elevation to increase noise attenuation). We do recommend however, that due to the high likelihood of increased road traffic noise in the vicinity, the glazing specification for the south east elevation be used for the north and south western elevations also.



### *Ventilation and Overheating*

The report recommends acoustic trickle vents, the effectiveness to be checked by a mechanical services engineer to before designs are finalised to ensure the minimum requirements of Part F of the Building Regulations are complied with.

With the ability to open windows, occupants will be able to purge ventilate their rooms. However, thermal comfort conditions may not be achievable, and overheating may occur especially to the south western elevation of the property without additional mechanical or other ventilation. The applicant's noise report identifies in para 4.3 'Open windows cannot be relied upon as the primary source of background ventilation' but the applicant has not supplied details of how proposed thermal comfort arrangements in these circumstances are to be provided. Para 2.7.2 h) of the ProPG guidance specifies that 'reasonable steps should be taken to minimise overheating during summer months through good design' (Use of good design to overcome this such as acoustically treated overheating vents or use of screens over windows to screen out daylight and heat at peak hours would not yet appear to have been considered).

### *Recommended conditions*

The proposed double glazing for all bedrooms and cluster rooms at all elevations at the property to be enhanced 10/12/6 double glazing with acoustic trickle vents.

Prior to the commencement of works and before the building design is finalised the effectiveness of the proposed acoustic trickle vents is to be checked by a mechanical services engineer and a report supplied in writing to demonstrate that the minimum requirements of Part F of the Building Regulations are complied with. An assessment must also be provided as to the risk of overheating using CIBSE TM59 to ensure the predicted temperatures inside the bedrooms and cluster rooms achieve overheating compliance criteria.

Prior to the occupation of any of the apartments hereby approved a Validation Test (with an approved method statement) of the sound attenuation works shall be carried out and the results submitted to and approved by the local authority. The Validation Test must demonstrate that the noise levels contained in BS8233:2014 can be achieved. In bedrooms the scheme must achieve noise levels of 35dB LAeq between the hours of 07:00 and 23:00 and 30dB LAeq between the hours of 23:00 to 07:00. In living/resting rooms the scheme must achieve a noise level of 35dB LAeq between the hours of 07:00 and 23:00. In the event that these noise levels are not achieved, then a further scheme of sound attenuation works capable of achieving the specified noise levels to be submitted and approved by the local authority must be installed before the use is commenced and thereafter retained.

Reason: In the interests of securing adequate noise mitigation such that living conditions are acceptable and in accordance with Policy SD1 of the Herefordshire Local Plan Core Strategy 2011-2031.

#### **4.28 Environmental Health (Air Quality)**

Please find my comments below, relating to the above application in respect of Air Quality.

The location of the proposed development is in close proximity to the junction of Commercial Road and the new City Link Road, it is also close to train station and the proposed Transport Hub. Therefore this location may be subjected to elevated levels of nitrogen dioxide and particulates associated with vehicle emissions.

Further consideration may also be required to the likely increase in traffic along the City Link Road. My understanding is that there is shortly to be a consultation on public realm

improvements on Newmarket Street and Blueschool Street; this may relate to reducing the traffic flows along these dual carriageway sections. Currently I am unclear on how this may impact on traffic flows on the City Link Road and surrounding road network.

In conclusion, should planning permission be granted for this development. A suitably worded condition should be applied to the permission to require:

- That an air quality assessment should be undertaken to determine likely impact of air quality on the persons occupying the development.
- Should adverse impacts be identified by the air quality assessment, mitigation measures should be proposed.
- Any mitigation measures proposed may need to consider other environmental impacts such as noise and adequate ventilation.

#### 4.29 Environmental Health (Contaminated Land)

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 together with that which precedes it:

"Phase II Ground Investigation Report for Station Approach Car Park, Hereford." Prepared by GIP Ltd., Dated 12th October 2018, ref: KCS/27404B.

The report identifies the site to be suitable for its intended use on the basis of the investigation undertaken to date subject to some mitigation measures. Nevertheless, there are some minor technical questions which I think should be addressed by the specialist in due course which I have outlined below. I would add however, the information submitted to date is sufficient to allow for the development to be conditioned in the interim.

1. *The Conceptual Site Model (CSM) is used to inform and address uncertainties with regard to risks from contamination. As such, the boreholes, trial pits or whatever approach adopted should be targeted and guided by the findings of the Phase 1 report which precedes the intrusive investigation. And whilst the Phase 1 and Phase 2 CSM mention the previous use of the site as a 'garage' with the potential for tanks (and thereby likely associated infrastructure if present), the intrusive investigation does not seem to have been designed to look for these or address the uncertainty.*

In this instance, it appears the boreholes were primarily designed to target the proposed buildings and areas of hardstanding. This rationale seems to be on the basis of geotechnical requirements rather than geo-environmental (although the information is nevertheless useful in informing the risks).

Where there is more uncertainty, the sampling and investigation should be scoped to recognise and address this and thereby increase confidence that significant contamination or risks are unlikely to remain on site.

Given the above I'd ask whether the site has been suitably characterised by the number of boreholes which form the investigation and whether alternative and additional approaches should be adopted to supplement that carried out to date.

2. *As a point for information only, the protection measures recommended in the report will need to be validated in general accordance with C735 in due course. In a similar manner, any asbestos affected areas will also need validation when remediated or mitigated.*

With the above in mind I'd recommend the following precautionary condition be appended with a recognition that the majority of works have been completed by submission of the reports provided. It is recommended to address the remaining technical uncertainties to ensure reassurance can be provided.

Following further discussion with the applicants they confirmed that they would progress as follows:

#### Option 1:

In order to investigate the former garage area further, through which the sewer runs, a series of shallow trial pits to, say, 2m or 3m (dependant on sewer depth) below ground level could be undertaken to obtain samples for environmental testing. We recommend that this should be undertaken once the surface hardstanding has been removed and other utilities (e.g. electric) are decommissioned so that any petroleum hydrocarbon staining of the soils may be visible and access is fully available.

The findings would then be provided in a supplementary interpretive report to submit to planning. We would also recommend in our report that a watching brief is given to the site development contractors and if any olfactory or visual evidence of hydrocarbon contamination is found, or any fuel tanks, that they contact ourselves for further advice and way forward.

A condition is recommended (as suggested in section 6 below)

## **5. Representations**

### **5.1 Hereford City Council (November 2019)**

Hereford City Council Planning Committee strongly object to Planning Application 183841. Councillors cited numerous design flaws with the proposed building, stating that a building in this location should be more appealing to the eye and reflect Hereford's character, rather than be a rushed project which will stand as an eyesore for both visitors and residents alike in the years to come. Councillors also commented that the proposed building is too tall for the area, and as a result the views of the City from Aylestone Hill would be decimated. Hereford Train Station – one of the City's more admired buildings in an architectural sense – would be hidden behind a building of cheap and hurried design. Councillors regarded this as overdevelopment of the site, as the building would effectively turn the area into an extremely busy residential location, where there is currently no living accommodation whatsoever. Although Councillors believe this project to be in the wrong location – commenting that there are numerous other locations for university student accommodation – if the proposed building were to be built it would need an aesthetic redesign and reduction in height in order for Councillors to consider giving their approval

### **5.2 Hereford City Council (February 2019)**

No objection from Hereford City Council Planning Committee in regards to Planning Application 183841. Councillors were pleased with the alterations to the proposed building's roof (which was a key item in their previous objections), and though there were still concerns over the height of the building, Councillors felt that the amendments made were satisfactory.

### **5.3 Wye Valley NHS Trust (November 2018)**

Detailed comments have been received that can be seen online at:

<https://myaccount.herefordshire.gov.uk/documents?id=53e872fd-e751-11e8-888e-0050569f00ad>

The summary and conclusion are detailed below:

31. Having considered the cost projections, and phasing of capacity delivery we require for this development it is necessary that the Trust receive 100% of the above figure prior to implementation of the planning permission for the development. This will help us to ensure that the required level of service provision is delivered in a timely manner. Failure to access this additional funding will put significant additional pressure on the current service capacity leading to patient risk and dissatisfaction with NHS services resulting in both detrimental clinical outcomes and patient safety.

#### *Summary*

32. As our evidence demonstrates, the Trust is currently operating at full capacity in the provision of acute and planned healthcare. It is further demonstrated that although the Trust has plans to cater for the known population growth, it cannot plan for unanticipated additional growth in the short to medium term. The contribution is being sought not to support a government body but rather to enable that body to provide services needed by the occupants of the new development, and the funding for which, as outlined above, cannot be sourced from elsewhere. The development directly affects the ability to provide the health service required to those who live in the development and the community at large.

33. Without contributions to maintain the delivery of health care services at the required quality, constitutional and regulatory standards and to secure adequate health care for the locality, the proposed development will put too much strain on the said services, putting people at significant risk. Such an outcome is not sustainable.

34. One of the three overarching objectives to be pursued in order to achieve sustainable development is to include b) **a social objective** – to support strong, vibrant and healthy communities ... by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being:" NPPF paragraph 8.

35. There will be a dramatic reduction in safety and quality as the Trust will be forced to operate over available capacity as the Trust is unable to refuse care to emergency patients. There will also be increased waiting times for planned operations and patients will be at risk of multiple cancellations. This will be an unacceptable scenario for both the existing and new population. The contribution is necessary to maintain sustainable development. Further the contribution is carefully calculated based on specific evidence and fairly and reasonably related in scale and kind to the development. It would also be in the accordance with Council's current development plan:

36. Current development plan

#### *Policy ID1- Infrastructure Delivery*

*“Provision for new and/or the enhancement of existing infrastructure, services and facilities to support development and sustainable communities, will be achieved through a co-ordinated approach.*

*Where necessary, in addition to planning conditions for essential on-site design requirements and critical infrastructure, developer contributions towards strategic infrastructure through s106 agreements and/or a future Community Infrastructure Levy (CIL), will be secured in accordance with national planning policies and other relevant legislation.*

*A Planning Obligations Supplementary Planning Document (SPD) will provide details of the type and scale of obligations that may apply.”*

Chapter 8 of the NPPF elaborates paragraph 8 in paragraph 92, which directs that:  
*To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- a) ... ;*
- b) ... ;*
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;*
- d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*
- e) ... .*

Further, the Planning Practice Guidance (‘PPG’) provides that:

*Local planning authorities should ensure that health and wellbeing, and health infrastructure are considered in local and neighbourhood plans and in planning decision making. Public health organisations, health service organisations, commissioners and providers, and local communities should use this guidance to help them work effectively with local planning authorities in order to promote healthy communities and support appropriate health infrastructure.*

*Paragraph: 001 Reference ID: 53-001-20140306*

The PPG goes on to suggest that information about the impact of a development on the demand for healthcare services[1]:

*... should assist local planning authorities consider whether the identified impact(s) should be addressed through a Section 106 obligation or a planning condition.*

*...Paragraph: 004 Reference ID: 53-004-20140306*

Conclude: In the circumstances, it is evident from the above that the Trust’s request for a contribution is not only necessary to make the development acceptable in planning terms it is directly related to the development; and fairly and reasonably related in scale and kind to the development. The contribution will ensure that Health services are maintained for current and future generations and that way make the development sustainable.

#### **5.4 West Mercia Police (Charles Naylor) – November 2018**

I do not wish to formally object to the proposals at this time.

There are opportunities to design out crime and/or the fear of crime and to promote community safety within the build and it’s immediate site area, of what is potentially an important build for Hereford. Therefore should the proposals gain planning approval, I request that the following informative be placed upon said approval; The applicants should aim to achieve Secured by Design (SbD) award status for this development. SbD is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment. The scheme has a proven track record in crime prevention and reduction. The principles and standards of the initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be found at [www.securedbydesign.com](http://www.securedbydesign.com)

#### **5.5 Letters of objection have been received from 13 persons / organisations as follows:**

- Mr Palgrave
- Mrs N Geeson
- Mr Milln

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

- Mr Mee
- Mr Faulkner
- Mr Straker
- Mr Bothamley
- Ms Stevens
- Mr Jones
- Mr Mee
- Ms Joll
- Mr J Hunter- Tod
- Hereford Civic Society

These letters raise the following issues / are summarised below:

## 5.6 *Design / Appearance*

- The proposed building is an unimaginative and unattractive block that is out of keeping with surrounding buildings of status, especially Hereford Station that is Grade II listed and in the Aylestone Hill Conservation Area
- Building will look out of place next to the landmark architecture of the station.
- A four-storey building will be intrusively visible high above neighbouring buildings although there is a staff office, there does not seem to be provision for a live-in warden to take care of student pastoral support issues, such as illness, or pranks (e.g. fire alarms being set off).
- Building is too large in area, too high and out of scale for this site.
- The architecture for what would be a major addition to the city's buildings is poor and monotonous. No real consideration has been given to its relationship with the railway station, the new health centre, the proposed transport hub or the adjacent Aylestone Hill conservation area.
- Any proper environmental design appears lacking;
- The applicant's new drawings are essentially the same scheme as the previous. An egregious slab of prefabricated modules piled up, bolted together and dressed with brick-effect panelling and a pastiche warehouse roof stuck too close to the railway station. The scheme fails so many of the criteria set out in the NPPF it is barely worth listing them
- It fails the key tests of sustainability, mass, form, place-making, impact upon listed buildings and accessibility
- It is destined to fail the principles of the new Hereford City Design Code, currently in draft. I would add that it is also troubling to see visualisations clearly intended to manipulate less informed opinion. Among them are disingenuous impressions the building would be set in tree'd parkland and there are mischievously scaled 'context' elevations in an attempt to fool the viewer the applicant's sixty plus foot high proposal is barely higher than the Station when it would be almost twice as tall.
- It has minimal Eco credentials - it needs more than a few token trees.
- Ignores the advice of the Council's own conservation officer, and is an old fashioned 70's style block.
- The building is too tall It is aesthetically unpleasing- especially given that this is a gateway into Hereford - in huge contrast to the dignified Victorian buildings.
- Our (Hereford Civic Society) view is that the SPD should now be regarded as material to the determination of this application.
- In this context it is disappointing the 183841 application makes no reference to the findings of the Urban Panel, hosted by Historic England, which visited Hereford in October 2017 dealing with the public realm in the area of the listed railway station and how the sense of arrival and welcome for visitors to Hereford has become so compromised by the 'over-engineered' City Link Road, hard landscaping and the poor quality built environment locally. The design of the

- student block fails to help repair this damage; indeed it risks making the transport situation worse by limiting the space for vehicles servicing the Hub and the Station
- Hereford Civic Society note the view of Hereford Council's own expert officers, confirming the observations of Historic England's Urban Panel, the proposal fails to deliver a sense of arrival, fails to define the character of Hereford City, fails to contribute to the legibility of the townscape and fails the test of distinctiveness.
- Why is there to be a separate commercial enterprise within the boundary of this scheme, rather than space for delivery vehicles etc.? What sort of enterprise is envisaged?
- Hereford Civic Society believes this is because the City lacks a reference framework for planning and design and because it doesn't sufficiently appreciate its own cultural language and how that is best applied in new buildings. Good planning follows civic principles, most of which are reflected by the Raynsford Review, and indeed even in the 2018 National Planning & Policy Framework (NPPF). HCS is likely to support schemes which make a positive contribution in most of the following areas that is they demonstrate an intelligent consideration of:
  - energy efficiency in terms of orientation,
  - thermal mass and insulation (eco minimalistic) logical lay out in respect landscape and context use of local skills and materials the form and setting of adjacent buildings creation of strong communities creation of a strong sense of place and identity enhancement of conservation and appreciation of historic fabric architectural/design merit sustainable transport provision affordability and accessibility layout of interior spaces and circulation routes design relating to use and functionality utility as honestly expressed by character and form construction and detailing appropriate to situation civic contribution
  - social, cultural, environmental or economic benefit best fit to local/ community need(s) opportunities for environmental enhancement location in relation to amenities
  - procurement route (volume housing, small dev, conversion, social or bespoke) design life, favouring schemes which will last and age well aesthetics and proportion
- Unfortunately Application 183841 fails too many of these guiding principles and accordingly Hereford Civic Society lodges a strong OBJECTION to the scheme. Let us look at the reasons for this in detail.

### 5.7 *Amenity*

- A noisy environment - not conducive to study. In an area of poor air quality - putting student's health at risk Students may also be at risk from poor security.
- Impact of noise pollution and air quality due to proximity of the road (building and open space) transport hub would introduce even more pollutants. A safe, clean relaxation area should be essential
- Site is exposed to noise from Link Road and railway and pollution from the nearby traffic not the best location for student accommodation.
- Anticipate noise may increase from students holding parties – impact on local residents and those arriving at the station (poor impression of Hereford)
- Increase number of young people living in the centre with easy access to pubs / clubs thus potential for antisocial behaviour (including potential for drug use)

### 5.8 *Layout and location*

- The site is not large enough for the size of building proposed. There is not enough amenity space around the building for its proposed use and being sited between the Station Approach and the railway the external space available can hardly be termed an amenity.
- The site is clearly completely inappropriate for dense domestic occupation sandwiched as it is between the main sewer and a car park with an outlook over the city link road and the railway lines with no meaningful green space at all.

- The proposed building is located in the wrong place. Surely it should be on the country bus station at the rear behind the old Odeon and this site at the station should be developed as a lower and less intrusive multi-storey car park serving both the transport hub (when it comes) and traffic from the north east of the county.

#### 5.9 Highways / Parking / connectivity

- Inadequate parking (6 spaces / 172 students) – they may use station parking impacting upon commuters
- Replacing much needed council car parking used by shoppers, local workers and nurses who need parking close to their place of work for night shifts. Potential for use for medical centre.
- Provision of only 6 car parking places on-site associated with 6 recharging points seems discriminatory, favouring those students fortunate enough to own an electric vehicle.
- Students will all be encouraged to use bicycles, but there is no regard to parking for those students who cannot use bikes, plus deliveries, building maintenance vehicles, waste collection etc.
- Provision of a single “room” for bike storage means that too many students will be trying to find their bike and use the same single exterior door at peak times. This will be inefficient and wasted time spent queuing will be annoying. Nor is there an easy exit from the site for cyclists
- How will arrival / departure be managed?
- Students encouraged to use cycles but is road network set up for this? How will it effect the junction? What routes will they be encouraged
- Referred to in JUDP Minutes March 2018 below:  
The new University has left it late to prepare student accommodation for an intake in 2019. The Joint University Delivery Board have put Minutes of some of their meetings on the Herefordshire Council website:  
[https://www.herefordshire.gov.uk/downloads/download/580/joint\\_university\\_delivery\\_board\\_judb\\_documents](https://www.herefordshire.gov.uk/downloads/download/580/joint_university_delivery_board_judb_documents)  
*“AN stressed that discussions have been held numerous times about the tight timescales for turning around potential accommodation sites, i.e. for any sites starting from scratch there will be 12 months of planning works required prior to submission of a planning application. It will then take three months for the application to be determined. There is a real concern that the team are running out of time to deliver the required accommodation.”*  
*“AN stressed that the cycle links in and around the city need to be improved, as do those that lead to Rotherwas. We also need to look at how to make the city more cycle friendly so that drivers are aware of and considerate to cycle users. Options need to be looked at for less able bodied students that are unable to use bikes, i.e. golf buggies, etc. Locations need to be identified for where students can leave bikes whilst attending teaching spaces. Potentially a lot of students will bring their own bikes so storage solutions need to be factored into university locations.” (AN = Alistair Neill, Chief Executive of Herefordshire County Council)*
- Parking Spaces. With this development there is no adequate parking for the students and this with put further pressure on nearby streets and roads where parking has become increasingly difficult. (e.g Hopton Road (just off Barrs Court Road)) and as the Council give permission to sub-divide large nearby dwellings more cars add to our parking problems. Unless you force students to only use cycles as a means of transport, it will inevitably further frustrate long term residents unable to find parking, have goods delivered and emergency services finding difficult to answer 999 calls.
- No pedestrian access to Commercial Road. Given that the blocks' student residents will have to make frequent trips on foot to the campus facilities on Venns Lane, it seems wholly illogical that a pedestrian link.



- Access to Colleges. The route to the colleges and the City centre are already inadequate when consideration of the numbers of students arriving by train and bus are taken into account.
- No parking for student cars
- The site would be much more sensibly planned in the context of the Transport Hub (relocated coach and bus station, cycle hire, TiC and other facilities).

#### 5.10 Other

- Site ownership. As the site belongs to HC there is a potential conflict of interest which must be carefully monitored.
- Content of application. It is a 'hybrid' application with a commercial development proposed on the corner of the link road. This should be excluded and dealt with separately and later when the layout of the transport hub is known
- Consultation and community involvement: this has been inadequate with the public meeting on 8th October appears to have been kept deliberately low key with no proper publicity. To invite just a few local residents and councillors and then state that there are no objections is nonsense. There should be a further wider and adequate period of consultation before the application is considered as it must be questionable whether what has taken place so far meets statutory requirements.
- Wrong site The logical location for this huge building is on the Network Rail car park adjacent to the railway line, rather than being sited on the land formerly occupied by the Rockfield DIY store. Land swops have been done before.
- The EA's objection on the grounds of flood risk as assessed against climate change and the risk of failure of the Yazor FAS rule it out.

5.11 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=183841&search=183841](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183841&search=183841)

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

### Policy context and Principle of Development

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 Development Plan for the area is the Herefordshire Local Plan - Core Strategy (CS). A range of CS policies are relevant and will be explored below. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms that proposals that accord with the policies of the CS will be approved, unless material considerations indicate otherwise.

6.3 The NPPF states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

6.4 Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to,

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes. Whilst policy H3 of the Core strategy broadly seeks to secure this range of housing, there is not specific reference to student accommodation.

- 6.5 Nonetheless, a specific need has been identified by the Art College and by NMiTE to provide purpose built and affordable accommodation for students. This will, in turn, support the aims of policy SC1 of the Herefordshire Local Plan – Core Strategy in supporting the improvement of the higher education facilities, which will, in turn provide employment opportunities and enhancement of existing provision. There are also widely accepted economic benefits associated with residential development within the city centre – supporting the shops and services.
- 6.6 In addition, outline permission is sought for a commercial unit that is intended to be a kiosk that will compliment the use of the building or nearby transport hub. The small scale nature of the intended building, that is sited on a fairly limited plot, is considered to be acceptable subject to future design considerations.

### ***Location and Accessibility***

- 6.7 As detailed above, Core Strategy policies SS4 and MT1 encourage active travel behaviour to reduce the number of short distance car journeys and access to services by means other than private motorised transport. All development should be laid out to achieve safe entrance and exit, with appropriate operational space. Policy SC1 is supportive of proposals that enhance provision of such community facilities in locations that *“are in or close to settlement and safely accessible by foot, by cycle and public transport”*
- 6.8 This sites location is located adjacent to the city centre, and does offer the opportunity for good accessibility as explored within the Transport Statement. It is considered that the pedestrian facilities in the vicinity of the site, connecting the site to Hereford City Centre and to the College campus are of a high quality and provide safe and direct connections to local public transport links, facilities and services in the area. The layout includes direct pedestrian links onto Station Approach, with vehicular access being limited to the access to the north. No car parking is available for students, but 2 spaces will be available for students that are mobility impaired. All 6 spaces feature electric charging points.
- 6.9 The revised submission has addressed technical concerns about the construction of the access and the servicing of the building (Deliveries and waste management) to the satisfaction of the Transportation Manager. The Transportation Manager has however raised some additional ‘operational’ queries and concerns about the management of ‘arrival and departure’ of students given the minimal amount of parking and also the practicality of the cycle parking provision as this is all within one room within the building. A draft document that addresses the issues of arrival and departures has been submitted and the contents are broadly acceptable. However, some further refinement is required and as such a condition is suggested to ensure that a plan is submitted and in place before first occupation. It is acknowledged that any disruption locally is likely to be very limited over a short period and will need to be carefully managed.
- 6.10 Both the Transportation Manager and other representation raised concern about the cycle parking. Sufficient cycle parking is provided, and issues raise relate to operational matters that will need to be carefully considered and reviewed. A travel plan condition is suggested, and the applicants are advised that this matter is one that also needs some refinement and careful consideration.
- 6.11 Officers are satisfied that the proposed development is sited in a position that is acceptable and supports the aims and requirements of the polices SS4, SC1 and MT1 of the Core

Strategy and the guidance contained within the National Planning Policy Framework in that site is sustainably located, would not adversely affect the safe and efficient flow of traffic on the network, provides for safe entrance and exit, with appropriate operational manoeuvring space whilst encouraging alternative means of transport. As detailed, conditions are suggested to ensure that transport matters during construction phases and during operation are addressed and managed appropriately.

### Flood risk and Surface Water drainage

- 6.12 Policies SD3 and SD4 of the Core Strategy seek to ensure that matters of flood risk and drainage are considered having regard to the requirements contained within the National Planning Policy Framework.
- 6.13 The site proposed for the student accommodation is currently a car park and falls within Flood Zone 2 (Medium Probability as defined in Table 1 of the Planning Practice Guidance) of the Widemarsh Brook, designated ordinary watercourse, on the EA Flood Map for planning. The site lies on lower land compared to Station Approach and the A465 which run to the south and east of the site respectively.
- 6.14 The NPPF (paragraphs 157 – 159) details the requirement for a risk-based Sequential Test in determining planning applications. The NPPF requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a Sequential test. It states that ‘Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding’.
- 6.15 The application submission has not undertaken any assessment in relation to the sequential test, making the assumption that as the site is being ‘promoted’ by the Council therefore no further work is required. Officers have however considered the requirements in respect of the development, and sites that may be available, in a location that would be acceptable and available. As can be seen from the plan inserted below, much of the remaining land to the north east part of the city, that allows for good connectivity to the college and city, lies either within flood Zone 2 or Flood Zone 3.

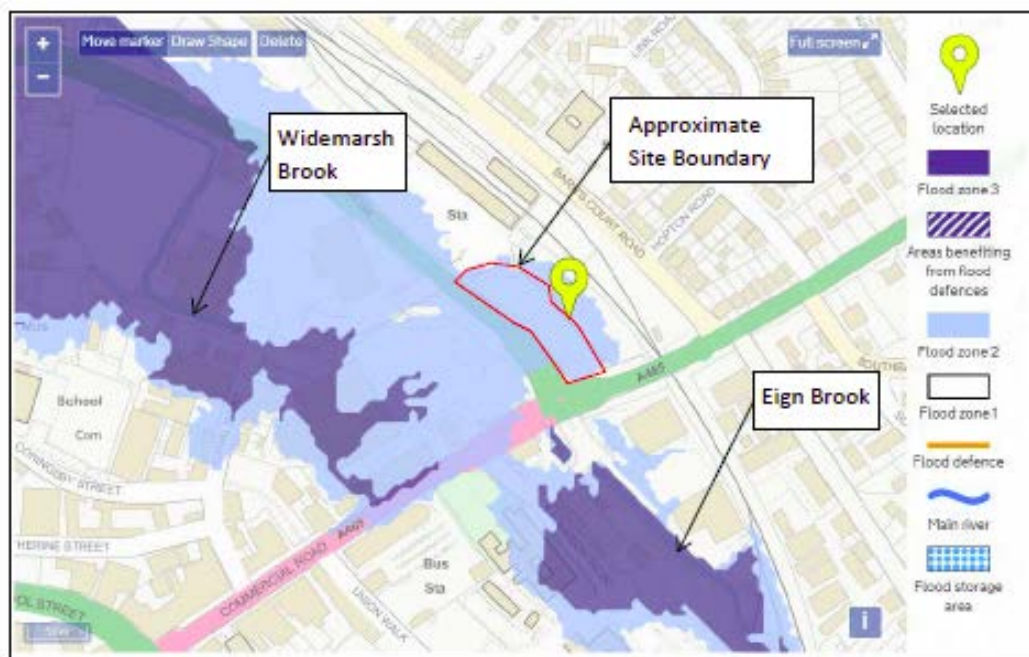
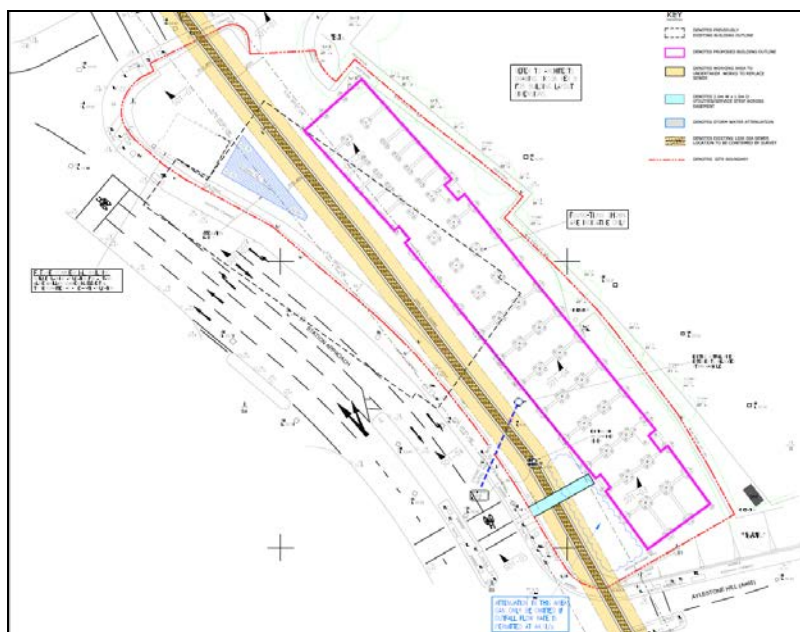


Figure 1.1: Published Flood Map for Planning

- 6.16 The National Planning Practice Guidance confirms that ‘Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered taking into account the flood risk vulnerability of land uses and applying the Exception Test (ET) if required. As such, if schemes were promoted within these areas, then they would face the same issues. It is noted that reference is made to the potential for the ‘county bus station’ site that does lie outside of these Flood Zone, however, whilst this has potential this site was not available for development within the timescales required and as such was discounted. Officers are satisfied that the sequential test is met.
- 6.17 The NPPF Exception Test requires that a proposed development provides wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.
- 6.18 Officers would conclude that the wider benefits in terms of meeting the economic objectives in and supporting the social objectives of improving the educational offer are clear in this instance. In addition, the supplementary report considers flood resistance and resilience in its design and these are considered to be appropriate. Subject to a condition ensuring that the finished floor level is secured, then both the Environment Agency and the Councils Land Drainage consultants raise no objection. As such, the exception tests are also met and the matter of flood risk is resolved.
- 6.19 In this instance, to make the development acceptable in planning terms, the management of flood risk to the development relies on the provision of the Environment Agency Flood Warning Service. This is located on Three Elms. In this instance the Environment Agency have sought a contribution of £5,000, from the applicant, towards maintaining and operating this service and it has been agreed with the applicant that this would be secured with an appropriate unilateral undertaking requiring a financial contribution to provide this contribution to maintain and improve this service/system.
- 6.20 Matters of surface water drainage have also been broadly agreed with Welsh Water agreeing, in principle, to surface water discharging to the existing combined sewer at an attenuated rate. However, they have suggested a condition be imposed that will ensure that the drainage strategy is agreed, in detail in advance of the development.
- 6.21 The site has been heavily influenced by the presence of a foul sewer beneath the site and its easements (yellow) This has restricted the siting of the building (marked in pink) and the way in which the area to the front of the building can be laid out and landscaped.



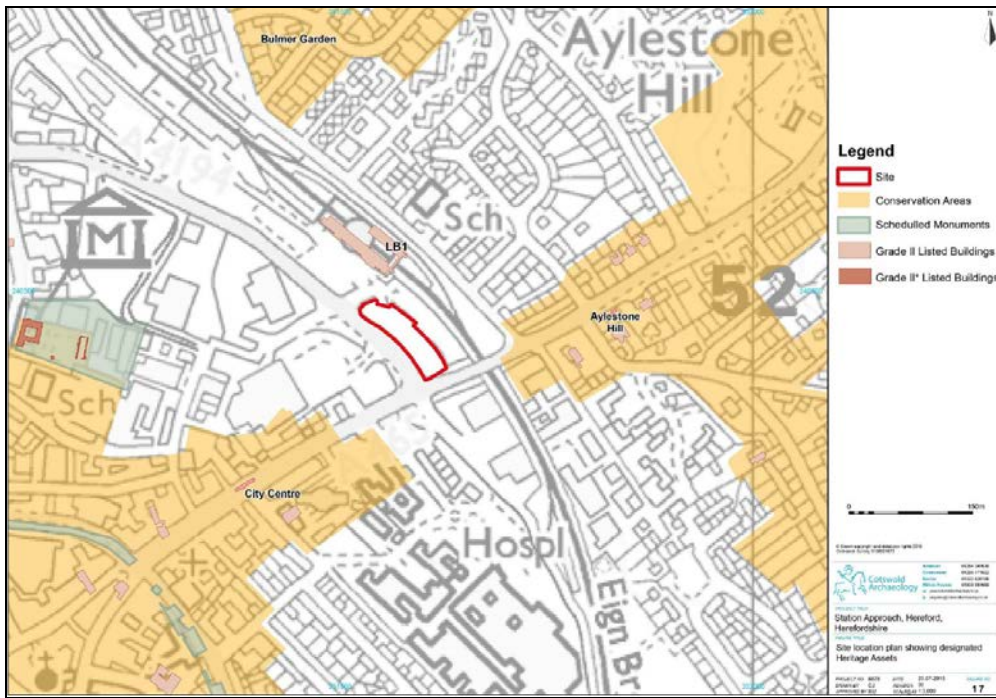
Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

- 6.22 Welsh Water have now confirmed that information which has been submitted following constructive dialogue between the parties revolving around the measures taken to protect the 1200mm public combined sewer which crosses through the proposed development site at a depth of between 6.5 meters and 5 meters across the site, has addressed concerns raised. There remain a number of issues that require some further refinement and clarification, but Welsh Water have recommended a condition that addresses this matter to their satisfaction.
- 6.23 As detailed below condition and informative notes are recommended but I would conclude that the management of foul, surface and land drainage can be satisfactorily accommodated and as such the requirements of policies SD3 and SD4 can be met. It is also noted that a condition is recommended in respect of available water supply.
- 6.24 Policy SD3 also deals with water consumption and a planning condition is thus recommended to address this requirement.
- 6.25 Officers are satisfied that the principle of development is acceptable, and that technical matters can be resolved. Key however to the acceptability of this development is the environmental objectives as detailed within the Core Strategy and the National Planning Policy Framework (2018). The key issues are:
- Heritage and Design
  - Landscape and Trees
  - Biodiversity
  - Amenity– Noise and air quality
  - Contaminated Land

### ***Heritage and design***

- 6.26 Polies LD1 and SD1 of the Core Strategy are also policies that require demonstration that character of the landscape and townscape has positively influenced the design of the proposal, with incorporation of new landscape schemes to ensure development integrates appropriately into its surroundings and maintain local distinctiveness.
- 6.27 Policy LD4 requires that development proposals affecting heritage assets and the wider historic environment should, protect, conserve and where possible enhance heritage assets and their setting in a manner appropriate to their significance through appropriate management, uses and sympathetic design. Where opportunities exist, they should contribute to the character and local distinctiveness of the townscape or wider environment.
- 6.28 The application is supported with a Heritage Statement that identifies the designated and non designated heritage assets within a wider study area. This study can be read online at: <https://myaccount.herefordshire.gov.uk/documents?id=4d549817-d8fa-11e8-888e-0050569f00ad>
- 6.29 As can be seen on the extract plan below, the application site does not lie within a Conservation Area but there are a number of Conservations Areas in the vicinity of the site . There are also a number of Listed Buildings within the vicinity including the Grade II listed railway station to the north of the application site. The closest Scheduled Ancient Monument to the proposed development is Blackfriars Friary to the west.





- 6.30 As detailed by Historic England, the application site forms part of the setting of the Aylestone Hill and Central Area Hereford Conservation Areas and contributes to their significance in terms of their historical and evidential value although its current appearance makes a negative contribution to their aesthetic value. Historic England has no objection to the principle of development on the site but objected initially due to the scale, mass, orientation and design of the proposed development that represents a change in setting that will harm significance and offers no heritage benefits to outweigh this harm.
- 6.31 As can be seen from the consultation responses above, detailed objections were also raised by the Councils Building Conservation Officer raised to the originally submitted scheme.
- 6.32 The applicants then engaged in discussions with the both the Councils Historic Buildings Conservation Officer and Historic England. A summary of these discussions has been submitted as an addendum to the Design and Access Statement and can be seen at: <https://myaccount.herefordshire.gov.uk/documents?id=e3988ab3-1f1e-11e9-ab65-0050569f00ad>
- 6.33 As a result, an amended scheme was submitted. Historic England maintain their objection to the proposed scheme in that the amended plans do not address the key concerns raised in their letter of 13 November 2018.

*They state:*

*Historic England welcomes the applicant's review of the design for this development, the colour palette, analysis of existing roofscape and greater level of information on landscaping provided. However, we are disappointed that advice offered at the meeting in your office on 28 November has not led to changes of an order that address our primary concerns regarding amount, scale, mass, orientation, height and design quality. We remain of the view stated in our letter of 13 November 2018 that the proposal offers no heritage benefits, results in avoidable harm to the designated heritage assets affected (and is not justified in terms of paragraphs 193, 194 and 196 of the NPPF), does not deliver the requirements of new development set out in paragraphs 127, 130, 192 and 200 of the NPPF and does not accord with our Urban Panel's recommendations to you in delivering the regeneration of this part of the city.*

*Historic England objects to the application on heritage grounds. We consider that the application does not meet the requirements of the NPPF, in particular paragraph numbers 127, 130, 192, 193, 194, 196 and 200.*

*In determining this application you should bear in mind the statutory duty of section 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and of preserving or enhancing the character or appearance of conservation areas. Also section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.*

6.34 Paragraph 127 and 130 relate to the section of the NPPF that relates to ‘achieving well designed places’

127. Planning policies and decisions should ensure that developments:

- a) 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;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) 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);
- d) 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;
- e) 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
- f) 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<sup>46</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience

130. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

6.35 Turning to the part of the NPPF that considers ‘Proposals Affecting Heritage Assets’ paragraphs 192, 193, 194, 196 and 200 are quoted as being relevant.

192. In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.

193. 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.

194. 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.

196. 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, where appropriate, securing its optimum viable use.

200. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably

6.36 It is also noted that the Hereford Civic Society and other representations made have also raised concerns and objection about the design, scale and mass of the building and its impacts upon the setting of the heritage assets.

6.37 The Councils Building Conservation Officer notes that *there has been some improvement in the design, notably the materiality is more 'of Hereford' and the building has more directionality, responding to the station forecourt. There are minor details which may need resolution, for example the junction of pitched roofs with the lift/stair cores. The massing is improved, however from the street scene/contextual elevations there is still a concern about height at the Western end of the building. Treatment of the fenestration is also much improved. Whilst the building doesn't have a strong architectural personality, it does make some effort to respond to context in the references to warehouse and industrial buildings. That the north elevation is more recessive than the south is welcomed as this minimising any potential dominance over the housing set above the railway lines towards Aylestone Hill.*

6.38 The station is acknowledged as a key point of arrival for visitors and as such the experience of the station forecourt is a key aspect of its setting which contributes to its significance. This matter is explored in the urban panel review, a document referred to in third party representations received. This document provides some advice to Herefordshire Council addressing in particular how the 'sense of arrival' at Hereford Station might be improved, including;

- As part of the investment in the public realm, priority should be given to the creation of a high-quality public space in front of the station.

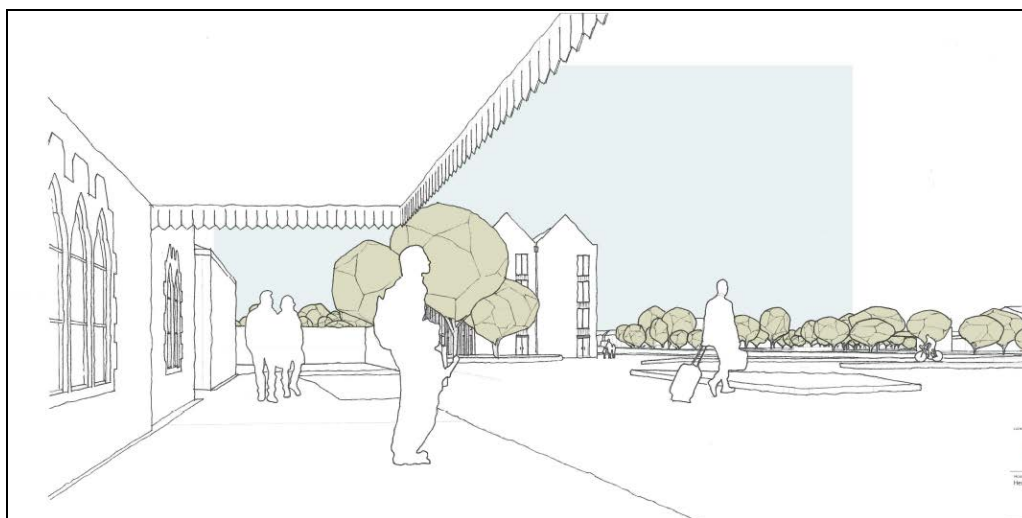


- Following the principles adopted between Old Market and Widemarsh Street, consideration should be given to how a more pleasant pedestrian route might be developed from the station to the City Centre.
- The legibility of the City Centre for those arriving at the Station needs to be improved

This document can be viewed online at:

<https://content.historicengland.org.uk/content/docs/committees-panels/urban-panel-review-paper-hereford-oct17.pdf>

- 6.39 Officers acknowledge that the Railway Station is significant architecturally, historically and communally. The space in front of the station and the experience of it is closely related to the significance of the building as this point of arrival in Hereford. The application submission has also sought to demonstrate that this matter has been considered in the design approach and a contextual drawing details this:



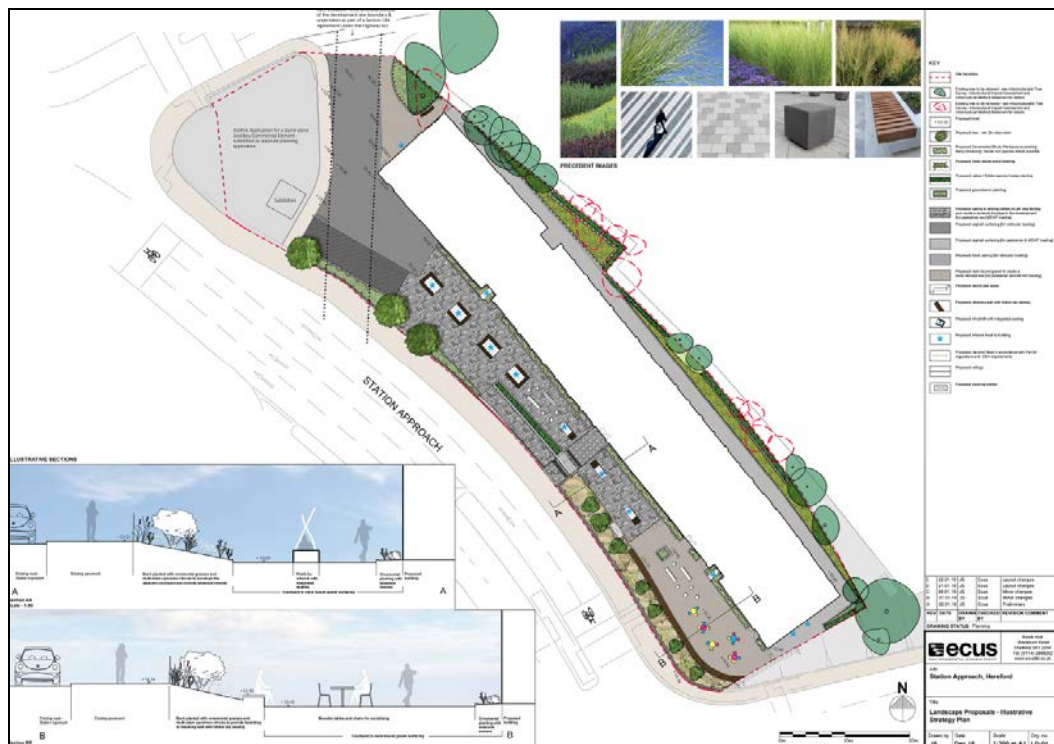
- 6.40 Whilst the site is not within a Conservation Area and there is no statutory protection for the setting of a Conservation Area, policies within the NPPF allow this to be a planning consideration. Whilst there would still be some impact upon the experience of the Conservation Area, officers maintain that despite the change in design, the main issue relates to the height and the impact upon the experience of the station forecourt and the experience of the architectural significance of the station building.
- 6.41 A reduction in scale and height of the building was explored during discussions with the applicants and their architects / agents but a reduction in height and mass would result in a reduction in room numbers and the schemes viability would be compromised. As such, a decision, based on the submitted scheme must be progressed.

## Archaeology

- 6.42 Turning to buried heritage assets (archaeology) the Councils Archaeologist has confirmed that he is content with the information and conclusions of the Heritage report and is of the view that sufficient knowledge already exists regarding the potential below ground impact of the development for there to be no requirement for (e.g.) a field evaluation in this particular case. In the circumstances, I consider that sufficient good information is already available regarding the significance of the heritage assets that would be affected in the environs of the development. The requirements of policy LD4 of the CS and guidance contained within the NPPF are met.

## Landscape and Trees

- 6.43 The design approach as a whole also includes further detail on how landscaping (hard and soft) would influence the effect of the development on the street scene and settings of the heritage assets. As detailed above, the overall landscape approach is one that is broadly supported given the constraints of the site such as the sewer and limited circulation space. This is detailed on the plan below.



- 6.44 However, both the Councils Tree Officer and Landscape Officer raise further queries and request in respect of tree retention / replacement. Options are limited to provide a substantial tree cover / mitigation and it is noted that some trees lie outside of the application site (with Network Rail Land), as such the species and siting will be important as will ongoing maintenance. Conditions are recommended to address issues and secure a successful and appropriate landscape scheme that would also take into account the requirements that are detailed in the responses from Network Rail.

### **The approach to decision making – Heritage**

- 6.45 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting:

*“to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*

- 6.46 It follows that the duties in section 66 do not allow a local planning authority to treat the desirability of preserving the setting of listed buildings merely as material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm “considerable importance and weight”.

- 6.47 Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter

for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.

- 6.48 Paragraphs 193 - 196 of the NPPF (2018) deal with the approach to decision-making according to the significance of the heritage asset and the degree of harm arising as a consequence of development. Paragraph 193 confirms that great weight should be given to the conservation of designated heritage assets. Paragraph 195 is a restrictive policy and directs refusal where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. This is unless such harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or where all 4 stated exceptions criteria apply.
- 6.49 Paragraph 196 explains the approach to decision-making where less than substantial harm to the significance of a designated heritage asset would arise. It states that such harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. 196 is thus also a restrictive policy.
- 6.50 Accordingly it is necessary for the decision-maker to judge, on the evidence before them and having particular regard to expert heritage advice, whether the proposal in this case represents substantial harm to or total loss of significance of the Grade II Railway Station (in which case paragraph 195 directs refusal unless the scheme achieves substantial public benefits that outweigh the harm) or whether the harm falls within the purview of paragraph 196; in which case it is necessary to weigh the less than substantial harm against the public benefits in an unweighted planning balance. Even if harm is less than substantial, it is absolutely clear that such harm weighs heavily in the planning balance – the fact that it is not necessary to demonstrate that harm significantly and demonstrably outweighs the benefits gives weight to paragraph 196 as a restrictive policy.
- 6.51 As detailed above, the Statutory bodies do not expressly conclude that the proposed works would lead to less than substantial harm, but it could be concluded from their comments (that raise concern about design approach and refer to paragraph 196 rather than 195) that they are taking the same approach as the Councils advisor and are concluding less than substantial harm and that paragraph 196 would apply. As such the public benefits arising from the scheme must be weighed accordingly, with that weight a matter for the decision-maker.
- 6.52 While Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. As a result, and in order to properly consider the effects of development on heritage assets, recourse should be had to the NPPF in the first instance. Officers return to this matter later in the report.

## Amenity

- 6.53 Policy SD1 and guidance contained within the NPPF of the CS also requires that developments safeguard residential amenity for existing and proposed residents and seeks to ensure that new development does not contribute to or suffer from adverse impacts arising from noise, light or air contamination. The site is located adjacent to a busy main road and both issues need to be considered.
- 6.54 Representations raise the issue of the sites location adjacent to the busy highway (Station Approach / Commercial Road), the railway line and the potential transport hub to the north. Officers would accept that the location may therefore be subjected to elevated levels of nitrogen dioxide and particulates associated with vehicle emissions. Further consideration may

also be required to the likely increase in traffic along the City Link Road. Further consideration is also required in respect of the noise impacts and how these might be mitigated and how any mechanical ventilation may be used.

- 6.55 The technical officers have provided details responses and recommended conditions and officers are confident that a technical solution can be found that will address any issues raised or identified once further investigation and testing has been undertaken. These conditions are considered reasonable and necessary to ensure that the requirements of policy SD1 are met.
- 6.56 These matters can only be dealt with 'mechanically' in the internal elements of the building. Concerns have also been noted about how the open space may be affected. This is where landscaping will be an important element to help mitigate and enhance the experience of the users.
- 6.57 Concerns have also been raised about amenity impacts from the use to local residents, however it is noted that the building will be managed by the facility. Matters raised about noise, drug and alcohol are noted, but are not considered to be matters that can be controlled through this planning permission.

### **Contaminated Land**

- 6.58 Policy SD1 and guidance contained within the NPPF also seeks to ensure that matters relating to contaminated land are addressed. Initial studies have been undertaken and submitted and some further testing is required. A condition is suggested that ensures that the additional testing is undertaken, reported and any contamination is remediated in the interests of human health.

### **Biodiversity**

- 6.59 The application is accompanied by an ecological appraisal and the Council's Ecologist does not raise concerns over and above this. They are also satisfied that the drainage strategy for surface water management control can be successfully managed and should present no additional biodiversity issues. Conditions are required to ensure that the terms of the HRA are met. Biodiversity protection and enhancement can be secured via an appropriately worded ecological mitigation and enhancement planning condition. With this condition in place, officers are content that the scheme fulfils the requirements of LD2.

### **Planning Obligations**

- 6.60 Policy ID1 of the Herefordshire Local Plan – Core Strategy seeks to secure provision for infrastructure to support development. In this instance contributions are sought by the Wye Valley NHS trust (hospital) and the Environment Agency towards the flood alert systems.
- 6.61 The Council (as landowner) cannot covenant with itself (as local planning authority) to enter into a s.106 agreement. In two-tier authorities, an alternative is to enter into an agreement with the relevant 'other' tier of local authority, but that option does not exist in Herefordshire. Legal advice has been sought. In respect of the financial contributions required (as per the attached draft Heads of Terms), payments of money cannot be secured by condition. It is therefore proposed that this is dealt with by the imposition of a condition providing that no development shall take place until evidence has been provided to the satisfaction of the local planning authority that provision will be made for local infrastructure. It is anticipated that a draft section 106 agreement will be prepared and agreed with the local planning authority, and that the evidence to be submitted pursuant to the condition will take the form of a clear and unambiguous statement made on behalf of the Council to the effect that it will adhere to the terms of this agreement. The statement will also provide that any purchaser will be required to enter into the section 106 agreement in the event the Council decides to dispose of the land.

Advice tends to the view that the 'clear and unambiguous' statement will be likely to be in the form of a resolution of the Council's cabinet, which would provide public, minuted evidence of the Council's intent to honour the obligations in the section 106 agreement.

## The Planning Balance

- 6.62 The scheme is for the provision of a purpose built student accommodation to support higher education in the city and outline permission for an associated commercial premises on land fronting Station Approach. This development relates to the redevelopment of brownfield land on the edge of the city centre in a location that is accessible by and capable of facilitating a genuine choice of modes of travel including walking, cycling and public transport. The proposal would comply with the requirements of H3 in providing a specific residential need, SC1 in support of the growth of post 16 educational opportunities and SS4 of the Herefordshire Local Plan – Core Strategy in terms of siting.
- 6.63 Sustainable development is sought across three objectives; environmental, economic and social. In this case, the economic benefits of the scheme are those arising from the construction phase and the underpinning of construction and related jobs plus the associated financial and employment benefits from spending / support of the city centre shops, business and services.
- 6.64 In social terms the scheme would deliver a purpose built, accessible service that will reflect current and future needs in supporting the growth of an existing higher education facility and NMITE as it grows and develops.
- 6.65 The main points of contention in this case relate to the environmental role. In this respect the site's proximity to the Grade II listed Hereford Railway Station and the statutory duty "*to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses*" are noted and taken account of in the planning balance. In addition the impacts upon the setting of the identified conservation areas are also key.
- 6.66 Historic England raise an objection to the proposed development, identifying concerns in respect of the amount, scale, mass, orientation, height and design quality of the development. In their opinion the proposal offers no heritage benefits, results in avoidable harm to the designated heritage assets affected (and is not justified in terms of paragraphs 193, 194 and 196 of the NPPF), does not deliver the requirements of new development set out in paragraphs 127, 130, 192 and 200 of the NPPF and does not accord with our Urban Panel's recommendations to you in delivering the regeneration of this part of the city.
- 6.67 The Council's own advisors raise their own concerns about scale and height and the impacts of this on Grade II Listed Station as well as the impacts upon the setting of the Conservation Area, albeit this matter raises less concern.
- 6.68 Nonetheless, it is agreed that the proposed development will result in harm. This harm is considered to be less than substantial harm to the significance of the asset. Therefore the correct approach to decision-making is to weigh this harm against the public benefits arising from the scheme in an unweighted balancing exercise. It is not necessary for the harm to significance to demonstrably and significantly outweigh benefits for refusal to ensue.
- 6.69 Taking all of the above into account, officers consider that the public benefits arising from the scheme outweigh the less than substantial harm to the significance of the setting of the Grade II listed Building. This conclusion is based on the following rationale:-
- The proposal will provide a modern, purpose built form of residential accommodation that will provide for a specific need within the city. It has been architecturally designed to

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

address some very specific site constraints, but has been significantly amended to take into account the concerns raised and to take better account of the local character and townscape.

- It is a sustainably located brownfield site, in an accessible location and provides facilities that will meet the needs of the educational facility.
- There is no harm arising in relation to other technical matters as discussed above, and although the design-related comments from Historic England and the Principal Building Conservation Officer's comments are noted, officers are of the opinion that the form of development, with appropriate mitigation in the form of landscaping result in a development that is acceptable in the context.

- 6.70 Details of materials and finishes will be key, and conditions to secure these and the appropriate landscaping and biodiversity enhancement will be secured by condition to ensure compliance with policies SD1, LD1, LD2 and LD4.
- 6.71 Officers recognise that there are a number of technical matters, namely, noise mitigation and attenuation, ventilation (air quality) and drainage that require some refinement, but are satisfied that the solutions are achievable. As such, conditions are suggested that will ensure that the development accords with the relevant core strategy policies and the guidance contained within the NPPF.
- 6.72 There are a number of operational matters that also need to be resolved, such as 'arrival and departures' and travel plans. Again, conditions are suggested to ensure that these matters are carefully conceived, implemented and open to review.
- 6.73 Accordingly, officers are content to recommend the scheme for approval on the basis that the application of the unweighted planning balance indicates that the public benefits arising from the scheme outweigh the less than substantial harm to significance. That being recognised, absent any other harm, the recommendation can only be for approval on the basis that the scheme complies with the Development Plan when read as a whole.

## RECOMMENDATION

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

**1. C02 Time limit for submission of reserved matters (outline permission)**

Application for approval of the reserved matters (for the proposed ancillary commercial element as areas detailed on drg no. only) shall be made to the local planning authority before the expiration of three years from the date of this permission.

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

**2. C03 Time limit for commencement (outline permission)**

The development hereby permitted shall be begun either before the expiration of three 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. C04 Approval of reserved matters**

Approval of the details of the layout, scale, appearance, access and landscaping (hereinafter called "the reserved matters") for the proposed ancillary commercial element as detailed on drg no. shall be obtained from the local planning authority in writing before any development is commenced.

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 and the National Planning Policy Framework.

- 4 CNS** Pursuant to condition 1, the reserved matters application for the proposed ancillary commercial element shall include all details of all external plant (such as commercial kitchen exhaust ventilation / air conditioning)

Reason: To ensure that the impact upon the amenity of residents can be properly considered having regard to the requirements of policy SD1 of the herefordshire local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

**4. C06 - Approved Plans**

**Pre-commencement Conditions (any works)**

**5 CNS – Legal / Contributions**

No development shall take place until evidence has been submitted to and approved by the local planning authority demonstrating to its satisfaction that suitable arrangements have been made for the provision of;

- the provision of healthcare services at Hereford County Hospital
- the provision of a Flood Warning System

Reason: To ensure that suitable mitigation is provided in respect of the effects of the development on local infrastructure having regard to the requirements of policy ID1 of the Herefordshire Local Plan – Core Strategy

**6 CNS – Drainage Scheme (Surface and Foul Water)**

Notwithstanding the submitted plans, no development shall commence (other than ground investigation) until a drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate how the site will be effectively drained; the means of disposal of surface water and indicate how foul flows will communicate to the public sewerage system. Thereafter, the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further surface water or land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment having regard to the requirements of policy SD3 and SD4 of the Herefordshire Local Plan – Core Strategy

**7 Nature Conservation – Ecology protection & CEMP**

Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include:

Timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the demolition and construction process, establishment of Tree Root Protection Areas, in accordance with BS:5837 (2012) and the tree survey and arboricultural report (Ecus Ltd, September 2018).

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

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

## **8 CNS – Contaminated Land**

Prior to the commencement of development a timetable that details the undertaking of additional survey work (identifying any other works also being undertaken at that time / phasing) and completion of reports, that addresses the following requirements, shall be submitted to and approved in writing by the local planning authority:

- a) completion and submission of 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), then an 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.

Works and submissions shall be carried out in accordance with the approved timetable.

Reason: In the interests of human health having regard to the requirements of policy SD1 of the Herefordshire Local Plan – Core Strategy and the guidance contained within the National Planning Policy Framework (2018)

## **9 CNS – Construction Management Plan**

Prior to the commencement of works (other than ground investigation) to each phase (accommodation and commercial) a construction and waste management plan has been submitted to and approved in writing by the local planning authority.

The Plans shall include, but not be limited to:

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781



- Site waste management Plan
- Construction lorry routes
- Site compound location
- Access, turning area and parking for delivery vehicles, including hard-surfaced areas
- Emergency / site contacts during the construction period
- Parking provision for construction workers
- Measures to promote sustainable means of transport for construction staff with respect to the construction site

Works shall be carried out in accordance with the approved Construction Management Plan for each phase and any amendments or alterations during the construction phases should be submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety, residential amenity having regard to Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy

## **10 CNS – Tree Protection**

No works shall commence 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 with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. The commencement of development in advance of these measures may cause irreparable damage to features of acknowledged amenity value.

## **Pre-commencement conditions (specific elements / phases)**

### **11 CNS – Additional Details (external appearance)**

With the exception of any site clearance and groundwork, no further development shall take place until the following details are submitted to and approved in writing by the local planning authority.

- External materials, details and samples
- Details of heads, cill and reveals of window openings
- External Joinery details
- Details of any solar shading.
- Details / samples of rainwater goods, external plant, vents etc (including finish colour)

Development shall be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy [and the National Planning Policy Framework.

### **12 CNS - Nature Conservation - Mitigation and Enhancement**

With the exception of any site clearance and groundwork, no further development shall take place until detailed biodiversity enhancement scheme should be submitted to and be approved in writing by the local planning authority, and shall include: Details of landscape planting scheme to include native tree and shrub planting, and wild flower planting areas/species of benefit to insect pollinators.

Provision of additional habitat for nesting birds and bats, including swift boxes and bat boxes eg. Schwegler woodcrete nest boxes, to be installed under ecologist guidance.

No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative (DEFRA/NPPF Guidance 2013).

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

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

### **13 CNS – Landscaping Scheme**

With the exception of any site clearance or ground works 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) 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 (topographical plan and datum point outside of the site)
- b) The position, design and materials of all site enclosure (e.g. fences, walls)
- c) Car parking layout and other vehicular and pedestrian areas
- d) Hard surfacing materials
- e) Minor structures (e.g. play equipment, street furniture, lighting, refuse areas, signs, cycle parking etc.)
- f) Location of existing and proposed functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc. indicating routes, manholes, supports etc.)
- g) Any retained historic features and proposals for restoration

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.

#### **14 CNS – Noise / Ventilation**

With the exception of any site clearance and groundwork, no further development shall take place until the following details relating to noise, ventilation and air quality are submitted to and approved in writing by the local planning authority:

- Report detailing the proposals in relation to the use of trickle vents for ventilation purposes and the effectiveness / impacts on noise attenuation.
- An assessment that considers the effects of overheating using CIBSE TM59 to ensure the predicted temperatures inside the bedrooms and cluster rooms achieve overheating compliance criteria.

Reason: In the interests of the amenity and living conditions of occupiers having regard to the requirements of policy SD1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the NPPF

#### **15 CNS – Sub Station – Noise Attenuation**

Prior to the commencement of any works to the proposed electricity sub station, details of the sound power levels of the plant to be operated within the sub-station and details of the structure of the building for noise attenuation purposes shall be submitted to and approved in writing by the local authority. (Depending on the information provided the applicant may be requested to supply a noise impact assessment according to BS4142).

Works shall be undertaken in accordance with the approved details prior to the first use of the substation hereby approved.

Having regard to the amenities of residents in accordance with the requirements of policy SD1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the NPPF

## **Pre-occupation Conditions**

### **16 CNS – Landscape / shared space Maintenance**

Prior to the first occupation of the building hereby permitted a scheme of landscape maintenance for a minimum period of 10 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

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

### **CAE – Access**

### **17 CAL – Turning / Parking**

### **18 CB2 – Cycle Parking Provision**

### **19 CB3 - Travel Plan**

### **20 CE6 - Water Efficiency**

### **21 CNS – Contaminated Land**

The Remediation Scheme, as approved pursuant to condition no. (X) 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 and agreed in writing 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 having regard to the requirements of policy SD1 of the Herefordshire Local Plan – Core Strategy and the guidance contained within the National Planning Policy Framework (2018)

### **22 CNS – Contaminated Land**

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 having regard to the requirements of policy SD1 of the Herefordshire Local Plan – Core Strategy and the guidance contained within the National Planning Policy Framework (2018)

### **23 CNS – Flood Evacuation Plan**

Prior to the first occupation of the development, a Flood Evacuation Management Plan shall be submitted to and approved in writing by the local planning authority in consultation with the local authority Emergency Planning Officer.

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

The Plan shall include full details of proposed awareness training and procedure for the erection of any mitigation measures, evacuation of persons and property, training of staff and method and procedures for evacuation. It shall also include a commitment to retain and update the Plan and include a timescale for revisions of the Plan.

Reason: To minimise the flood related danger to people in the flood risk area in accordance with Policy of the SD3 of the Herefordshire Local Plan and guidance contained within the National Planning Policy Framework

## **Compliance Conditions**

### **24 CBK – Restriction of hours during construction**

During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

### **25 CNS – Finished Floor Levels (Environment Agency)**

Finished floor levels shall be set no lower than 53.60mAOD as stated in MBCE's Flood Risk Assessment Rev 0 dated October 2018 unless otherwise agreed in writing by the LPA.

To protect the proposed dwellings from flood risk for the lifetime of the development having regard to the requirements of policy SD3 of the Herefordshire Local Plan – Core Strategy and

### **26 CNS – Potable Water**

The approved building shall not be brought into beneficial use earlier than 31st March 2020, unless the upgrading of the potable water network that would serve the development has been completed and written confirmation of this has been received by the Local Planning Authority.

Reason: To ensure satisfactory mains water supply is available to properties at all times – having regard to the requirements of policy SD3 of the Herefordshire Local Plan – Core Strategy.

### **27 CNS – Double Glazing / Noise Attenuation**

All bedrooms and cluster rooms at all elevations shall be enhanced 10/12/6 double glazing with acoustic trickle vents unless alternative noise report / assessments and mitigation strategies are submitted to and approved in writing by the Local Planning Authority.

Reason: To mitigate against anticipated increased road traffic noise on the new Link Road (Station Approach) and to protect the amenities / living conditions of occupiers having regard to the requirements of policy SD1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

## **28 CNS - Habitat Regulations (River Wye SAC) – Surface Water**

Surface water will be managed via mains sewer as stated in the planning application and this shall be maintained hereafter as approved unless otherwise agreed in writing by the Local Planning Authority.

*Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2 and SD3.*

## **29 CNS - Habitat Regulations (River Wye SAC) – Foul Water Management**

All foul water shall be managed by mains sewer as stated in the planning application and this shall be maintained hereafter as approved unless otherwise agreed in writing by the Local Planning Authority.

*Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018) and Herefordshire Council Core Strategy (2015) policies LD2 and SD4.*

## **30 CNS – Species and Habitat Enhancements**

The recommendations for species and habitat enhancements set out in the recommendations of the Preliminary Ecological Assessment report (Ecus Ltd., September 2018) should be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved.

Prior to commencement of the development, an appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to inspect the site and implement the measures recommended to ensure there is no impact upon protected species (nesting birds, reptiles and amphibians) by demolition of the building and clearance of the area.

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

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

## **31 C97 – Landscape Implementation**

The soft landscaping scheme approved under condition x above 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. The hard landscaping shall be completed prior to the first occupation of the development hereby permitted.

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.

**INFORMATIVES:**

1. **Positive and Proactive 2**
2. Advice from West Mercia Police:

The applicants should aim to achieve Secured by Design (SbD) award status for this development. SbD is a nationally recognised award aimed at achieving a minimum set of standards in crime prevention for the built environment. The scheme has a proven track record in crime prevention and reduction. The principles and standards of the initiative give excellent guidance on crime prevention through the environmental design and also on the physical measures. Details can be found at [www.securedbydesign.com](http://www.securedbydesign.com)

3. **I45 - Works Within the Highway**
4. **I09 - Private Apparatus within Highway**
5. **I08 - Section 278 Agreement**
6. **I05 - No Drainage to Discharge to Highway**
7. **I54 - Disabled Needs**
8. **I51 - Works Adjoining Highway**
9. **I41 - Travel Plans**
10. **I36 - Annual travel Plan Reviews**

# HEADS OF TERMS

## Proposed Planning Obligation Agreement Section 106 Town and Country Planning Act 1990

Planning application: **P183841/CD4**

Site address:

**Car Park, Station Approach, Hereford**

Planning application for:

**Hybrid application including a full application for student accommodation, comprising 178 no. bedrooms, including hard and soft landscaping and an outline application for a standalone ancillary commercial element**

This Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1<sup>st</sup> April 2008, and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended).

1. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£41,208.14** (index linked) to provide infrastructure at Hereford Hospital. The sum shall be paid on or before the commencement of development.
2. The developer covenants with Herefordshire Council to pay Herefordshire Council the sum of **£5,000.00** (index linked) as a Flood Warning Contribution. The management of flood risk to the development, including safe access and egress, relies on the provision of the Environment Agency Flood Warning Service. The sum shall be paid on or before the commencement of development.

S106 – mechanism for delivery

The Council (as landowner) cannot covenant with itself (as local planning authority) to enter into a s.106 agreement. In two-tier authorities, an alternative is to enter into an agreement with the relevant 'other' tier of local authority, but that option does not exist in Herefordshire. Moreover, in the context that the Council may not intend sell the site, there isn't scope to impose a condition requiring the purchaser to enter into a section 106 agreement once the land is sold by the Council.

In respect of the financial contributions required (as per the attached draft Heads of Terms), payments of money cannot be secured by condition. It is therefore proposed that this is dealt with by the imposition of a condition providing that no development shall take place until evidence has been provided to the satisfaction of the local planning authority that provision will be made for local infrastructure. It is anticipated that a draft section 106 agreement will be prepared and agreed with the local planning authority, and that the evidence to be submitted pursuant to the condition will take



the form of a clear and unambiguous statement made on behalf of the Council to the effect that it will adhere to the terms of this agreement.

The statement will also provide that any purchaser will be required to enter into the section 106 agreement in the event the Council decides to dispose of the land. Advice tends to the view that the 'clear and unambiguous' statement will be likely to be in the form of a resolution of the Council's cabinet, which would provide public, minuted evidence of the Council's intent to honour the obligations in the section 106 agreement.

Proposed planning condition;

No development shall take place until evidence has been submitted to and approved by the local planning authority demonstrating to its satisfaction that suitable arrangements have been made for the provision of;

- the provision of healthcare services at Hereford County Hospital
- the provision of a Flood Warning System

Reason: To ensure that suitable mitigation is provided in respect of the effects of the development on local infrastructure.

**Yvonne Coleman**

**Planning Obligations Manager**

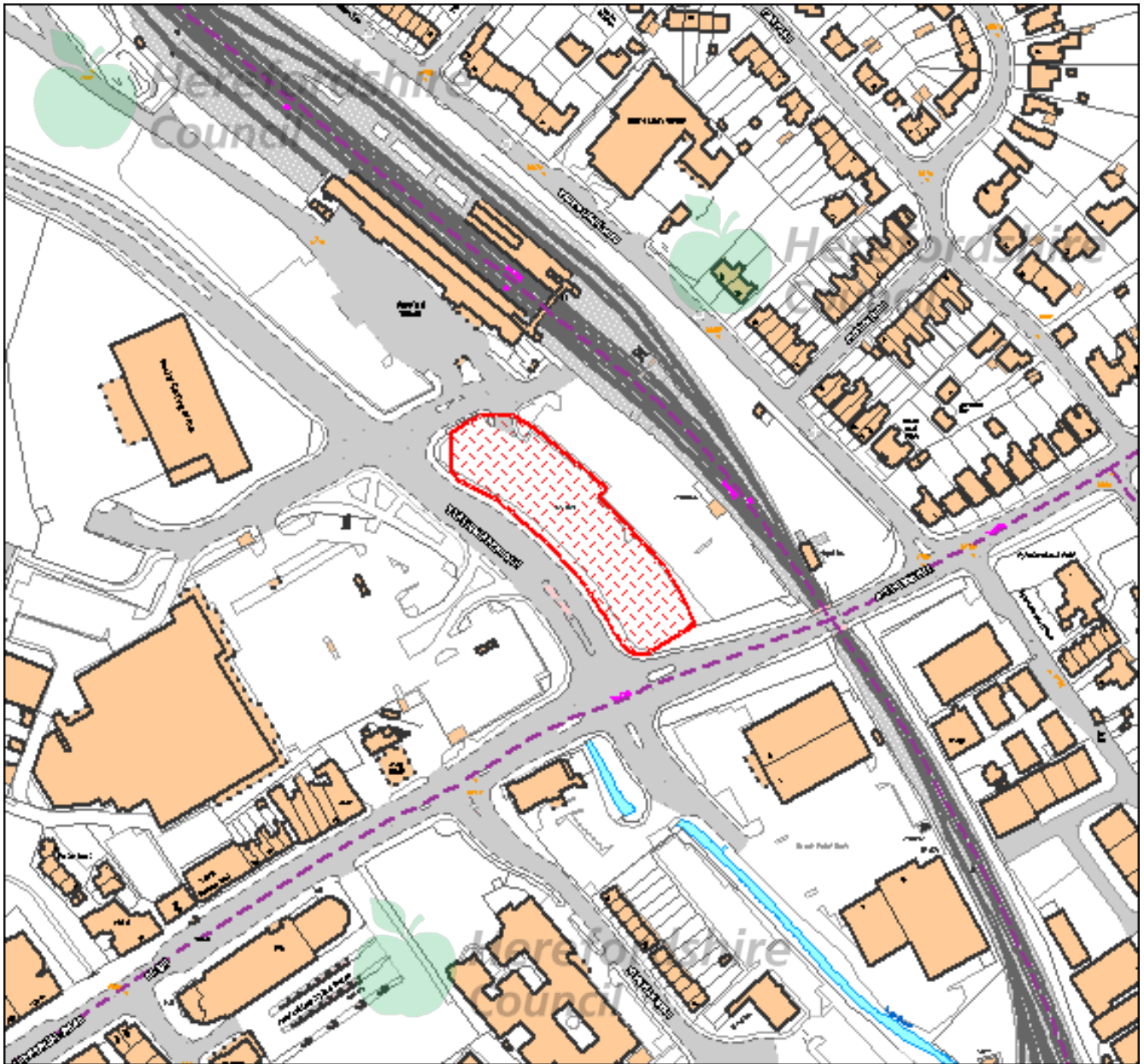
**30 January 2019**

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 183841

**SITE ADDRESS :** CAR PARK, STATION APPROACH, HERFORD

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Further information on the subject of this report is available from Ms Kelly Gibbons on 01432 261781

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>27 February 2019</b>
<b>TITLE OF REPORT:</b>	<p><b>174097 - RETROSPECTIVE PERMISSION FOR THE USE OF THE LAND FOR WOOD CHIPPING WITH WOOD STORAGE YARD AND BUILDINGS TO INCLUDE; OFFICE BUILDING, CHIP STORES, DRYING FLOOR, FAN HOUSE AND BOILER HOUSE WITH BIOMASS PLANT TO GENERATE 80KW OF ELECTRICITY. AT MILE END, BROAD LANE, LEOMINSTER, HEREFORDSHIRE, HR6 0AL</b></p> <p><b>For: Mr Saer per Mr Ray Williams, Kinnersley House Barn, Kinnersley, Worcester, Worcestershire WR8 9JR</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=174097&amp;search=174097">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=174097&amp;search=174097</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

Date Received: 31 October 2017

Ward: Bircher

Grid Ref: 349325,260553

Expiry Date: 1 March 2018

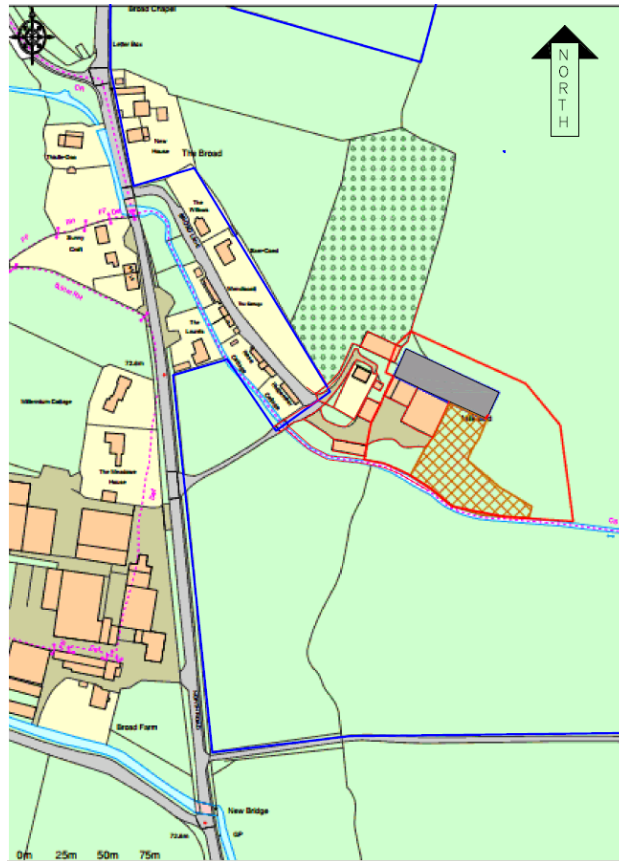
Local Member: Councillor WLS Bowen

## 1. Site Description and Proposal

- 1.1 This application seeks retrospective planning permission to regularise the use of the site for the chipping and drying of wood. The applicant has utilised a number of existing agricultural buildings on the site for the storage and drying of wood chip which the business has been producing on site from timber sourced within the local area. As part of the change of use which has occurred, the applicant has installed 6 biomass boilers and 2 gasification plants on the site in connection with the drying of the chipped wood. These boilers and gasification have a combined total power output of 3MW. The application also seeks to regularise an office building, weighbridge and new building which houses 2 of the biomass boilers.
- 1.2 The applicant's family have occupied the site since 1953, farming the surrounding land and also running a wood business. Mile End Farm is located around 650m to the north of the edge of the Market Town of Leominster to the east of the B4361 which travels north towards the village of Luston. The site is located just inside the parish of Luston, however it does form the boundary with Leominster. The River Lugg defines the edge of the settlement of the town of Leominster, and is located 120m to the south. There are a number of PROW and Bridle paths within the area, including one which appears to run directly through the site (LJ36). The nearest listed buildings to the site are located 185m to the southwest at Broad Farm (Farm house and barn Grade II listed).

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Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

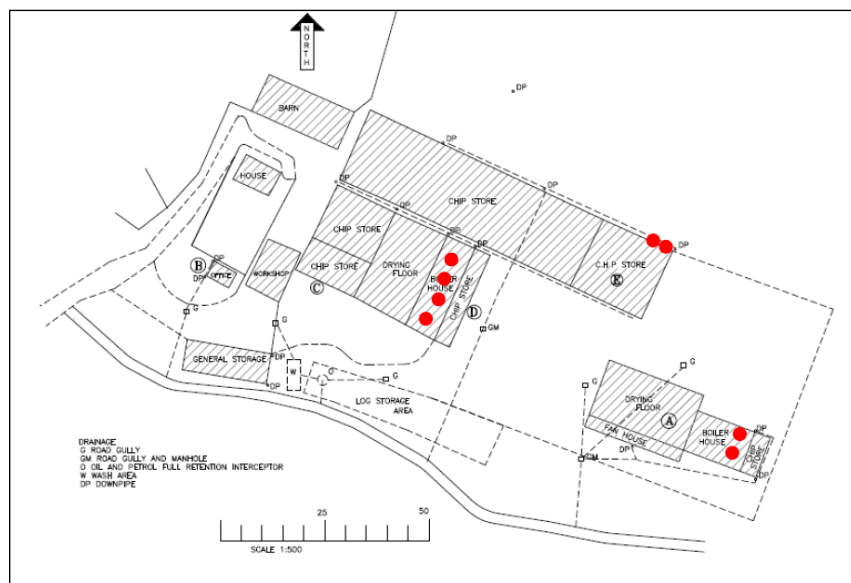


Location Plan 7393/1 13/09/2017

- 1.3 The supporting statement identifies that the family's wood business was developed in 1982. However, what was once a business which involved the importing of wood onto site to sell on has now evolved in recent years to the processing of the wood on site which primarily involves chipping. The chipped wood principally is sold on to supply biomass boilers in the surrounding areas. However a small proportion of the chipped wood will be sold in connection with equestrian activities.
- 1.4 Chipping began at the site in 2011. The business operates by bringing virgin wood direct from the forests on to the site for it to be chipped, then drying and then taken out to local sites in the area. The former agricultural buildings which are of steel frame construction have been converted into a drying shed, which are heated by 4x 199kWth biomass boilers which have been installed in one of the small adjoin buildings and 2 x woodchip gasifier CHP plants which not only produce heat but a small amount of electricity which is utilised on site. The applicants business are a BSL registered (Biomass Suppliers List – proven that it meets the eligibility requirements for the Renewable Heat Incentive (RHI) scheme). Moisture content of the wood fuel is regularly checked in order to comply with RHI requirements.
- 1.5 A further 2 x 950kWth biomass boilers with individual flues, have been located in a newly constructed boiler house separate from the former buildings but again with the sole purpose of heating a drying within a chip stores (Building A in Block Plan below). The supporting statements identifies that the majority of all heat and electricity produced are utilised on site.

- 1.6 During the process of the application the applicant changed the wood chipping plant which they had and have amended the noise survey as a result. The new wood chipper is to be positioned on a flatbed HGV and is crane fed logs from an adjacent log stockpile. The drum mechanism of the wood chipper pulls the logs one at a time into the chipper. The applicant stores logs along the southern and northern boundaries of the site, and has done for many years in connection with the wood business run from the site.
- 1.7 The business has utilised the existing farm access from the B4361. The supporting planning statement identified that the business on average generates 5 HGV movements a day between Monday to Friday. This includes the delivery of logs, movement of chippings and movement of wood chipper to and from the site. The supporting statement has stated that the access is only used by the business on site, as well as 5 other residential properties, 3 are lived in by family members. The business provides full time employment for 12 people.
- 1.8 The application site is located within Flood zone 2 and 3 and is adjacent to a brook which flows into the River Lugg further downstream. During the application process following representations received by the Lugg Drainage Board, the applicants have a proposed a new drainage strategy across the site. The proposal now is to install a Sustainable Urban Drainage System (SuDs) to attenuate storm flows across the site. A new drain is proposed across the site to intercept all existing surface water drains which discharge towards the brook. All existing drains are to be blocked up to prevent any surface water being directed into the adjacent brook. The new drain will direct water to a new flow control chamber located in the field to the east of the site. The soil which is to excavated will surround the chamber.
- 1.9 For clarification the plant on site which has been installed consists of the following:
- 2no. Kalvis 950kWth biomass boilers (model K-950M-1) with individual flues, located in the boiler house adjacent to the drying floor to the southeast of the other chip stores (Building A in Block Plan below);
  - 4 x Lindner & Sommeraur 199kWth biomass boilers (model SL-199), located in the boiler house south of the large chip store (Building D on Block Plan below); and
  - 2no. x Arbor 90kWth/45kWe woodchip gasifier CHP plant (model Electrogen 45), within the CHP store (Building E on the Block Plan below).

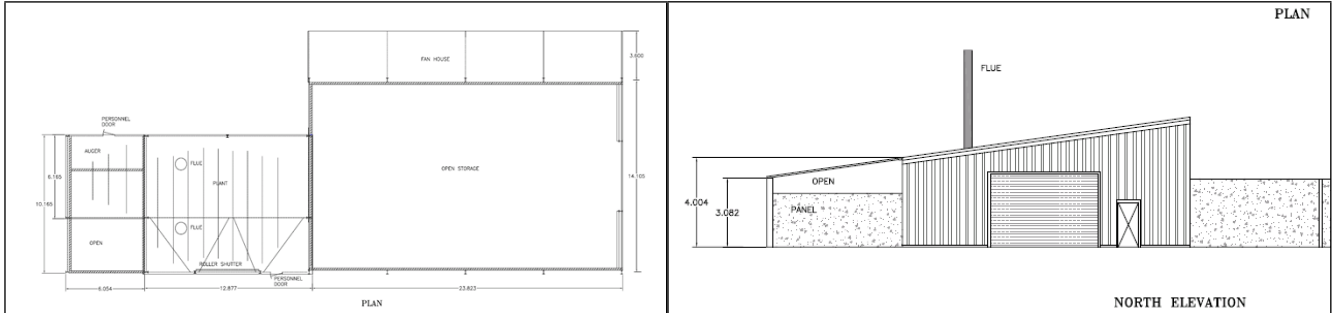
The boilers all have a moving step gate and are computer controlled with a flue sensor. The Gassifiers are also computer controlled based on exhaust emission monitoring.



Block Plan No. 7393/1 dated 13/09/2017

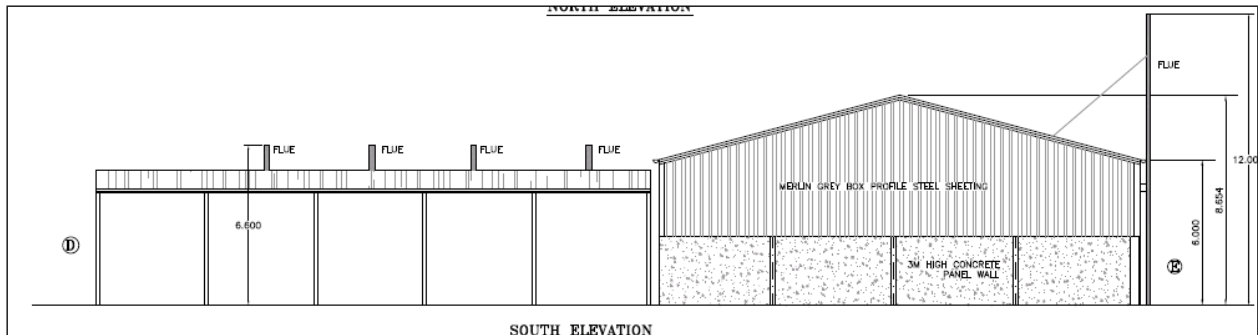


1.10 The plans below show the elevations and floor plans of the new boiler house position to the south east of the existing buildings. The new building has been constructed with an area for open air storage measuring 23.8 x 14.1m which is surrounded with concrete panelling. The main building measures 18.9 x 10.1m with a maximum height of 5.8m. The building is of steel frame construction with walls Jupiter green steel sheeting. The two flues which are connected to the building are 8.7m high.



Plans and elevation - 7939/2

1.11 Although the business has been able to utilise a number of the existing buildings on the site, some modifications and additions, largely in the form of flues to serve each boiler. As a result of the air quality assessment carried out as part of this application it is proposed that the 2 flues connected to the two gasifiers on the east elevation of the building be increased to a height of 12m in order to ensure that the dispersion of emissions from the gasifiers are adequate in order to have minimal impact on the environment. The height of the building is 8.6m and the existing flues which have been installed exit the building horizontally.



Elevations showing position and height of flues - 7393/4 Rev 1

1.12 The application also seeks permission to regularise a small office building which has been constructed on the site next to a weighbridge. The office building measures 7.1 x 3.8m, with a height of 3.7m. The office building is constructed with timber boards on the walls under a slate roof.

1.13 The application has been supported with the following documents:

- Air Dispersion Modelling Assessment (442861/AQ/02 (00) March 2018)
- Noise Impact Assessment (amended in November 2018 to take account for the replacement wood chipping plant)

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA6	-	Rural Economy
SC1	-	Social and Community Facilities
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD2	-	Renewable and low carbon energy
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality

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/2](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy/2)

### 2.2 **National Planning Policy Framework (NPPF) 2018**

In particular chapters:

Introduction	-	
Section 2	-	Achieving sustainable development
Section 4	-	Decision-making
Section 6	-	Building a strong competitive economy
Section 8	-	Promoting healthy and safe communities
Section 9	-	Promoting sustainable transport
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 **National Planning Practice Guidance**

- Air Quality Guidance 6 March 2014*
- Climate Change 12 June 2014*
- Noise 6 March 2014*
- Renewable and low carbon energy 18 June 2015*

### 2.4 **Luston Group Neighbourhood Development Plan (LNDP) made on the 2<sup>nd</sup> January 2018**

Relevant policies are :

Policies LG1	-	General Development Principles
Policy LG2	-	Design of Development in Luston Group
Policy LG3	-	Protecting and enhancing local landscape character and views
Policy LG4	-	Dark Skies
Policy LG5	-	Flood Risk, Water Management and surface water run-off

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Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

Polcy LG8 - Supportng and enhancing exisitng small scale local employment

### **3. Planning History**

- 3.1 141916 - Proposed general purpose grain and storage building. Approved 22/9/2014
- 3.2 121349/S - Demolition of a 3 bay curved roof dutch barn and lean to making off each side and replaced with a proposed steel portal framed building side extension off the side of an existing building. Approved 24/5/2012

### **4. Consultation Summary**

#### Statutory Consultations

#### **4.1 Natural England - No objection - subject to conditions**

No objection - subject to appropriate mitigation being secured. We consider 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 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:

- Development to correspond to the requirements of the Lugg Internal Drainage Board requirements, their ref. PR2017-0007 – P174097/F.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures

#### Internal Council Consultations

#### **4.2 Highways Engineer: No objection subject to conditions.**

This is a retrospective planning application and has been operating for a number of years. The areas we would normally be concerned with appear to be addressed.

#### Access:-

Available Accident Data no accidents recorded in the vicinity of the site.

Visibility looks to be good and the lack of any recorded incidents would indicate that that with the transport statement identifying 5 movements a day, no problem is evident.

Any intensification of the operation would need careful consideration and encourage the applicant to be proactive should this be planned.

#### COMMENTS:-

Proposal acceptable, subject to conditions and / or informatives.

#### **4.3 Landscape Officer:**

Initial comments received 13/11/2017

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Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961



No Landscape Comments required

Comments received on amended plans 8/10/2018 (consulted again due to addition of 12m high flue)

Following on from a site visit to view the building in situ, I confirm I have no objection to the building itself.

I understand to conform to EH standards the building will require a 12m flue pipe. This potentially could cause adverse visual effects in particular for users of the Herefordshire Trail the route of which passes through the site.

Currently the route is temporarily diverted and I would recommend to the case officer that a permanent diversion is sought.

I would also recommend mitigating planting not just along the site boundary hedgerow but gap filling of hedgerow and planting of hedgerow trees along neighbouring field boundaries under the applicant's ownership, to filter views.

Finally the colour and finish of the flue should be agreed with the LPA

#### **4.4 Ecology Officer: No objection subject to confirmation regarding foul water soakaway**

The site falls within the "Any discharge of water or liquid, including to mains sewer" SSSI/SAC Impact Risk Zone. This means that this LPA has a legal duty of care under habitat Regulations (as well as NPPF, NERC Act and Core Strategy policies LD2 and SD4) to ensure that all 'Likely Significant Effects' from the development are fully mitigated.

The comments and suggested Condition supplied by the Lugg IDB would appear relevant and appropriate to mitigate the surface water impacts from the development and I would support these being made subject to Condition.

The applicant indicates in their application form that a new septic tank system is proposed to manage foul water produced on site but there is no indication how the final outfall from this tank will be managed. In order to fully mitigate the Likely Significant Effect from the residual phosphates in the final outfall this outfall should be managed through a suitable sized drainage/soakaway field on land under the applicant's control Discharge to soakaway from a septic tank is also a legal requirement from 1<sup>st</sup> January 2020. Confirmation of final discharge to soakaway is requested prior to determination in order that this LPA can discharge its Duty of Care.

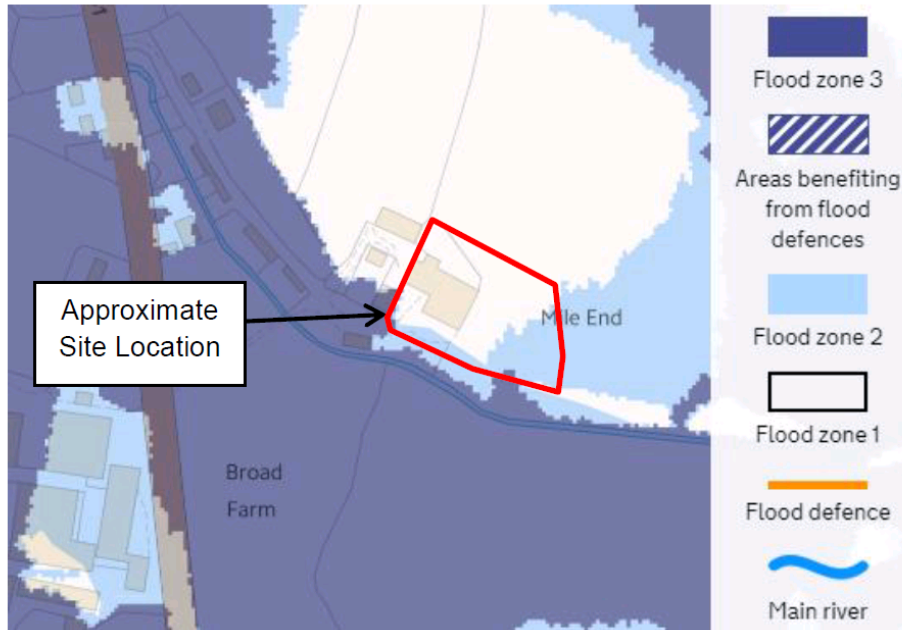
Subject to confirmation of foul water soakaway/drainage field I can see no other ecological concerns or comments as regards this retrospective application.

#### **4.5 Land Drainage: No objection**

Initial Comments received 8<sup>th</sup> December 2017

## Site Location

Figure 1: Environment Agency Flood Map for Planning (Rivers and Sea), December 2017



## Overview of the Proposal

The Applicant is seeking retrospective planning permission for the construction of various buildings associated with wood chipping purposes. The site covers an area of approx. 0.15ha. An ordinary watercourse (IDB maintained) is located to the south of the proposed development site. The topography of the site is relatively flat.

## Flood Risk

### *Fluvial Flood Risk*

Review of the Environment Agency's Flood Map for Planning (Figure 1) indicates that the site is predominantly located within the low risk Flood Zone 1, however it is directly adjacent to Flood Zone 3 (high risk) and is partially located within Flood Zone 2 (medium risk).

As the proposed development is located partially within Flood Zone 2 and is directly adjacent to Flood Zone 3, in accordance with Environment Agency standing advice, the planning application has been supported by a Flood Risk Assessment (FRA) undertaken in accordance with National Planning Policy Framework (NPPF) and its supporting Planning Practice Guidance.

It has been stated that the Environment Agency flood level for the site is approx. 71.56m AOD. The general level of the site has been stated to be 72.40m AOD. This is 840mm higher than the 1 in 100 year + 20% climate change flood level. We consider this sufficient.

As this development is located within a 'dry island' (it is surrounded by Flood Zone 3), the Applicant should ensure that there is safe access and egress. This should be discussed with the Herefordshire Emergency Planners.

## Surface Water Flood Risk

Review of the EA's Risk of Flooding from Surface Water map indicates that the site is not located within an area at significant risk of surface water flooding.

## Other Considerations and Sources of Flood Risk

Review of the EA's Groundwater map indicates that the site is located within Zone 3 of a designated Source Protection Zone, refer to <https://www.gov.uk/government/publications/groundwater-protection-principles-and-practice-gp3> for further guidance. Development and surface water drainage will need to be carefully located and designed to avoid pollution risks to controlled waters and address potential environmental impact associated with low flows. For example SuDS on the sites may need to provide multiple levels of treatment. To recharge to the aquifer and support water levels in the receiving brooks.

## Surface Water Drainage

The Applicant has not stated how the additional surface water runoff is managed. The Applicant should provide a surface water drainage strategy showing how surface water from the development is managed. The strategy must demonstrate that there is no increased risk of flooding to the site or downstream of the site as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change. All new drainage systems for new and redeveloped sites must, as far as practicable, meet the Non-Statutory Technical Standards for Sustainable Drainage Systems and will require approval from the Lead Local Flood Authority (Herefordshire Council).

In accordance with the NPPF, Non-Statutory Technical Standards for Sustainable Drainage Systems and Policy SD3 of the Core Strategy, the drainage strategy should incorporate the use of Sustainable Drainage (SUDS) where possible. The approach promotes the use of infiltration features in the first instance. If drainage cannot be achieved solely through infiltration due to site conditions or contamination risks, the preferred options are (in order of preference): (i) a controlled discharge to a local watercourse, or (ii) a controlled discharge into the public sewer network (depending on availability and capacity). The rate and volume of discharge should be restricted to the pre-development Greenfield values as far as practicable. Reference should be made to The SUDS Manual (CIRIA C753, 2015) for guidance on calculating runoff rates and volumes.

On-site testing undertaken in accordance with BRE365 should be undertaken prior to construction to determine whether infiltration techniques are or are not a viable option. If infiltration rates are considered to be too low, an alternative drainage strategy must be submitted to the Council for review and approval prior to construction. Where site conditions and groundwater levels permit, the use of combined attenuation and infiltration features are promoted to provide treatment and reduce runoff during smaller rainfall events.

It should be noted that soakaways should be designed for a minimum 1 in 30 year design standard, be located a minimum of 5m from building foundations, that the base of soakaways and unlined storage/conveyance features should be a minimum of 1m above groundwater levels, and must have a half drain time of no greater than 24 hours.

The drainage system should be designed to ensure no flooding from the drainage system (which can include on-the-ground conveyance features) in all events up to the 1 in 30 year event. Surface water should either be managed within the site boundary or directed to an area of low vulnerability. Guidance for managing extreme events can be found within CIRIA C635: Designing for exceedance in urban drainage: Good practice.

## Foul Water Drainage

The Applicant has not stated how any foul water is managed from the site. As there is not a foul public sewer within 30m of the propose development site, the Applicant should demonstrate that proposals are compliant with the general Binding Rules and are in accordance with the Building Regulations Part H Drainage and Waste Disposal.

The Applicant should undertake percolation tests in accordance with BS6297 to determine whether infiltration techniques are a viable option for managing treated effluent (see Section 1.32 of Building Regulations Part H Drainage and Waste Disposal).

If infiltration testing results prove soakage is viable, the following must be adhered to for Package Treatment Plants:

- The drainage field should be located a minimum of 10m from any watercourse, 15m from any building, 50m from an abstraction point of any groundwater supply and not in any Zone 1 groundwater protection zone. The drainage field should be sufficiently far from any other drainage field, to ensure that overall soakage capacity of the ground is not exceeded.
- Drainage fields should be constructed using perforated pipe, laid in trenches of uniform gradient which should not be steeper than 1:200. The distribution pipes should have a minimum 2m separation.
- Drainage fields should be set out in a continuous loop, i.e. the spreaders should be connected. If this feature is missed, it will gradually clog with debris and the field will become increasingly ineffective.

As River Lugg is approx. 200m to the south of the proposed development, outfall of treated effluent to a watercourse would not be acceptable in accordance with the binding rules.

In accordance with Policy SD4 of the Core Strategy, the Applicant should provide a foul water drainage strategy showing how it will be managed. Foul water drainage must be separated from the surface water drainage. The Applicant should provide evidence that contaminated water will not get into the surface water drainage system, nearby watercourse and ponds.

#### Overall Comment

In principle we do not object to the proposals, however we recommend that the following information provided within suitably worded planning conditions:

- Results of infiltration testing undertaken in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;
- Clarification of how the surface water runoff from the site will be managed;
- If foul water management is needed: a detailed foul water drainage strategy showing how foul water from the development will be disposed of;

If the results of infiltration testing indicate that infiltration will not provide a feasible means of managing surface water runoff, an alternative drainage strategy must be submitted to the Council for review and approval. Best practice SUDS techniques should be considered and we promote the use of combined attenuation and infiltration features that maximise infiltration during smaller rainfall events.

Please refer to "Herefordshire Council Planning Applications: Flood Risk and Drainage Checklist" (Ref: RCLHP001-AM0070-RP-003) for details of the documentation to be submitted for planning applications.

#### Further comments received on 5<sup>th</sup> December 2018

##### Overview of the Proposal

The Applicant is seeking retrospective planning permission for the construction of various buildings associated with wood chipping purposes. The site covers an area of approx. 0.15ha.

An ordinary watercourse (IDB maintained) is located to the south of the proposed development site. The topography of the site is relatively flat.

### Flood Risk

#### *Fluvial Flood Risk*

It has been stated that the Environment Agency flood level for the site is approx. 71.56m AOD. The general level of the site has been stated to be 72.40m AOD. This is 840mm higher than the 1 in 100 year + 20% climate change flood level. We consider this sufficient.

As this development is located within a 'dry island' (it is surrounded by Flood Zone 3), the Applicant should ensure that there is safe access and egress. This should be discussed with the Herefordshire Emergency Planners.

#### Surface Water Drainage

The Applicant has stated that they are happy to comply with the requirements as requested by the Internal Drainage Board.

<b>Requirements</b>	
1	Rates for storm water runoff discharged from the site to replicate or achieve a reduction from the ' <i>greenfield</i> ' response of the site over a range of storm probabilities, accompanied by the <i>required On-site Storage</i> designed for the 1 in 100 year storm event.
2	For the range of annual flow rate probabilities, up to and including the 1% annual probability (1 in 100 year storm event) the developed rate of run-off <i>discharged from the site into an ordinary watercourse shall be no greater than the undeveloped rate of run-off for the same event.</i>
3	The potential effect of future climate change shall be taken into account by increasing the rainfall depth by 10% for computing storage volumes.
4	All in compliance with The Institute of Hydrology Report 124 (IoH 124) - <i>Flood estimation for small catchments (1994)</i>
5	All to the satisfaction of the Engineer to the Board
6	<b>No additional surface water run-off</b> to adjacent watercourse or any outfall structure is permitted without written <b>Land Drainage Consent</b> , which would have to be obtained from the Board under the terms of the <i>Land Drainage Act 1991</i> and the <i>Flood and Water Management Act 2010</i> .

The proposals in order to comply with the above requirements above have not been provided. We trust that the proposals will be checked and agreed by the Internal Drainage Board.

#### Foul Water Drainage

Not Applicable for this development.

#### Overall Comment

We trust that the proposals will be checked and agreed by the Internal Drainage Board.

#### Further comments received on the 11/02/2019

I have reviewed the surface water drainage strategy (Ref: 1010290 (cou9019-1)) for application 174097.

We would not object to these proposals.

## 4.6 Environmental Health (Noise): Mixed

### Initial comments received on 21/11/2017

This is a retrospective application for a wood chipping operation and my comments are with regard to noise and nuisance issues that might arise from development.

The applicant has supplied a noise impact assessment for the wood chipping operation but I have some queries regarding this and seek further clarification.

1. The noise impact assessment has only examined the noise from the actual wood chipping plant and not identified what other noise generating activities there are on site and addressed these in the report. We would also request further information regarding the noise from lorries loading and unloading.
2. A large part of the report's conclusions are based on the use of position B on the site plan as mitigation but the chipper is mobile plant and on site it was clear that the chipper is intended to be used in position A and even further to the west of the site up until parallel with where the workshop abuts the chip store so mitigation by proposal of position B only is not workable.
3. Not all the closest sensitive receptors are identified in the report and receptor Ridgemoor Cottage which is the closest house not in the ownership of the applicant is not shown. Please can the predicted noise levels at this site be included with the chipper off, in position A and position B. Please can the BS4142 assessment be undertaken with the wood chipper at position A at Ridgemoor Cottage which will be 'Worst Case Impact at Nearest Sensitive Receptor'.
4. It is considered that permanent stockpiles of logs could be used as a physical barrier for noise mitigation and we are likely to request this to a minimum height in a planning condition and this could provide some mitigation against noise for receptors on the western side of the B4361.
5. However we are circumspect about the efficacy of the proposed mobile trailer to act as a screen to close the gap between buildings at appropriate times and certainly without further information regarding the efficacy of the screen as this is the key piece of mitigation relied upon and discussed in relation to the sensitive receptors to the west and east of Broad Lane. So our request is that when the BS4142 assessment is undertaken in accordance with our comment in para 3 above, this is undertaken without the trailer mitigation and then with the trailer mitigation. A supplementary photograph of the proposal would also be helpful.
6. We are likely to recommend conditions in relation to the hours of operation for this site.

### Further comments received on 24<sup>th</sup> January 2018

A further and supplementary response is made with regard to noise issues and assessment regarding the planning application for a wood chipping operation at Mile End farm

In addition to the information requested at my first consultation response dated 21<sup>st</sup> November 2017 further information and BS4142 assessment is requested from the applicant.

Fundamentally our department has concerns that both the noise reports of July and October 2017 do not present the worst case scenario in terms of BS4142 assessment.

Our site visits lead our department to be of the opinion that the noise levels emanating from the plant can vary substantially and that the calculated specific sound level of 40dB at Receptor 4 (Willows) is unlikely to be representative of the worst noise levels.

We are also of the opinion in addition to the comments and extra information already requested (with reference to assessment at Ridgemoor Cottage) that a BS4142 assessment should be undertaken with regard to impacts at each of the 3 domestic premises on the other side of Broad Lane (identified as R1 x 3 locations in the noise report – three dwellings in the ownership of Broad Farm) and also at each of the R3 receptors (one of 2 identified as R3 - The Cottage and Rose Cottage) again with the wood chipping operation in position A ie mid yard where the chipping operation is taking place and without the proposed 'screen'

Further investigation by the applicant into the merits of noise attenuation of the wood chipping operation by a) bringing indoors and/or b) permanent siting at position B with marked off area and a permanent screen and/or c) the appropriateness of a silencer for the plant would be encouraged.

The applicant is also invited to consider the submission of a proposal for achievable noise levels for the wood chipper and associated noise levels at their specified boundary of the site to be specified in a planning condition such that those noise levels (LAeq suggested 5 mins) cannot be exceeded.

#### Further comments received on the 28<sup>th</sup> August 2018

Further to our response dated 22nd January which requested further information on the siting of the woodchipper, proposed mitigation and a re-evaluation of noise impacts at sensitive receptors I received on 11th June further information from the applicant's noise consultants in the form of a letter dated 22nd March from the noise consultant NVC . In this, the applicant proposes to restrict the woodchipping operation effectively further back on the site away from residential properties in areas B and C of Figure 1 of the same letter.

Mitigation for both locations is proposed: 5m high permanent wood stack or concrete wall along the north east corner of the CHP store along the northeast boundary, second 5m high permanent log stock to a height of at least 5m to the south west of the site and retention of earth embankment to south eastern part of the site, all as shown in Figure 2 of the NVC noise consultant's letter dated 22nd March 2018.

In addition further mitigation is proposed when the woodchipper is operating in area B by way a 3m high mobile screen. The applicant was also asked to remodel noise impacts at closest sensitive receptors and these have been supplied (Table 1 of letter 22nd/3/18). This remodelling indicated that with the presumed noise reduction from the mobile screen (construction not specified in this latter) almost all the noise from the whole of the woodchipping operation would be less than the background sound levels.

We have sought further clarity with regard to the precise construction details of the high mobile screen and a site visit with the local authority's own noise equipment was undertaken on 26th July. Proposed mitigation was confirmed on site as one woodchipping area (B and C above), with 5m high permanent log stocks and the use of a trailer from a 44 tonne lorry to act as a noise barrier between the chipping area and the remainder of the yard. Effectively the main woodchipping area will be that identified as position C.

The applicant's letter of 22nd March has remodelled the impact of the woodchipper working only in areas B and C with the proposed mitigation in place against the background noise levels at 6 receptors. With the proposed the remodelling finds that with the mitigation proposed in place, the rating noise level would be between 13dB below and up to 1dB above the representative background sound levels indicating a low impact and below an adverse impact to BS4142.

So long as the proposed mitigation remains in place the third noise report does demonstrate that the woodchipper noise will have a low impact at closest neighbouring properties. I therefore recommend the following conditions:

1. There shall be no plant or machinery operated on the site outside the hours of 08:00 and 17:00 Monday to Friday and 08:00 to 13:00 on Saturdays and no plant or machinery operating on Sundays or Bank Holidays.
2. There shall be no deliveries to or from site in relation to the woodchipping operating outside the hours of 08:00 and 17:00 Monday to Friday and 08:00 to 13:00 on Saturdays and no plant or machinery operating on Sundays or Bank Holidays.
3. The woodchipping operation shall only take place in the areas marked B and C on the attached map.
4. Permanent noise mitigation shall be on site in the form of a barrier of minimum height 5m either a log stack or a concrete wall as shown in blue on the attached map.
5. Permanent noise mitigation shall be on site in the form of a barrier of minimum height 5m log stack and retention of the earth embankment as shown in red on the attached map.
6. A temporary mobile screen in the form of a 44 tonne lorry to be placed across the site as shown in green on the attached map when either area B or C is used for woodchipping.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31

Further comments received on the 6<sup>th</sup> February 2019 following an update to the noise assessment to take account for a change of chipper

I visited the site on 29<sup>th</sup> January 2019 in response to new information from the applicant, namely that the Woodchipper had been replaced and a subsequent noise assessment undertaken of the noise emitted from the chipper and is supplied together with an assessment of the effectiveness of the earlier proposed mitigation.

In short the new woodchipper was found to emit the same sound power level as the previous with no tonal element. At my unannounced site visit, I found that two of the proposed elements of mitigation nowhere on site. However I was advised that chipping would now effectively occur only in area C. *Provided that this is the case* I do not anticipate serious adverse impacts. Fundamentally I do not object to this proposal but I am of the opinion that the business has reached the limits of expansion at this site, and I recommend strict planning conditions should it be minded to grant planning permission:

#### Plant and machinery

1. There shall be machinery operated on the site outside the hours of 08:00 and 17:00 Monday to Friday and 08:00 to 13:00 on Saturdays and machinery operating on Sundays or Bank Holidays.
2. There will be only one woodchipper operating on site at any one time.
3. The maximum noise emission level of woodchipper at 10m shall at no point exceed 91dB  $L_{Aeq}$  nor an  $L_{aMAXF}$  of 94dB.



4. The woodchipping operation shall only take place in the area marked B and C as outlined in the noise consultant NVC's letter of 22<sup>nd</sup> March 2018.
5. Permanent noise mitigation shall be on site in the form of a barrier of minimum height 5m either a log stack or a concrete wall and the retention of the existing embankment as shown in Figure 2 of the noise consultant NVC's letter of 22<sup>nd</sup> March 2018.
6. A temporary mobile screen in the form of a 44 tonne lorry to be placed across the site in the location shown in Figure 2 of the noise consultant NVC's letter of 22<sup>nd</sup> March 2018.
7. The proposed two stacks to be erected for air quality purposes to serve the CHP plant shall not according to a BS4142 assessment be more than 5dB above the background sound level at the nearest sensitive receptor between the hours of 23:00 and 7.00

#### Deliveries and vehicular movement

8. There shall be no deliveries to or from site in relation to the woodchipping operation outside the hours of 08:00 and 17:00 Monday to Friday and 08:00 to 13:00 on Saturdays and none on Sundays or Bank Holidays.
9. Complaints procedure  
A complaints procedure and log shall be supplied to the authority in writing. The log shall include date and time of complaint, the nature of the complaint and the action taken by the applicant. The log shall be kept in the office for inspection by the local authority.

Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31

#### **4.7 Environmental Health (Air Quality):**

##### Initial comments received on the 23<sup>rd</sup> November 2017

I refer to the above application and I would make the following comments in relation to air quality and environmental permitting.

I understand that the application is for the chipping and drying of wood. This includes a retrospective planning application for buildings that are existing also the use of woodchip boilers/gasification plant and associated operations.

There is the potential that the operator may need a permit under the Environmental Permitting Regulations, but this is dependent on the scale of the installation and the processes involved. To determine if a permit is required it is necessary to determine the amount of wood processed per year and the amount of wood dried per year.

The Supporting Statement indicates that the biomass boiler information form will be submitted with the application however this information does not appear in the application documentation.

Given the number of biomass boilers/CHP plant

- 2 X Kalvis 950kW biomass boilers located in the boiler house
- 4 X Lidner 199kW biomass boilers
- 2 X Arbor gassifiers in the CHP store

An air quality assessment should be submitted to demonstrate compliance with air quality standards to ensure Nitrogen dioxide (NO<sub>2</sub>) and particulates (PM<sub>10</sub>)

Air Quality Standards are not being exceeded at the nearest receptor/resident, this will also include residential properties associated with the business.

Further comments received on the 6/2/2019

I refer to the above application and I would make the following comments in relation to air quality:

The business operates:

- 2 x 950kWth biomass boilers
- 4 199kWth biomass boilers
- 2 x 90 kwth/45We CHP plant

The biomass and CHP processes are associated with increased levels of nitrogen dioxide and fine particulates. Therefore, an air quality assessment was requested to determine the impact of the emissions from the plant on the site in relation to nearby receptors, including residential properties associated with the business.

The applicant commissioned RSK to undertake an Air Quality Assessment which was issued in March 2018. Within the assessment an air quality dispersion model was used to assess the cumulative impact of emissions from the biomass and CHP plants. The assessment assumed that the biomass and CHP plant would operate continuously throughout the year. Onsite buildings and the local terrain were also considered in the assessment, as these factors can affect the dispersion of pollutants.

The model indicated that the annual average nitrogen dioxide and short term hourly nitrogen dioxide concentrations exceeded the Air Quality Standards at relevant receptors. However, emissions of fine particulates did not exceed any Air Quality Standards (AQS).

RSK considered that the largest contribution to the nitrogen dioxide exceedances were likely to be attributed to the ground level discharges of the CHP plants. Therefore it was recommended that the CHP units should discharge at a minimum stack height of 12 metres and the air quality model was revised accordingly.

The revised model results indicated that with 12 metre stacks to the CHP plants the AQS would no longer be exceeded for the annual average or hourly nitrogen dioxide standards at receptor locations. The predicted nitrogen dioxide levels showed a significant reduction with increased stack height.

In conclusion, on the basis of the information submitted in the air quality assessment and providing that the mitigation of the increased stack height to the CHP plant is put in place, I have no adverse comments to make in respect of air quality.

Therefore, should planning permission be granted, I would recommend that appropriate conditions should be applied, requiring the applicant to install 12 metre flues to the CHP plants within 3 months of the date of any permission.

**4.8 PROW: No objection**

Initial comments received on 9/11/2017

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Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

Providing public footpath LJ36 (which is also part of the Herefordshire Trail) remains unobstructed, and walkers are able to pass safely through the site, PROW will not object to the application.

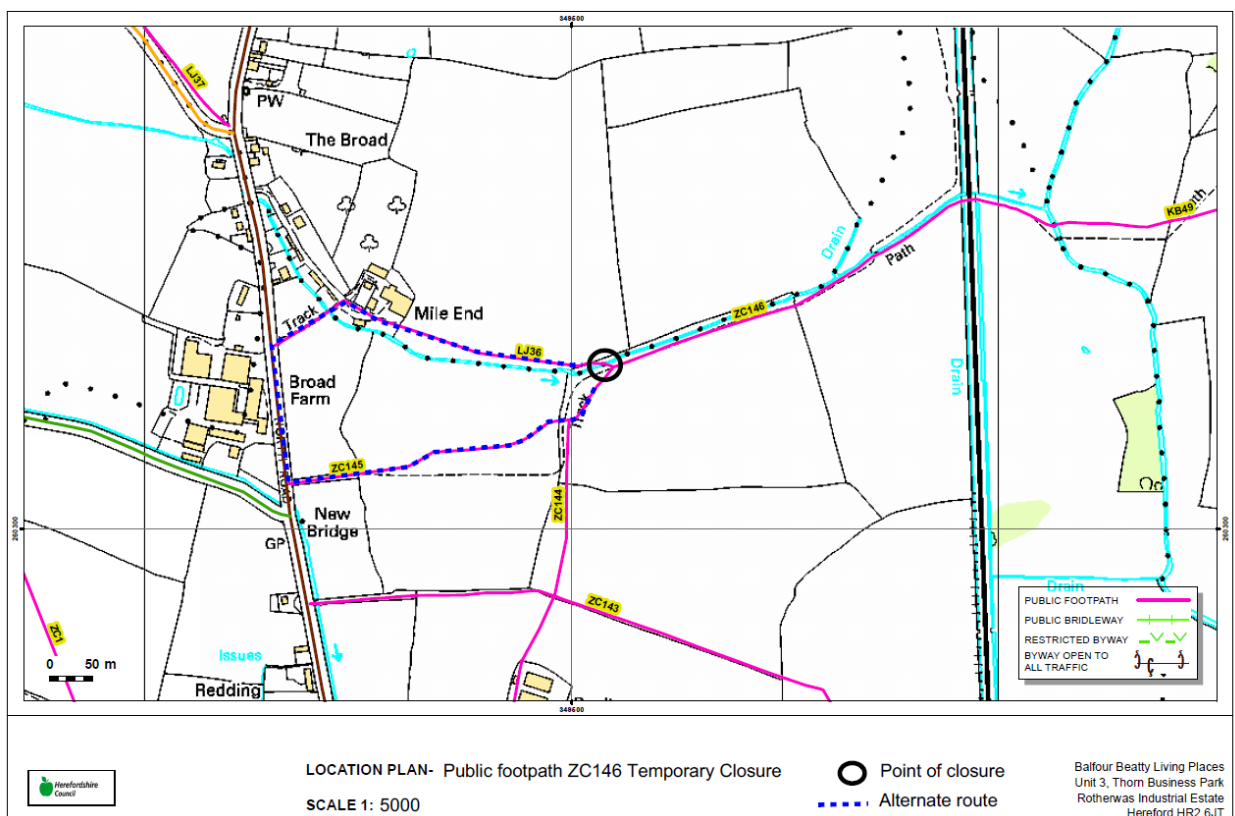
Comments received on the 8/3/2018 (clarification on temporary closure of footpath)

The path is definitely not closed. We had a complaint that it was obstructed in October last year. Our Enforcement Officer inspected the site and noted,

“20/10/17 - inspected.

There are wood chipping operations taking place, but the path was not blocked at the time of inspection. Proprietor seen and advised of complaint. Assured me that path is being kept accessible during operations. NFA required.”

The bridge is on the border of the 2 parishes, but is on footpath ZC146. The bridge itself is closed, but the footpaths either side are not. See attached. Walkers must be able to walk up to the point of the closure if they wish, even though this may mean turning back. We used to close whole paths, but users groups did not like this.



**5. Representations**

**5.1 River Lugg Drainage Board: Non- committal**

Initial comments 7<sup>th</sup> November 2017

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

With reference to the above application validated 7th November 2017. The Board must advise that this is inside of its rateable area and would stipulate the following;

Requirements.	
1	A permanent 9 metre plant access strip is required alongside the Broad Ditch within the development site, for watercourse maintenance purposes. The written consent of the board must be obtained for any structure or tree planting within 9m of any Board controlled watercourse measured from the top of the bank or on the landward side of any embankment.
2	Any works must not compromise the stability of the bank or create a gradient of more than 1:20 towards the watercourse.

1. There are no details of how the SW run-off will be dealt with but existing local run off is to Board controlled Broad Ditch.
2. We would like to inform you of the Board's standard requirements in respect of surface water disposal, and ask that they be taken into consideration when the application is assessed.

Requirements	
1	Rates for storm water runoff discharged from the site to replicate or achieve a reduction from the 'greenfield' response of the site over a range of storm probabilities, accompanied by the <i>required On-site Storage</i> designed for the 1 in 100 year storm event.
2	For the range of annual flow rate probabilities, up to and including the 1% annual probability (1 in 100 year storm event) the developed rate of run-off <i>discharged from the site into an ordinary watercourse shall be no greater than the undeveloped rate of run-off for the same event.</i>
3	The potential effect of future climate change shall be taken into account by increasing the rainfall depth by 10% for computing storage volumes.
4	All in compliance with The Institute of Hydrology Report 124 (IoH 124) - <i>Flood estimation for small catchments (1994)</i>
5	All to the satisfaction of the Engineer to the Board
6	<b>No additional surface water run-off</b> to adjacent watercourse or any outfall structure is permitted without written <b>Land Drainage Consent</b> , which would have to be obtained from the Board under the terms of <i>the Land Drainage Act 1991</i> and the <i>Flood and Water</i>

I would also draw your attention to:

- The area of River Lugg Internal Drainage Board is a Natural Flood Plain and whilst every effort will continue to be made to guard against and to alleviate flooding, no guarantee can be given against the worst effects of abnormal weather and river conditions.
- Compliance with the recommendations in the following Report: "Technical Guidance to the National Planning Policy Framework 2012".
- That both current and future developers/owners should be made aware of the risks associated within the area being considered.

Comments received on the 22<sup>nd</sup> January 2019

The River Lugg have already commented on this – see correspondence section  
However please note : There is a requirement for a land drainage consent application to be made –which the river Lugg have as yet not received

Comments received on the 5<sup>th</sup> February 2019

We as of yesterday have received the land drainage consent application, for mile end. For the installation of drainage pipes, the excavation of a Balancing pond, which in their application have also indicated that this work will temporarily affect the flow of the water Their application also included a Surface Water Management Pan.

## 5.2 Luston Parish Council: Object

### Initial comments received on the 5<sup>th</sup> December 2017

Luston Group Parish Council objects to the application on the grounds of noise and disturbance caused to nearby residential properties from the scheme. The noise and disturbance come from the operation of the chipper, drying floor and boiler house, and the movement of vehicles in the yard (such as reversing hazard beeps) which move the wood chippings about – for example to the drying room and then on to storage. The scale and size of the operation means the noise and disturbance generated by these activities is effectively on an industrial scale and inappropriate for the location.

Policy LG1 of the Luston Group Neighbourhood Development Plan states new development should “not have a detrimental effect on residential amenity by reason of noise or other nuisance” (LG1, b), and that: “Agricultural and commercial buildings or uses that are likely to give rise to noise or other pollution shall not be located where they would have an unacceptable adverse impact on existing or proposed housing (LG1, g). The ongoing development of the operation is believed to affect the character of the hamlet of The Broad adversely contrary to paragraph 5.2.8 and vision statement in the Luston Neighbourhood Development Plan.

In addition, Policy LG8 of the NDP states the development of small scale employment premises should: “Not have a detrimental impact on surrounding residential amenity”. The highlighted provisions in the Luston NDP are supported by the NPPF (s123, clause 109, clause 111, para. 75 ROW, and NPSE – SOAEL) and the Natural Environment and Rural Communities Act 2006.

The group parish council is concerned that the River Lugg may be polluted by water run-off from the piles of wood chippings in the yard entering the water table and seeping into the adjacent brook. There is a significant PROW, the Herefordshire Way, which passes through the yard, and although currently closed at this point due to a defective footbridge, proper consideration should be given to ensuring the footpath is safe to use or appropriately diverted. The wood chippings are believed to be a significant fire hazard inappropriate to a residential area like The Broad. The group parish council would like reassurance that water run-off is not polluting the nearby water courses, including the Lugg, and that the necessary fire risk assessments and other relevant checks are in place.

For the reasons set out Luston Group Parish Council urges that the application is REFUSED by the planning authority. The group parish council disapproves of retrospective planning applications.

### Further comments received on the 3<sup>rd</sup> July 2018

Luston Group Parish Council considered the additional documents/plans for Planning Re-consultation - 174097 - Mile End, and agreed that the comments submitted on 5 December 2017 objecting to the application should remain unchanged. The group parish council requests that the application is considered by Herefordshire Council’s planning committee.

### Further comments received on the 8<sup>th</sup> November 2018

Luston Group Parish Council has considered the amended and additional plans in the re-consultation dated 26 October 2018 and decided to add to the comments already made on the retrospective planning application.

The group parish council considers that the Air Dispersion Modelling Assessment document and amended proposed elevations drawing highlight the clear unsuitability of the operation for the current semi-rural location with near neighbours on the edge of a market town. Policy LG1 of the neighbourhood development plan states that: "Agricultural and commercial buildings that are likely to give rise to noise or other pollution shall not be located where they would have an unacceptable adverse impact on existing or proposed housing". The Air Dispersion Modelling Assessment found that NO<sub>2</sub> concentrations exceed guidelines, in other words the volume of NO<sub>2</sub> produced is polluting the area, and the planning application should be refused on these grounds alone.

The proposal to erect tall 12 metre industrial flues will have a significant adverse impact on the character of the surrounding hamlet and is contrary to LG1 and LG8 of the NDP. Critically, it does not take account of the problem with NO<sub>2</sub> contamination at Bargates, Leominster, which is one of two air quality management areas in Herefordshire, declared due to a breach of the Government's objective for nitrogen dioxide, and residential location. Bargates is less than a mile from the location of Mile End.

Luston Group Parish Council believes the NO<sub>2</sub> produced by the proposed industrial operation at Mile End, with or without flues, will lead to an unacceptable cumulative impact on NO<sub>2</sub> pollution at Bargates and vice versa depending on wind direction. The interaction with, and impact on, the air quality management area at Bargates has not been accounted for in the planning application.

For these reasons, and those raised in the comment of 5 December 2017, Luston Group Parish Council urges that the retrospective application is refused by the planning authority.

*Further comments received on the 6<sup>th</sup> February 2019*

Luston Group Parish Council considered the additional documents in the re-consultation dated 18 January 2019 yesterday evening, and decided to add to the comments already made on the retrospective planning application.

The group parish council is concerned that the Surface Water Management Plan takes no account of contamination from the industrial scale activity on the site. There is believed to be a significant risk of contamination of the local water course and the Lugg caused by run-off from machinery and chippings. The proposal to "pump the water over grassland" under #4 of the Surface Water Management Plan is opposed for reasons of contamination.

**5.3 Leominster Town Council:** Request that the Planning Authority takes into account full consideration the comments submitted by Luston Group Parish Council

**5.3 13 letters of objections** have been received from residents living in the surrounding area. A number of objectors have made further representations to amended plans and additional supporting documents which have been submitted throughout the application. The letters raise the issue of noise generated from the change of use and industrial nature of the business in the rural area. The content of the letters are summarised as follows: -

Impact upon amenity of neighbours

- Level of noise generated from chipper site unacceptable and detrimental to daily lives and enjoyment of residential properties
- Noise can be heard in doors as well as outside
- Use generates a dramatic increase in heavy lorries which is a nuisance to residents due to noise and vibration, noise is already an issue from the B4361
- B2 uses are not suitable neighbours for residential properties due to noise and dust and detriment to the amenity

- Noise Impact Assessment takes no consideration to vehicle movements to and from the site

Detrimental to landscape character and amenity

- Use in industrial not rural or agriculture and shouldn't be located in the open countryside close to residential properties
- Out of keeping with overall character of the landscape and location
- Business could intensify taking up more agricultural land for the storage of logs and wood chip
- Detrimental to the enjoyment of the PROW and poses a risk to walkers
- No agricultural activities take place on the site therefore detrimental to the countryside
- Too large for its location therefore detrimental to the overall character of the rural setting

Other issues

- Too close to residential properties
- Contrary to the Luston Neighbourhood Development Plan that doesn't support industry beyond settlements
- Wood chip being sold off site therefore use is industrial which is not acceptable on this location
- Proposal represent an introduction of a significantly sized B2 use far greater than the diversification to support an agricultural enterprise
- Mile End Farm in not employment land
- Contrary to Policy SD2 of the CS as it adversely impacts on the residential amenity of neighbours
- Application contrary to Policy RA6 as it is not of a scale which would be commensurate with its location and setting and would cause adverse impacts to the amenity of nearby residents

5.4 **22 Letters of support** have been received for the application largely from customers of the business. The contents of the letters are summarised as follows: -

- Provides a local and much needed service for fuel for biomass boilers when there is no other
- Generates revenue and jobs in the town and surrounding area supporting a number of other local businesses
- Business is a proponent of sustainable development
- Location acceptable for type of business given that it is former agricultural site, with buildings being re-used by a rural business
- Growing need, demand and reliance for woodchip within the county
- Applicant does his own deliveries which reduces lorries on the highway and is increasingly chipping on sites which further reduces the lorries on the highway
- Encourages sustainable management of woodlands.

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=174097&search=174097](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=174097&search=174097)

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 The applicant is seeking planning permission to authorise the use of the site for the production of wood chipping as a biomass fuel. The application includes the authorisation of 6 biomass boilers which have been installed (2 in a newly constructed building), all to be used to heat and dry the wood chip produced before being transported off site.

- 6.2 For clarification Biomass is defined as any organic matter recently derived from plants or animals and can be produced by farming, land management and forestry sectors and can be used for the generation of renewable energy. Biomass fuels are those that can be converted into energy and therefore can be regarded as a renewable energy. In this case the fuel is wood chip that is burned to generate heat to be consumed on the site.

### ***Policy context and Principle of Development***

- 6.3 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.”*
- 6.4 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 Luston Group Neighbourhood Area, which published a made Neighbourhood Development Plan (NDP) on the 2<sup>nd</sup> January 2018.
- 6.5 The revised National Planning Policy Framework (NPPF) was published on 24 July 2018 and sets out the Government’s planning policies for England and how these are expected to be applied. The revised NPPF is a material consideration in planning decisions and should be read as a whole (including its footnotes and annexes). The revised NPPF replaces the previous NPPF published in March 2012.
- 6.5 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- An **economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
  - A **social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being, and
  - An **environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 6.6 These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 6.7 So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development. For decision-taking this means:
- Approving development proposals that accord with an up-to-date development plan without delay; or



- 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:
    - a. The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
    - b. 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.
- 6.8 The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. The relevant sections within the NPPF which have been considered and are relevant to the determination of this planning application are identified under section 2.4 above.
- 6.9 The NPPF at section 6 seeks to promote strong rural economies through the sustainable growth and expansion of business in rural areas and the development and diversification of agricultural and other land based rural businesses. Paragraph 80 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt, with significant weight given to the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 6.10 Paragraph 83 of the NPPF seeks to ensure that planning policies and decisions enable the growth and expansion of all types of business in rural area to support a prosperous rural economy. Whilst Paragraph 84 recognises that to meet the need for business in rural areas sites may need to be found adjacent to or beyond settlements, and in locations that are not well served by public transport. In these circumstance's it is important to ensure development is sensitive to its surroundings and does not have an unacceptable impact on local roads.
- 6.11 Paragraph 148 of the NPPF states that "the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure".
- 6.12 Paragraph 154 of the NPPF states that "when determining planning applications for renewable and low carbon development, local planning authorities should:
- a) Not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
  - b) Approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas".
- 6.13 There are policies within the adopted CS that support the continued development of the more traditional employment sectors such as farming and food manufacture, as well as the diversification of the business base, through the development of knowledge intensive industries, environmental technologies and creative industries (Policy SS5). Paragraph 3.71 within the CS recognises that land based industries are seen as a strength of the county of Herefordshire since they foster other business enterprises such as renewable energy technologies and creative industries.

Paragraph 3.76 within the CS states:

*'The rural economy is populated by small businesses, often sole traders or the self-employed working from home. This is higher than the national average and is driven by increasing opportunities to use technologies to work from any location. Businesses in rural areas support the sustainability of local services and communities (Taylor Review of Rural Economy and Affordable Housing, July 2008). Therefore in the rural areas, businesses will be supported by taking into account local demand, the ability to retain, grow or diversify employment opportunities and options to reuse existing buildings and sites, as well as contribution to the sustainability of the area.'*

- 6.14 Policy RA6 with the CS specifically deals with the rural economy and supports proposals that diversify the rural economy providing they are of a scale which would be commensurate with its location and setting; which do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, noise, dust, lighting and smell; do not generate traffic movements that cannot be safely accommodated within the local road network; and which do not undermine the achievements of water quality targets in accordance with Policies SD3 and SD4 of the CS.
- 6.15 Policy SD2 of the CS deals specifically with renewable and low carbon energy generation. The policy recognises that the overarching principle of the planning system is to support the transition to a low carbon future and a significant means of achieving this goal is through the use of renewable energy sources development proposals which seek to deliver renewable and low carbon energy will be supported where they do not adversely impact upon international and national designated natural and heritage assets; they do not adversely affect residential amenity; they do not result in any significant detrimental impact upon the character of the landscape and historic environment.
- 6.16 The Luston Group Parish NDP does not have any specific policies for rural businesses or renewable energy. However it does offer support for home working and small businesses providing proposals are of a scale appropriate to its immediate surroundings, do not have a detrimental impact of surrounding residential amenity and are located close to existing highways and do not have an unacceptable impact of traffic (Policy LG8 Supporting and enhancing existing small scale local employment).
- 6.17 From the evidence which has been submitted and within the planning history of the site, it is clear that the site has long been established for the storage and distribution of logs, alongside the historic agricultural use. In recent years the growing need and demand for wood chip as a biomass fuel was identified by the applicant and led to the wood business diversifying in to the processing of the logs into wood chip. The agricultural use has declined and the site is now primarily used for the manufacturing of logs into wood chip which falls within the B2 use class of the Town and Country Planning (Use Classes) Order 1987. The wood chip is distributed locally both to commercial and residential properties.
- 6.18 It is evident that the change of use which has occurred has had benefit to the local economy, through the creation of jobs. There are also economic and social benefits with regards to meeting the increasing demand for wood chip to fuel biomass boilers supporting communities with a locally sourced fuel. In relation to the environmental benefits, biomass is recognised as a renewable energy source which can play an important role in adapting to climate change and moving towards a low carbon economy.
- 6.19 The location of the wood chipping and storage yard is on a former agricultural site in close proximity to the Market Town of Leominster, although for planning purposes is in an open countryside location. The scheme largely utilises existing buildings on the site and has direct access on to the B4361 highway. In terms of its location, the site is considered to be sustainable

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Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

and one that is appropriate for this type of development given the nature of the land based business and the former use of the site both for agricultural and wood storage.

6.20 The following sections will go on to consider whether there are any other material considerations of such weight and magnitude that might lead to a conclusion that the proposal represents an unsustainable form of development. The main material planning issues which need to be considered are:

- The impact the proposal has on air quality;
- The impact the proposal has on the amenity of neighbouring residential properties with regards to noise and nuisance;
- The impact the development has on the landscape character and visual impacts
- The impact upon the local highways; and
- The impact the proposal has upon the local water environment

### **The impact of the proposal on Air Quality**

6.21 The change of use has led to the introduction of 6 biomass boilers and combined heat and power gasification plant on site with a combined total of 3MW of heat to be utilised on site to heat and dry the wood chip before it is sold. When sourcing wood chip as a biomass fuel, the customer will want to ensure that the moisture content is consistent and matched to the type of boiler they have. Dried woodchip with reduced moisture content can create higher efficiency, with clean and more consistent combustion. However, it is now recognised that biomass Nitrogen Dioxide particulate matters from biomass burning in on an increase. The distribution and characteristic of emissions are likely to vary between biomass boilers depending on the type of appliance, burn rate, fuel moisture content, and the type of wood used. Generally a well maintained biomass boiler will produce more pollution than a similar gas system, but less than an equivalent coal or oil fired boiler. The maintenance of the boiler and its associated equipment will also affect pollutant emissions, i.e. poor maintenance will lead to higher emissions.

6.22 There is no specific policy within the LNDP which deals specifically with air quality issues, although Policy LG1 deals with general development principles and requires new development to ensure no detrimental effect on residential amenity occurs as a result of the development.

6.23 CS policy SD1 requires that all development proposals ensure that new development does not contribute to, or suffer from, adverse impacts arising from air contamination. The burning of wood in heating appliances results in the release of pollution emissions that can have an impact on air quality, with the principle pollutants of concern being Nitrogen Dioxide and particulates. The actual levels of emissions in the flue gases depend on the biomass boiler design, the fuel characteristics and how the boiler is operated. The impact of emissions on the environment, in particular local receptors, is related to the dispersion of emissions influenced by the height of the boiler exhaust stack.

6.24 The application has been supported by an air quality assessment which assesses the nitrogen dioxide (NO<sub>2</sub>) and fine particles matters (PM<sub>10</sub> and PM<sub>2.5</sub>) against the Air Quality Standards (AQSs) at the nearest receptors. A full detailed dispersion model was undertaken using an advanced dispersion model developed for regulatory purposes. The findings along with recommendations are presented in the Air Quality Assessment report. The conclusion of the assessment is that the predicted hourly and annual mean NO<sub>2</sub> concentration (µg/m<sup>3</sup>) exceeded the respective AQS, with the largest contribution likely to be due to the ground level horizontal discharges of the CHP units. It was therefore recommended that the CHP discharged into vertical stacks with a minimum 12 m discharge height in order to provide sufficient pollutant dispersion.

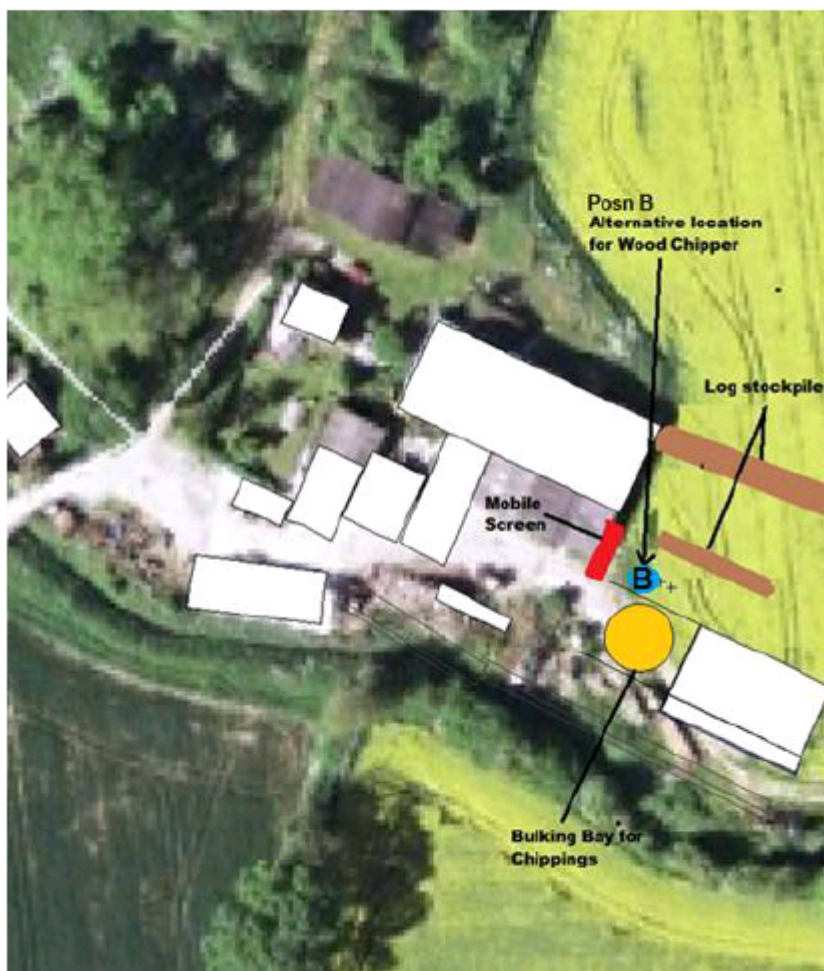
- 6.25 The Environmental Health Officer which deals specifically with Air Quality agreed with the findings and assessment and the applicant amended the plans to include 2 x 12m high flues from the CHP units. It is noted that the assessment assumed that the biomass and CHP plant would operate continuously throughout the year. Onsite buildings and the local terrain were also considered in the assessment, as these factors can affect the dispersion of pollutants. On the basis of the information submitted in the air quality assessment and providing that the mitigation of the increased stack height to the CHP plant is put in place, it is considered that the proposals accord with policy SD1 of the CS and LG1 of the LNDP with regards to air quality and contamination. It is suggested that should permission be granted that a condition is included requiring the increase in stack height to 12m to be completed within 3 months.

### ***Impacts upon residential amenity – noise and nuisance***

- 6.26 CS policy SD1 requires, amongst other things, that all development proposals safeguard the residential amenity or living conditions of existing residents and that they do not contribute to adverse impacts arising from noise. Whilst policy LG1 within the LNDP requires new development not to have a detrimental effect on residential amenity by reason of noise or other nuisance. Similarly, paragraph 127 of the NPPF recognises that planning policies and decisions should ensure that development functions well within their surroundings. Whilst paragraph 180 recognises that planning policies and decisions should ensure that development is appropriate for its location by mitigating and reducing to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impact on health and the quality of life.
- 6.27 Biomass facilities operate on a 24 hour, 7 day a week basis. The biomass boilers are considered to be one source of noise on the site, however it's the Wood Chipper used for the chipping of wood which is the significant generator of noise, as well as the movement of vehicles to and from the site. A number of the representations submitted have raised concerns with regards to the noise generated by the business, specifically highlighting the wood chipper and vehicle movements off the site in the early hours.
- 6.28 When first submitted the applicant was chipping in 2 different positions on the site, however on completion of a noise impact assessment the applicant now proposes to only chip on one location on the site. The noise impact assessment has been updated during the process of the application to take into consideration the change in wood chipper. The assessment was undertaken to establish the noise level and impact on existing residential properties resultant from the operation of the Wood Chipping Plant and where appropriate suggested mitigation measures to reduce noise levels to the lowest level reasonably practicable by applying 'best practicable means'.
- 6.29 The nearest sensitive receptor (NSR) boundaries are identified as the residential properties to the north west of the site directly off Broad Lane at distances of approximately 100m to 140m from the existing location of the Wood Chipping Plant. The nearest receptor is located adjacent to the access road known as Ridgemoor Cottage at a distance of approximately 70m from the current location of the plant. There are other residents to the west which are located off the B4361 road at a distance of approximately 150m to 180m from the plant location.
- 6.30 As a result of the noise survey work undertaken, the applicant now proposes to chip in only one position on the site, which is shown on the plan below by the letter 'B'. This position is further away from previous chipping areas behind existing buildings which maximises screening and distance attenuation. In addition, when they do chip, to further mitigate the impact of noise on local residents, a mobile screen is to be located northwest of the plant within the gap between the main building and store.

- 6.31 The wood chipper will only run on average for 9 hours a week and the applicants have confirmed that chipping does not take place outside of the hours 8.00 - 17.00hrs. The applicants have confirmed that the wood chipper is taken off site on various days of the week to chip wood on different sites across the local area. There are up to 600 deliveries to the site per year, averaging 2 a day. However the applicant does stress that this can vary and on some days be more than others, and a number of days with none at all depending on the availability and purchase of logs.
- 6.32 The noise impact assessment concluded that the development when mitigated represented a low impact and below an adverse impact according to BS4142: 2014. Allowing for a noise character penalty of +3dB the rating noise level would be between 7dB below and up to 1dB above representative background sound levels, indicating a low impact and below an adverse impact. The Councils own Environmental Health Officer took her own readings at the locations identified by the assessment at a time when the wood chipper was running and mitigation was in place. The readings taken corresponded with that of the noise assessment indicating a low impact below an adverse impact to BSA4142. Subject to conditions the Environmental Health Officer has supported the proposal.

**Figure 2: Location of Proposed Wood Chipper & Screening Measures**



- 6.33 In addition to the wood chipper, consideration has also been given to other noise generated from the biomass boilers as well as the noise and nuisance from vehicles and general activities associated with the operations at the site. The Boilers are all located within buildings which are insulated and the noise witnessed on site when running was considered to be low and unobtrusive.

- 6.34 The chipper gets moved off site throughout the week to work on other sites around the local area which are in need of wood chip, this reduces the overall movements as logs are transported direct to a site and once chipped is placed in drying stores within the customers own land. The chipper is large and transported on a HGV. It is understood from representations that its movement can be early in the morning. Consideration has been given to the need to control the timings of deliveries to and from the site, as well as vehicles leaving the site. When placing restrictive conditions on an application, Officers need to consider if a condition is reasonable, necessary and enforceable. The applicant has confirmed that often the chipper is moved around 7am to avoid busy times in Leominster, especially the school drop off time and allow time for the chipper to arrive on a site and get set up.
- 6.35 The site is on a busy B road into Leominster which has several businesses and agricultural farms located along it. There are several dwellings scattered along the roadside in the immediate location in close proximity to the entrance into the site. It is considered that occupiers of these houses are vulnerable to traffic noise emanating from vehicles using the road. A number of the representations received express concerns with the changes which have occurred over the years and the impact of the noise and nuisance associated with the type of traffic generated by the wood chipping business. It is recognised that rural areas often have relatively low levels of background noise, and therefore may be more sensitive to disturbance from intrusive noise.
- 6.36 The issue which has been considered is whether it is necessary and reasonable to place conditions on a decision to control movements in and out of the site in the interest of safeguarding the amenity of local residents. The Environmental Health Officer has requested that controls are put in place with regards to the movement of the wood chipper and delivery of logs. The applicant has explained that the wood chipper and deliveries of wood is not always regular and that haulage and delivery companies look to avoid peak travel times.
- 6.37 Officers have considered all the representations received and the comments from the Environmental Health Officers. The site is occupied by an established business which over the years has diversified into the B2 use which it is today, however there are also a number of existing residential dwellings which are already complaining of suffering from adverse effects by traffic noise. Whilst acknowledging that businesses need to be able to operate efficiently and react to changes or customer demands, a balance needs to be struck between enabling a business to respond to the reasonable expectations of customers and safeguarding the living conditions of local residents.
- 6.38 Taking all matters identified above into consideration, it is concluded that the a reasonable balance can be achieved by restricting the movement of a wood chipper off and on to the site and the delivery of logs to the site, including their unloading on Saturday mornings and Sundays and Bank/ Public holidays. It is considered reasonable, given its rural location, for residents to expect early Saturday Mornings, Sundays and Bank/Public holidays to not be disturbed or adversely impacted upon by additional noise. In addition a condition requiring a noise management plan which will monitor any complaints received and outline action to mitigate if required is recommended.
- 6.39 It is considered that subject to appropriate conditions relating to the management of the site and control on noise and operation, the proposal would have a relatively low impact on the amenity of nearby dwellings, and is capable of being compliant with policy SD1 of the CS and LG1 of the LNDP.

### ***Landscape and Visual amenity***

- 6.40 A number of representations have been received objecting to the proposal on the grounds of visual impact as a result of the proposal being out of character and scale with its rural location.

The application is seeking retrospective planning permission for the change of use of the site which occurred with the introduction of the wood chipper and biomass boilers in 2011. Prior to 2011 the site was used for the storage and handling of logs as part of the applicants wood business.

- 6.41 The NPPF in section 15 emphasises the importance planning policies and decision have in contributing and enhancing the natural and local environment. This is achieved by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils. It can also be achieved by recognising the intrinsic character and beauty of the countryside.
- 6.42 Policy LD1 in the CS requires all development proposals to demonstrate that the character of the landscape and townscape has positively influenced the design, scale, and nature and site selection. It also requires proposals to conserve and enhance the natural, historic and scenic beauty of important landscape and features and incorporate new landscaping schemes and their management to ensure development integrates appropriately into its surroundings.
- 6.43 Policy LG1 within the LNDP requires new development not to have an unacceptable detrimental impact on the character of the area. Policy LG3 requires proposals to preserve and enhance the character. It supports the conversion of traditional farm buildings through continued and appropriate new uses.
- 6.44 The topography which surrounds the site is flat and therefore there are a number of public vantage points from the adjoin highways and PROW where the wood processing business can be viewed. Existing vegetation on field boundaries does filter these views, however the scale of the buildings and the position and height of the log piles make a number of views possible.
- 6.45 The buildings are largely steel framed construction, built within and around more traditional smaller timber buildings. There is a more substantial agricultural farm on the opposite side of the B4361 which occupies a road side frontage. It is evident that log piles have long been a characteristic of the site. The change of use is not considered to have changed the character of site or industrialised the nature of the site.
- 6.46 The Council's Landscape Officer has been consulted and has raised no objection to the proposal with regards to the landscape character. However the Officer has highlighted that the increase in flue height to 12m could potentially cause adverse visual effect on users of the PROW route which passes through the site. Having visited the site and surrounding area several times throughout the application process, it is considered that the flue will be visually more prominent from wider views to the south, especially along the B4361. When viewed from the PROW which passes through the site it is not considered that the addition of the 12m high flues will be significantly detrimental or harmful to the landscape character or enjoyment of the PROW.
- 6.47 The storage of logs has expanded along the southern boundary in an easterly direction, however this areas is largely screened by existing vegetation and not visible from the public highway. The legal line of the PROW has been walked several times and has not been found to be obstructed. The footbridge which joins the footpath to the neighbouring field is currently closed but the PROW Officer has confirmed that the intention is to repair it and bring in back in to use in due course.
- 6.48 The landscape officer has suggested that the proposal would benefit from additional planting along the site boundaries with regards to gapping up in hedgerows and additional planting. However this would potentially conflict with the requirements of the River Lugg Drainage Board which require a 9m strip for maintenance along the boundary with the brook. There is the opportunity for additional planting and gapping up within the hedge to the south on the opposite side of the brook which is in the ownership of the applicant. This would assist in further filtering the views of the site from the adjoining highway and PROWs and ensure that the development

integrates appropriately into its surroundings. This can be secured via a suitably worded condition.

- 6.49 The wood chipping business, including the biomass site are not considered to have an unacceptable impact upon the character and appearance of the local area and no conflict with policy LD1 has been identified.

#### ***Impact upon the local highway network***

- 6.50 Traffic generation arising from the proposed change of use in connection with the delivery of logs and distribution of wood chip is a key issue that needs considering. A number of the representations which have been received reference the increase in vehicle movement over the years since chipping has taken place at the site.
- 6.51 Policy MT1 of the CS requires all new development to 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. Policies LG1, LG2 and LG8 of the LNDP all require that new development be located close to existing highways and not have an unacceptable impact upon highways safety and traffic movement.
- 6.52 The Councils Highways Officer has been to site and has confirmed that the visibility is good in both directions out of the entrance and that there are no records of any accidents recorded in the vicinity. The planning statement identifies that the business on average generate 5 HGV's a day Monday – Friday, with occasional movements on a Saturday morning. This represents a worst case scenario, as the number of movement's fluctuate through the week. In addition to the business the access also serves 5 residential dwellings, 3 of which are lived in by family members. The Highways Officer does not believe that the vehicle movements generated by the wood chipping business presents any adverse impact on highway safety and that the local highway network can safely accommodate the increase in movements.
- 6.53 In accordance with policy MT1 of the CS and LNDP policies LG1, LG2 and LG8 the application site is considered to have a safe entrance into the site, with more than sufficient space within the site to allow vehicles to manoeuvre and operate safely. Consideration has been given to the PROW, and it is considered that the wood chipping business can operate without causing obstruction or prevent the use of the legal line of the prowl. Overall no conflict with policy MT1 has been identified. The nuisance of the vehicle movements on the amenity of neighbours has been considered above.

#### ***Impact upon local water environment***

- 6.54 The impact of the proposal upon surface water run-off rates and the implication for localised flooding is a material planning considerations which many of the representations have raised. The application has been supported by a Flood Risk Assessment and Surface Water Management Plan. The application site is located within flood zone 1 and therefore has a low risk of flooding and the sequential and exception tests required by policy SD3 of the CS and chapter 14 of the NPPF are not required.
- 6.55 Policy SD3 in the Core Strategy requires measures for sustainable water management to be an integral element of new development in order to reduce flood risk; to avoid an adverse impact on water quality; to protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation. Within the LNDP policy LG5 deals with flood risk water management and surface water run-off. The policy requires new development to be designed to maximise the retention of surface water on the development site and minimise runoff.



- 6.56 The Councils Drainage Consultant has confirmed that the site is not located within an area identified as significant risk of surface water flooding. The applicants are proposing a new surface water managements system on the site which has been designed and supported with a plan designed by ADAS. The scheme is identified as representing a Sustainable Urban Drainage Systems (SuDS) to attenuate storm water flows from the site. The new scheme was informed following infiltration tests across the site and information from soils mapping. The scheme is designed to attenuate flows to permitted levels and provide storage for up to the 100 year storm of critical duration for the site plus an allowance for climate change. The effective maintenance of the SuDS in this case will remain the responsibility of the landowner.
- 6.57 The new system will install new drains to intercept with all existing surface water drains discharging to the brook, blocking them off and redirecting the water to a flow control chamber in the eastern corner of the site which has an outflow chamber controlling flow to the east of the site. All work is to be within land owned by the applicant. The Councils Drainage Consultant considered that the scheme has been well informed and designed and raises no objection to the proposal.
- 6.58 The River Lugg Drainage Board (RLDB) have made representations through the application process expressing concerns with regards to the need for the applicant to apply to the Board for their consent in relation to the additional surface water run off to the adjacent watercourse. The applicants have made a submission to the Board on the latest design. The consent is in connection with the terms of the Land Drainage Act 1991 and the Flood and Water Management Act 2010. This is separate legislation to The Town and Country Planning Act 1990 and the regulatory body in this case is the River Lugg Drainage Board.
- 6.59 Consideration has been given to the RLDB overall comments and the scheme overall is considered to reduce the surface water run-off to the adjacent watercourse and allows a 9 meter plant access strip alongside the Board Ditch for watercourse maintenance purposes.
- 6.60 Foul water is captured and handled entirely separately from the surface water drainage system. The only additional foul water is from a toilet in the office building.
- 6.61 The application is considered to have demonstrated that the scheme is capable of delivering sustainable water management throughout which will protect and enhance groundwater resources. The Drainage Consultant has concluded that the scheme is, having regard to SD3 and SD4 of the CS, and LG5 of the LNDP and NPPF section 14 principally to be acceptable. Informatives are recommended below to highlight the comments of the Lugg Drainage Board and the requirements of S15 of the Land Drainage Act 1991.

### ***Impact upon the Ecology and Biodiversity***

- 6.62 Policy LD2 of the CS requires development proposals to conserve restore and enhance the biodiversity and geodiversity assets of Herefordshire through ensuring new development does not reduce the coherence and effectiveness of the ecological networks of sites and through the restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological network. The policy also seeks to support the creation of new biodiversity features and wildlife habitats where possible.
- 6.63 The site falls within the “Any discharge of water or liquid, including to mains sewer” SSSI/SAC Impact Risk Zone. This means that this LPA has a legal duty of care under habitat Regulations (as well as NPPF, NERC Act and Core Strategy policies LD2 and SD4) to ensure that all ‘Likely Significant Effects’ from the development are fully mitigated.
- 6.64 The applicant has confirmed that only foul drainage on the site is located within the office building which has been connected to an existing septic tank which serves the residential

property immediately adjoining the site (owned by the applicants, with a final discharge to a soakaway to the north of the site. The Councils Planning ecologist has raised no further issues with the application.

### **Conclusion**

- 6.65 The proposed scheme seeks permission to authorise the use of the site for the processing of logs into wood chip and the installation of 6 biomass boilers to heat and dry the wood chip before being sold on. For clarification the use falls within the B2 use class. Taking into consideration the history of the site and the context of the site with direct access on to a B road and the nature of the business the site represents a sustainable location.
- 6.66 When considering the three dimensions of sustainable development, economic and social benefits of the scheme are those arising from the creation of jobs (not just on the site but associated industries) and the availability of locally sourced fuel for biomass Boilers. In terms of environmental benefit the proposal represents a form of diversification and continued use of a former agricultural holding with a land based industry that produces a renewable fuel which overall plays a role in moving to a low carbon economy.
- 6.67 The proposed development is not considered to have an unacceptable impact upon the character and appearance of the local area and subject to appropriate conditions will not have any adverse noise or emissions upon the residential amenity or the surrounding environment subject to conditions. The proposal is not considered to have any unacceptable impact upon traffic or highway safety or upon the water environment, subject to the imposition of appropriate conditions.
- 6.68 Taking all of the above into account, Officers are content that there are no other matters of such material weight that would justify withholding planning permission. The proposal in terms of its location, design, scale and other associated impacts is considered to represent a sustainable form of development which complies with the relevant policies. On this basis the proposal is compliant with the Herefordshire Local Plan – Core Strategy, Luston Goup Neighbourhood Development Plan and the National Planning Policy Framework and the application is accordingly recommended for approval.

### **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. C06 - Development in accordance with approved plans**
- 2. Within 3 months of the date of this permission the CHP exhausts identified on the plan 7393/4 Rev 1 shall be installed with a height of 12m as outlined within section 5.2 of the Air Dispersion Modelling Assessment. The details and colour shall be agreed with the Local Planning Authority prior to their installation and shall subsequently be carried out in accordance with the approved details.**

**Reason: To prevent air contamination to local receptors and to comply with Policy SD1 of the Herefordshire Local Plan (2015), Policy LG1 of the Luston Group Neighbourhood Development Plan (2017) and National Planning Policy Framework.**

- 3. The movement of a wood chipper on and off the site and the deliveries of logs, shall not take place between the hours of 1730 of Friday to 0830 on Saturday and not at all on Sundays or Bank and Public Holidays.**

**Reason: To protect the amenity of local residents and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy (2015), Policy LG1 of the Luston Group Neighbourhood Development Plan (2017) and the National Planning Policy Framework.**

- 4. Only one wood chipper shall operate from the site at any given one time.**

**Reason: To protect the amenity of local residents and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy (2015), Policy LG1 of the Luston Group Neighbourhood Plan (2017) and the National Planning Policy Framework**

- 5. The wood chipping operation shall only take place in the area marked B and C as outlined in the noise consultant NVC's letter of 22nd March 2018 and the maximum noise emission level of the wood chipper at 10m shall at no point exceed 91dB LAeq nor an LaMAXF of 94dB. In addition, a permanent noise mitigation shall be on site in the form of a barrier of minimum height 5m in the form of a log stack and the retention of the existing embankment as shown in Figure 2 of the noise consultant NVC's letter of 22nd March 2018.**

- 6. Reason: To protect the amenity of local residents and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy (2015), Policy LG1 of the Luston Group Neighbourhood Plan (2017) and the National Planning Policy Framework**

**The hours during which chipping of wood may take place shall be restricted to 0900 to 1800 Monday to Friday and 0900 to 1300 on a Saturday and at no time on a Sunday, Bank or Public Holiday.**

- 7. Reason: To protect the amenity of local residents and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy (2015), Policy LG1 of the Luston Group Neighbourhood Plan (2017) and the National Planning Policy Framework**

**A temporary mobile screen in the form of a 44 tonne lorry to be placed across the site in the location shown in Figure 2 of the noise consultant NVC's letter of 22nd March 2018.**

- 8. Reason: To protect the amenity of local residents and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy (2015), Policy LG1 of the Luston Group Neighbourhood Plan (2017) and the National Planning Policy Framework**

- 8. CC1 – Details of external lighting**

- 9. The premises shall be used for the processing and manufacturing of wood chip and associated drying and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Class) Order 1987, or in any provision equivalent to that Class in any Statutory instrument revoking and re-enacting that Order with or without modification.**

**Reason: The Local Planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 10. Within 3 months of the date of this permission a detailed Noise Management Plan**

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Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

shall be submitted to and approved in writing by the Local Planning Authority. The Noise Management Plan shall be reviewed, and the review recorded in writing (acknowledging any complaints, concerns, actions or training recorded) that have arisen) annually thereafter by the 1st March in each successive year. Any alteration to the Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The use of the site shall be carried out in accordance with the approved Noise Management plan.

Reason: To ensure that there is sufficient and adequate noise mitigation in place, and that there is flexibility to address concerns as they arise, in the interests of amenity in accordance with the requirements of policies SD1 of the Herefordshire Unitary Development Plan, Policy LG1 of the Luston Group Neighbourhood Development Plan and guidance contained within the National Planning Policy Framework

- 11. Within 3 months of the date of this permission the surface water drainage system outlined in the Surface Water Management Plan reference 1010290 dated 11th January 2019 shall be implemented in accordance with the approved scheme and maintained there after.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with the requirements of Policy SD3 of the Herefordshire Local Plan (2015), Policy LG1 of the Luston Group Neighbourhood Development Plan (2017) 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. 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. HN01 – Mud on Highway
- 3. HN10 – No drainage to discharge to Highway
- 4. The applicant’s attention is drawn to the comments received by the Lugg Drainage board and the requirements of the Bye Laws and S15 of the Land Drainage Act 1991 to leave a permanent 9 metre access strip watercourse for watercourse maintenance purposes. The written consent of the Board must be obtained for any structure or tree planting within 9m of any Board controlled watercourse measured from the top of the bank or on the landward side of any embankment.
- 5. Public rights of way affected

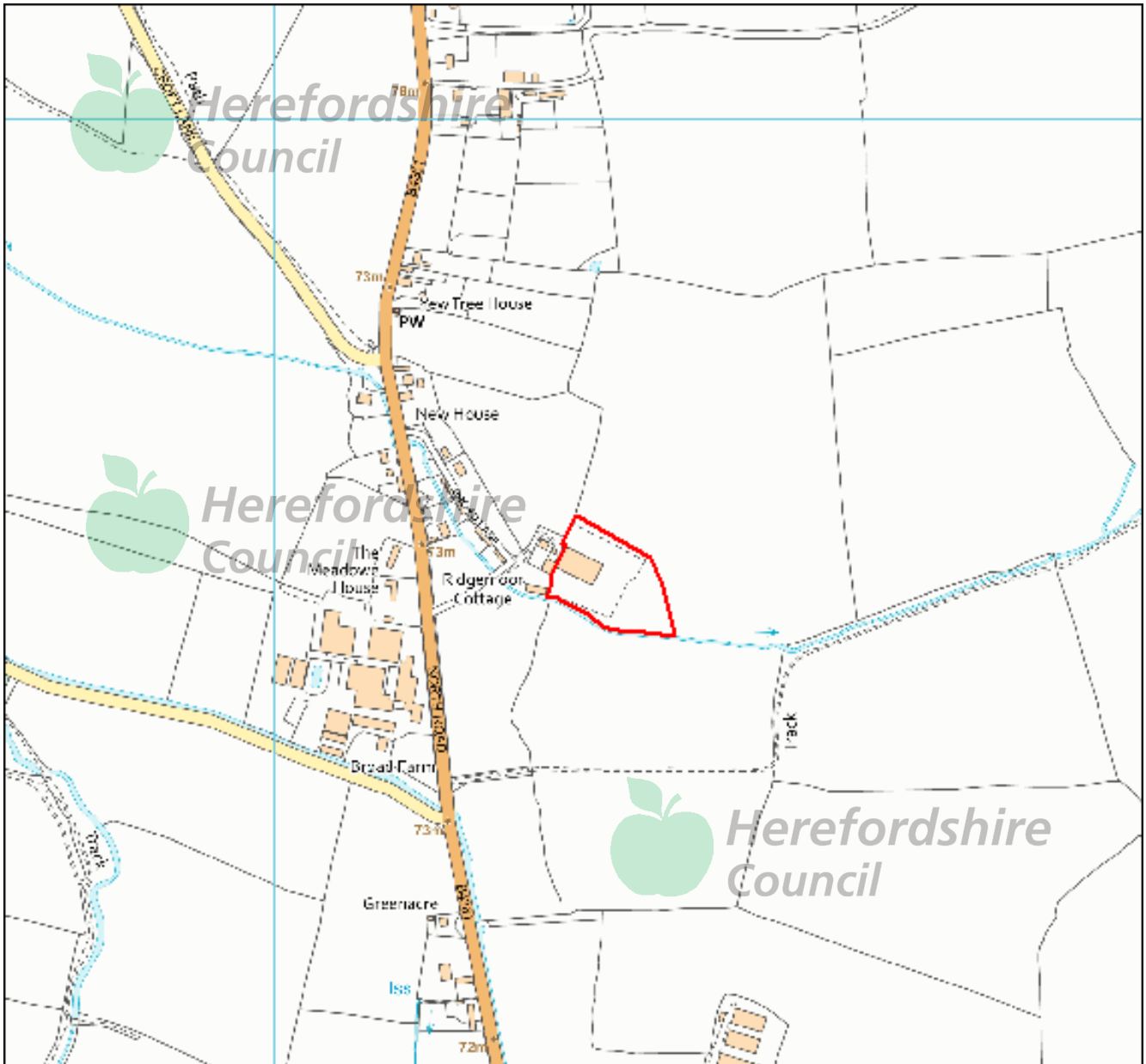
Decision: .....

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:** 174097

**SITE ADDRESS :** MILE END, BROAD LANE, LEOMINSTER, HEREFORDSHIRE, HR6 0AL

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<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>27 February 2019</b>
<b>TITLE OF REPORT:</b>	<p><b>183083 - CHANGE OF USE OF AGRICULTURAL BUILDINGS AND LAND TO RESIDENTIAL DEVELOPMENT (USE CLASS C3). INCLUDING DEMOLITION, CONVERSION AND EXTENSIONS OF AGRICULTURAL BUILDINGS TO FORM 3 NO. DWELLINGS AT MAGNOLIA FARM, CANON BRIDGE, HEREFORD, HR2 9JF</b></p> <p><b>For: Helen Beale per Mr Greg Collings, 1 Kings Court, Charles Hastings Way, Worcester, WR5 1JR</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183083&amp;search=183083">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183083&amp;search=183083</a>
<b>Reason Application submitted to Committee – Council application</b>	

**Date Received: 16 August 2018**

**Ward: Stoney Street**

**Grid Ref: 343128,241209**

**Expiry Date: 12 October 2018**

Local Member: Councillor SD Williams

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

- 1.1 This application seeks full planning permission for the conversion of agricultural buildings to three dwellings. The dwellings will provide one three bed property and two four bedroom properties at Magnolia Farm in Canon Bridge.
- 1.2 Magnolia Farm is located to the north of the village of Madley (approximately 1.9 miles away) and to the south west of the River Wye. The site measures approximately 0.71 ha.
- 1.3 The barns at the centre of this application are largely constructed from red facing bricks with profiled metal sheeting on the roof. The buildings lie perpendicular to Magnolia Farm Road. There are more modern agricultural buildings within the complex which are not proposed for conversion and would be demolished. These can be clearly identified on the photograph below (figure 2.0, page 2 of the submitted Planning Statement).



- 1.4 The site as a whole was formerly let as an agricultural tenancy but is no longer required due to modern farming practices and as a result the buildings have fallen into disrepair.
- 1.5 Along with the conversion of the existing buildings, two garages will be erected to the south of unit 3, providing parking for this unit and unit 2. An extract of the proposed scheme can be found below and indicates the three units along with the parking and access arrangements.



Further information on the subject of this report is available from Miss Emily Reed on 01432 383894



- 1.6 Planning permission was granted for change of use of agricultural buildings located to the south west of the site and across the road (Canon Bridge Farm) to five dwellings in 2016 (under ref: 153633). These were also former Herefordshire Council owned buildings.

## 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
SS6	-	Addressing Climate Change
RA2	-	Housing in Settlements Outside of the Hereford and the Market Towns
RA3	-	Herefordshire's Countryside
RA5	-	Re-use of Rural buildings
H3	-	Ensuring an Appropriate Range and Mix of Housing
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure Delivery

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)

### 2.2 Madley Neighbourhood Development Plan

Madley Neighbourhood Development Plan is at the drafting stage and therefore afforded no weight at the present time.

### 2.3 National Planning Policy Framework (2018) (NPPF)

Chapter 2	-	Achieving Sustainable Development
Chapter 4	-	Decision Making
Chapter 5	-	Delivering a Sufficient Supply of Homes
Chapter 9	-	Promoting Sustainable Transport
Chapter 12	-	Achieving Well-Designed Places
Chapter 15	-	Conserving and Enhancing the Natural Environment
Chapter 16	-	Conserving and Enhancing the Historic Environment

## 3. Planning History

- 3.1 153633/CD3 (on land across Magnolia Farm Road to the south east of the site) – Proposed change of use of traditional agricultural buildings to five dwelling houses, associated works and new vehicle entrance. Approved

SW101189/CD – Replacement barn. Council approved application

SH961400PF – Erection of a steel portal frame extension to existing farmbuilding for general purpose agricultural use. Approved

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Further information on the subject of this report is available from Miss Emily Reed on 01432 383894

## 4. Consultation Summary

### Statutory Consultations

#### 4.1 Natural England

##### SUMMARY OF NATURAL ENGLAND'S ADVICE

**FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES**  
As submitted, the application could have potential significant effects on River Wye Special Area of Conservation (SAC). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- Habitats Regulations Assessment

Without this information, Natural England may need to object to the proposal.

Please re-consult Natural England once this information has been obtained. Notwithstanding the above, your authority should be aware of a Ruling made recently by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of People Over Wind and Sweetman vs Coillte Teoranta. Read the case (ref: C-323/17).

The case relates to the treatment of mitigation measures at the screening stage of a HRA when deciding whether an appropriate assessment of a plan/project is required. Competent authorities currently making HRAs should be mindful of this case and should seek their own legal advice on any implications of this recent ruling for their decisions. Natural England's advice on other issues is set out below.

##### Internationally designated site

The application site is within the catchment of the River Wye Special Area of Conservation (SAC) a European designated site (also commonly referred to as Natura 2000 sites), and the River Wye Site of Special Scientific Interest (SSSI) and therefore has the potential to affect their interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations').

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Due to the nature of the proposal and the potential pathways to the protected designated sites, we advise that you undertake a Habitats Regulation Screening assessment and consider whether there is a likely significant effect either alone or in combination.

A Habitat Regulations Assessment - Appropriate Assessment (HRA AA) was sent to Natural England on 30 January 2019 with a recommended condition. The following response was received on 5 February 2019:

**NO OBJECTION**

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. Natural England's advice on other natural environment issues is set out below.

#### Internationally and nationally designated sites

The application site is within the catchment of the River Wye which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitats Regulations'). The SAC is notified at a national level as the River Wye Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have.

The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

#### **European site - River Wye SAC - No objection**

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

#### **River Wye SSSI – No objection**

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

#### Internal Council Consultations

- 4.2 **Transportation Manager** – no objection subject to the attachment of recommended conditions
- 4.3 **Conservation Manager (Landscapes)** – no objection

This advice is based on observations taken from a site visit on 2 October 2018; a review of application material; and a desktop study. It concludes that the proposal in terms of landscape treatment is understated and requires conditions. The application does not exploit the relevant designations (listed below) and the farm character (refer to NPPF paragraph 127 and Core Strategy LD1 and LD2). In addition, soil health has not been addressed in areas of demolished agricultural infrastructure turned over to landscape for residential use.

## Relevant designations

- Unregistered Parks and Garden – Canon Bridge House (to north-east and north-west boundaries)
- Landscape Character Assessment (Principle Timbered Farmland)
- Landscape Character Assessment (Riverside Meadow). Adjoining the back of the development boundary
- Traditional Orchards Priority Habitat (3 orchards on a 50-90m radius east of the site)

The application only provides a schematic landscape plan that lacks clarity of design. For example the courtyard layout is fragmented and driven by vehicle movement; pedestrian paths do not correspond to building entrances; and the definition between public and private space is unclear (Fig 1). The pavement appears to be guided by SuDS permeable paving (Fig 2), not place making.

Reference to landscape materiality is minor, with only permeable paving and post/rail fencing mentioned in the application material. The Planning Statement Report, dated August 2018, indicates that specific detail can be controlled by conditions with mention of plants only. More detail in respect to both hard and soft landscape is warranted.

The landscape scheme should demonstrate design integrity (refer to NPPF, chapter 12 Achieving well-designed places), at the same level of intent as provided for the architecture. The success of a proposal of this nature is the harmonious relationship between the building, landscape and how it responds to its setting.

In addition, the new land use will require healthy soil for food consumption, amenity plants and biodiversity. The development requires large areas of concrete (with compacted sub base) pavement to be lifted and reinstated to landscape. The exposed ground will have soil structure degradation and potential pH change. Topsoil and conditioners will be required to ameliorate the existing soil and fill the void. Comply with BS3882:2015 Specification for Topsoil. If construction work is deeper than 300mm, then comply with BS8601:2013 Specification for Subsoil and Requirement for Use.

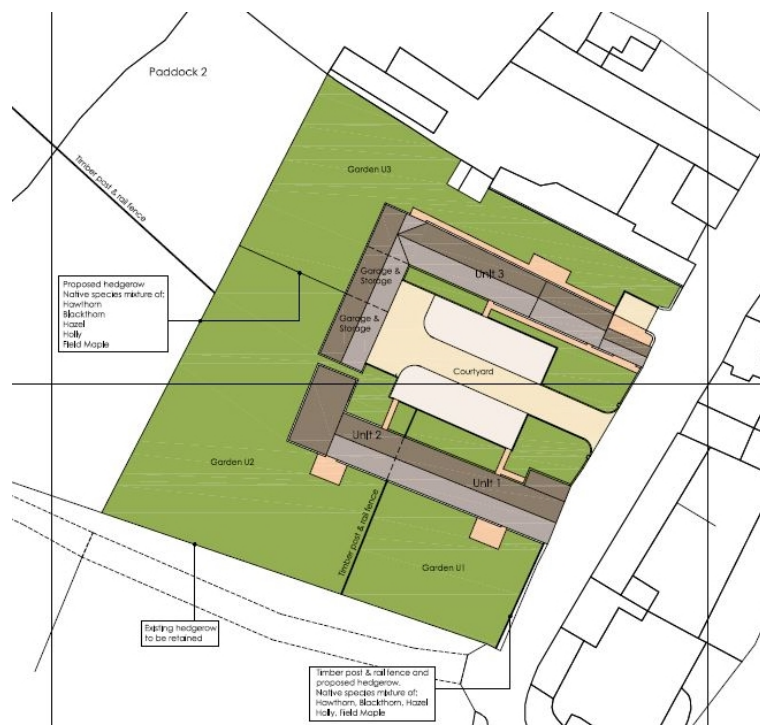


Fig 1: The layout of the courtyard appears fragmented; vehicle dominant and paths to building entrances do not correspond with architectural layouts.



Fig 2: Outline Drainage Strategy, with SuDS permeable paving identified by the pink hatch.

#### 4.4 Conservation Manager (Building Conservation) – initially requested further information

Recommendations:

Request further information. Elements of the proposals would not reflect the agricultural character of such buildings and as such would not comply with policy RA5 of the adopted Herefordshire Core Strategy.

Background to comments:

Pre-application advice has been given ref 173969. This advice outlined that the large dutch and modern barns would not be considered convertible under RA5 as they were not permanent and substantial construction. There was some doubt over whether those buildings to the South of the site would be considered convertible.

Comments:

The provision of parking and storage is welcomed and this would help to mend the courtyard layout, reinforcing the original character. However it is felt that there is more opportunity for the design of the garaging and bin store to reflect the agricultural character of the site, perhaps by recessing the bays slightly behind the line of the roof and having a solid wall, rather than infill to the end sections. The lean to arrangement of the bin store, if replaced by a continuation of the pitch, would further reinforce the character of the buildings.

The retention of the pig sty openings to the N of the site is welcomed. In terms of the North elevation of this building it is felt that there is greater opportunity to respond to the agrarian character of the site. The top lights and raised cills to the windows gives a domestic feel to the buildings.

Provided that the conversion to the Southern buildings can take place without reconstruction we would have no objection in principle. We would ask for amendments to the fenestration of the barn (Unit B in the SE report) which currently is more domestic in appearance.

In terms of the sub-division of plots and layout of the courtyard, it is felt that there is further opportunity to respond to the agricultural character of the site. For example the hammer head within the courtyard and arrangement of parking.

**Following amended plans, a re-consultation was sent with the Council's Historic Building Officer commenting on 10 January 2019 as follows:**

Recommendations:

Recommend Approval with conditions subject to minor alterations. Aspects of fenestration have domestic characteristics which detract from the scheme., in particular the use of lower sections of infill. We would recommend that the majority (not necessarily all) of these are full height glazing where possible. Policy RA5 would apply.

Conditions.

External Materials CE9/LBC03 adapted.

Roofing CG5/LBC17 (standard manufacturers details are acceptable, key thing is traditional detailing.

Joinery CH8/LBC29 (Colour scheme is important, we wouldn't permit the use of stain or white paint.)

Services CJ2/LBC41

Rainwater goods CI2/ LBC32

Background to Recommendations:

These comments should be read in conjunction with previous comments on the proposals and pre-application advice.

**Following further amended elevational plans, a re-consultation was sent with the Council's Historic Buildings Officer commenting on 23 January 2019 as follows:**

Comments: Recommend approval subject to conditions.

Conditions: Exterior colour scheme, Roofing details (can be manufacturers standard traditional details) samples of external materials, external joinery schedule, landscaping.

**4.5 Conservation Manager (Ecology) – no objection**

Subject to Natural England formally approving the required Habitat Regulations Appropriate Assessment (HRAA) submitted to them the following conditions are requested to secure all relevant mitigation should planning consent be granted:

**Habitat Regulations (River Wye SAC) - Nature Conservation Protection**

*Before any work, including any site clearance or demolition begins, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) shall be supplied to the planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.*

*Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018) and Herefordshire Council Core Strategy (2015) policy LD2.*

*Informative: The CEMP should include all relevant ecological working method statements including but not limited to, Bats, Otters, Birds, Trees, Reptiles and Amphibians.*

- **Habitat Regulations (River Wye SAC) – Surface Water**

*All surface water from the dwellings approved under this decision notice will be managed through a Sustainable Drainage Scheme on land under the applicant's control as stated in the planning application form and drainage report by HYDROGEO dated July 2018, and this scheme shall be maintained hereafter as approved, unless otherwise agreed in writing by the Local Planning Authority. . In compliance with Council Policy at no point shall any part of any soakaway drainage field be constructed closer than 50m to the river bank or boundary of the River Wye SSSI.*

*Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2 and SD3.*

- **Habitat Regulations (River Wye SAC) – Foul Water Management**

*All foul water from the dwellings approved under this decision notice shall discharge through individual Package Treatment Plants with soakaway drainage fields located in the garden of each dwelling as stated in the planning application form drainage report by HYDROGEO dated July 2018; unless otherwise agreed in writing by the Local Planning Authority. In compliance with General Binding Rules and the Council Policy at no point shall any part of any soakaway drainage field be constructed closer than 50m to the river bank or boundary of the River Wye SSSI*

*Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018), General Binding Rules, and Herefordshire Council Core Strategy (2015) policies LD2, retained Biodiversity SPG and SD4.*

The supplied ecology report is noted but given the proximity to the River Wye which is known to support an established Otter population a suite of fully detailed ecological working method statements has been requested to form part of the required CEMP. This CEMP will ensure all species are appropriately considered during all works on the site.

It is key that NO external light illuminates the areas of the gardens or from there down to the River Wye SAC/SSSI to ensure there are no negative impacts or disturbance on species within the SSSI Citation, nocturnal wildlife and wider protected species a relevant Condition is requested.

**Nature Conservation – Ecology Protection - Lighting**

*At no time shall any external lighting illuminate the gardens or area between the dwellings approved under this decision notice and the River Wye SAC (SSSI) without the prior written approval of this local planning authority. This is to ensure there is no detrimental impact on bat, nocturnal bird and small mammal commuting and foraging in the locality and to help ensure the security of local 'Dark Skies'.*

*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 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework (2018), NERC 2006. NPPF-DEFRA Dark Skies Guidance 2013 (2018).*

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Further information on the subject of this report is available from Miss Emily Reed on 01432 383894

To secure relevant biodiversity enhancements in line with NPPF, NERC Act and the Council's Core Strategy a suggested condition would be:

### **Nature Conservation – Ecology Biodiversity Enhancement**

*Biodiversity enhancements as detailed in the supplied ecology report by Elizabeth McKay dated November 2017 shall be established in relevant locations within the application site and dwellings approved under this decision notice and hereafter be maintained unless otherwise approved 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 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.*

A Habitat Regulations Assessment- Appropriate Assessment (HRA AA) was sent to Natural England on 30 January 2019 with a recommended condition in light of the comments received from Natural England.

## **5. Representations**

### **5.1 Madley Parish Council – comment**

The above application was discussed at the PC Meeting on 8.10.18 & followed up with a visit to the site & the surrounding area yesterday.

The Parish Council is pleased to see semi-derelict brownfield land being brought back to useful life & commends the policy of layout & design in keeping with the rural surroundings.

Concern was expressed at the proximity of the R. Wye (50 metres) to this & presumably further development on the large area of "brownfield" becoming available at Canon Bridge. We note that the adjacent site (153633) has, after receiving out line permission, been sold on for active development. In this respect we trust the professional experts to be able to mitigate any harmful effects on this conservation area (SAC), especially if more development is to be expected. Environmentally safe dispersal of foul & surface water must be prioritised

Further concern centred on the very narrow access roads both from Madley Cross & "The Comet" pub. (Stone St.) Perhaps the even more compromised road from Handley's Cross should be added. Each of these are in regular use by ever larger agricultural vehicles & passing places are very limited. Depending on the extent of further development at Canon Bridge this problem should be fully addressed if only for the benefit of the new occupiers of the properties. We note that the two applications so far provide 22 parking spaces & garages for just 8 dwellings. Given the remote setting of Canon Bridge we must anticipate regular increased car use to Madley village facilities & beyond. Walking & cycling are not safe options!

5.2 To date two representations have been received to the proposal. The comments therein are summarised below:

- Enough residential properties on this very narrow, un-lit, un paved road
- Note the requirement to build two new double garages and extend unit 3 to the west in order to preserve the 'C' shape of the courtyard. We assume that planning regulations permit this
- There is no garage and nowhere for storage within unit 1. Bungalows appeal to older purchasers who want garages rather than bedrooms. Question whether it is realistic to give permission for three rather than two dwellings



- Reducing the number of permitted dwellings to two would also alleviate problems on the local single track roads.
- The nature of farming has changed from animal husbandry to large scale crop growing involving much larger farm vehicles.
- Five footpaths emerge onto Madley/Canon Bridge Road which is popular with dog walkers
- The proposed dwellings in both local developments (ref: 153363) are primarily bungalows will appeal to older purchasers who are likely to struggle to cope with the increased traffic and need to reverse
- We find the following comments by Fisher German naïve and inaccurate: 'It is considered that the local highway network would be able to support the additional traffic generated by the proposed development, given that the traffic would be both modest and when compared to traffic generation from the previous use of the site as a farmstead' .
- Red line on site plan shows a building belonging to Canon Bridge House as included in the ownership of the development plan. *This has since been amended*
- It is unclear what the space marked as Paddock 1 and Paddock 2 will be used for. It is the intention for the land adjacent to the river, delineated by the blue line, to be retained in Council ownership?
- This riverbank is steep, dangerous and prone to flooding
- The area with the 'C' shaped courtyard is substantial and would be greatly enhanced by suitable tree planting. This should be made a condition of granting approval

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=183083&search=183083](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=183083&search=183083)

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

### *Policy context and Principle of Development*

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.

6.3 Despite the relatively recent adoption of the Core Strategy, the Council is unable to demonstrate a 5-year housing land supply. As set out in paragraph 11 of the NPPF, in such circumstances the relevant policies in the Development Plan for the supply of housing should not be considered to be up to date.

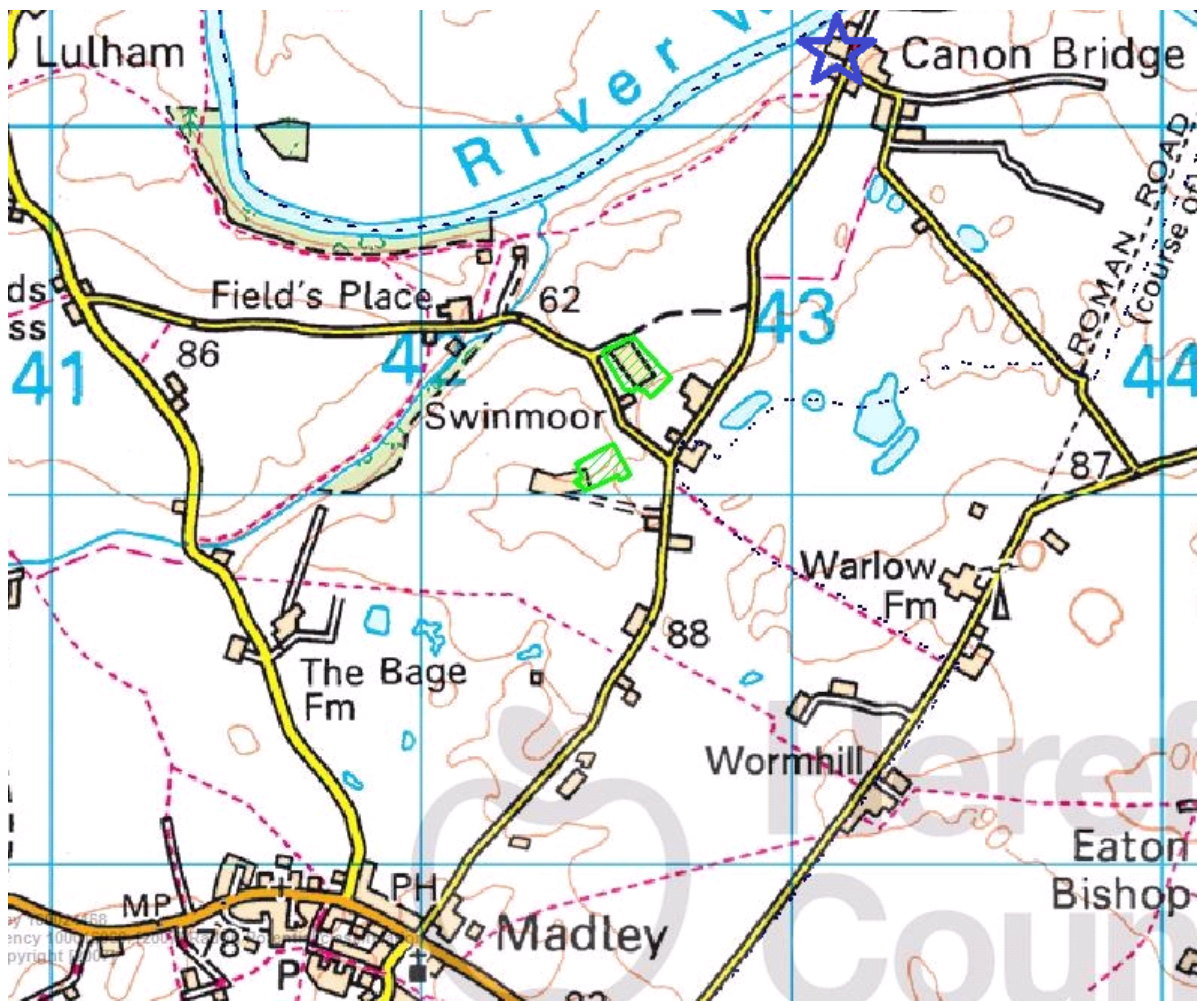
6.4 Paragraph 11 of the Framework states that there is a presumption in favour of sustainable development. For decision takers this means approving development proposals that accord with the development plan without delay and where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, granting permission unless the application of policies in the Framework 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

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Further information on the subject of this report is available from Miss Emily Reed on 01432 383894

assessed against the policies in the Framework taken as a whole. This goes back to the weight to be afforded to policies relevant for the supply of housing with an absent 5 year supply. With this in mind, the spatial strategy is sound and consistent with the NPPF; which itself seeks to avoid isolated development (paragraph 79). It is therefore considered that Policies RA1, RA2 and RA3 of the CS continue to attract significant weight.

- 6.5 The approach to housing distribution within the county is set out in the CS at Policy SS2. Hereford, as the largest settlement and service centre is the recipient of up to 6,500 of the requisite 16,500 homes, with the market towns identified in the second tier as recipients of approximately 4,700 dwellings.
- 6.6 Housing in the rural parts of the County is delivered across the settlements identified at figures 4.14 and 4.15 of the Core Strategy (pp. 109 -110). Here the identified settlements are arranged according to the seven identified housing market areas. Figure 4.14 identifies the settlements which will be the main focus of proportionate housing development. Figure 4.15 classifies the 'other' typically smaller settlements where proportionate housing will be appropriate.
- 6.7 There are 119 'main' villages (figure 4.14) and 98 'other settlements' (figure 4.15), giving 217 rural settlements where proportionate growth will be acceptable in principle. Madley is identified as a settlement within figure 4.14.
- 6.8 Notwithstanding the above, the preamble to CS Policy RA2 states that NDPs will be the principal mechanism by which new rural housing will be allocated. As stated above, Madley NDP is only at drafting stage and it therefore carries no weight at this time for decision making.
- 6.9 The site is identified on the plan below by the blue star:



Further information on the subject of this report is available from Miss Emily Reed on 01432 383894

- 6.10 As can be seen from the above plan, the site lies away from the main built up part of Madley, which is largely located along the C1196 and B4352, approximately 2.5km to the south west. With this in mind, and conflict arising with policy RA2, the principle of new build residential development in this location is not found to be acceptable.
- 6.11 In such locations as this, a proposal would fall to be assessed against Policy RA3, which contains a list of excepted residential development in open countryside. This includes, inter alia, replacement dwellings, agricultural workers dwellings and at criterion 4, the sustainable re-use of redundant or disused buildings where they comply with Policy RA5 and would lead to an enhancement of its immediate setting.
- 6.12 Policy RA5 includes several criteria that a proposal should meet in order to represent a sustainable re-use. For ease, these are found below:
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.
- 6.13 The application is accompanied by an ecological survey which comments on the site as a whole, acknowledging that some of the buildings will be demolished as part of the proposal. The findings of the report are that the buildings have low suitability for roosting bats because of the nature of their construction and no evidence was found despite a thorough search during the summer months. No further bat surveys are therefore recommended. Nesting birds were noted in certain outbuildings and trees and scrub to the south of the outbuildings also provides suitable habitat for nesting birds. Therefore precautionary measures have also been recommended because of the legal protection which nesting birds receive. Compensatory hedgerow planting and provision of nesting opportunities within the development have also been recommended. Enhancement measures are also suggested including new bat roosts and landscaping. The Council's Ecologist has had sight of the assessment and does not object to its conclusions and recommendations. It is noted that Natural England also have no objections to the scheme following the submission of the HRAA.
- 6.14 The application is also submitted with an accompanying structural report which has examined each building on the site, including some which are not proposed for conversion under this application, but rather will be demolished (barns D and E which are located in the centre of the site).
- 6.15 The two facing red brick barns (Barns A and C within the structural report) are found to be capable of conversion but will require re-roofing. The dutch gabled building sited at the end of barn C is stated as '...basically relying on the curvature of the roof and the steel braces to hold

its shape. This is sufficient for an agricultural barn but would be inadequate for residential loading. The roof will need to be re-structured’.

- 6.16 Initially, the proposal looked to not only re-roof and re-clad the dutch barn but also extend it and accommodate a guest room on the ground floor and additional bedroom on the first floor. There is an extension also proposed on the south of unit 3 providing storage and car parking for two of the units on the site.
- 6.17 The alterations that are proposed to the buildings, along with the extensions, were considered to tip the scheme over to a point that cumulatively impinged upon the agricultural character of the site. As a result, the extension to the dutch barn has been removed. While the other extension remains within the scheme, rather than provide habitable accommodation, it will be used for storage and parking purposes. The extension is single storey and perpendicular to unit 3 in a form that is not out of keeping with a farmstead complex, resulting in an appropriate courtyard arrangement.
- 6.18 Moving onto other alterations to the buildings, while existing openings will be utilised, new ones will also be required. Amendments have been sought by the Council’s Historic Buildings Officer in order to respond fully to the agrarian character of the buildings. The elevation plans have been amended to reflect these comments and now result in a scheme that has been positively influenced by the existing site, previous use and its locality.
- 6.19 In light of the amendments that have been made through the application process, the scheme is now found to represent one that protects the character and appearance of the buildings as well as the wider landscape. As such, the proposal is found to be compliant with policies RA3 and RA5. With the principle having been established, the technical areas of the application are covered below.

#### Design and amenity

- 6.20 While the design of the buildings has been touched on above, the detail of this is assessed by policy SD1 of the Core Strategy. This policy states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.
- 6.21 The proposal includes three units comprising one three bedroom property and two four bedroom properties. Unit 1 is located to the south of the complex and is made up of a lounge, kitchen, four bedrooms, two ensuites and a bathroom. Unit 2 is attached to unit 1 and located to the south west of the site. This is split over two floors and, following the removal of the extension, now includes a kitchen/dining area, sitting room and one bedroom on the ground floor with an additional two bedrooms and ensuites on the first floor. Unit 3 is located to the north of the site and single storey. The accommodation therein includes a dining room, kitchen, lounge, four bedrooms, one ensuite and bathroom. The attached pigsties to the east will be re-used as external storage for unit 3.
- 6.22 Each unit will benefit from private amenity space to the rear bounded by either hedgerow and post and rail fencing. The size of garden space is found to be an adequate level for a three or four bedroom property. The area to the west of the complex will be retained as paddock land and not changed to curtilage associated with the dwellings. In terms of ownership, this is not a matter for the planning process but it is noted that this is within the applicant’s ownership at the current time.
- 6.23 With regard to the amenity of both future occupants, noting the arrangement of fenestration, these will either look onto the rear gardens associated with the associated dwelling or onto the

courtyard at the centre of the complex. Barn conversions often have close relationships with one another. As such, the units are found to provide an adequate amenity given their setting.

- 6.24 Turning to the amenity of neighbouring dwellings, the conversion scheme permitted to the east and across Magnolia Farm Road is noted. There are windows proposed in the western elevations of units 1 and 2 (of the neighbouring scheme) which face onto the Road and towards the current scheme. However, given the siting of the windows within the Magnolia Farm scheme, and the orientation between the two complexes, there are not found to be resultant overlooking issues that will impact on the amenity of any future occupiers of either development.
- 6.25 Moving onto existing dwellings, Canon Bridge Farm is a Grade II listed building with various outbuildings and lies to the north of the site. While the impact of the proposal on the setting of the designated heritage asset will be assessed below, in terms of amenity impacts and noting the distance from the buildings at the centre of the scheme, issues of overlooking or overshadowing are not anticipated. Subject to adequate boundary treatments, the amenity of both unit 3 and the neighbouring properties will be protected.
- 6.26 The barn located to the south of the site has been converted to a dwelling and lies approximately 45m to the rear elevation of units 1 and 2. With this distance in mind, and again subject to adequate boundary treatments that are in keeping with the conversion, the scheme will not impact negatively upon the amenity of those neighbouring occupants.

#### Highways safety

- 6.27 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.'(NPPF para. 109).
- 6.28 Access onto the site will be taken from the west of Magnolia Farm Road. There are currently three accesses to the site – one to the north of the most northern barn, one in between the two barns and one to the south of the southern barn. The proposed access will result in all three of these accesses being closed up with the middle access essentially being relocated more centrally on the site.
- 6.29 The size of dwellings indicates the level of car parking required, with the standards being contained within the Council's Highways Design Guide. For a three bedroom property a minimum of two car parking spaces are required. For a four bedroom property a minimum of three spaces are necessary. As seen on the block plan, double garages are proposed for units 2 and 3. In addition to this, the courtyard in the centre of the complex will provide car parking also. With a total of 8 car parking spaces required, these could be accommodated on the site in a safe way that also allows for adequate turning areas. In light of this, while a garage is not proposed for unit 1, as this is not a necessity, the parking arrangements are found to be acceptable.
- 6.30 It is recognised that one of the main concerns raised in local responses to the application relates to the suitability of the local road network. With regard to the cumulative highways impacts as a result of the proposed development along with the permitted scheme to the east, the Council's Transportation Manager is aware of the neighbouring permission. This notwithstanding, the addition of three new dwellings would not result in highways impacts that would be classed as severe. The previous agricultural use on the site is also noted which brings

about far larger vehicles. While the comments within the representation are noted in this regard, the previous use of the site is a material planning consideration in this case.

- 6.31 The comments received from the Council's Transportation Manager endorse the above view and raise no objections to the scheme subject to recommended conditions being attached to any approval. On this basis, the proposal accords with policy MT1 of the CS.

#### Impact on designated heritage asset

- 6.32 Given the proximity to the Grade II listed Canon Bridge House to the north of the proposal site, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is engaged requiring the decision-maker to have special regard for the desirability of preserving the setting of such assets.
- 6.33 Policy LD4 of the Core Strategy is also relevant in terms of local planning policies. This policy states that development proposals affecting heritage assets and the wider historic environment should protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design in particular emphasising the original form and function where possible.
- 6.34 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.
- 6.35 The NPPF sets out in paragraph 185 that there should be a positive strategy for the conservation of the historic environment. It is recognised that heritage assets are an irreplaceable resource and shall be conserved in a manner appropriate to their significance taking into account:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
  - the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring
  - the desirability of new development making a positive contribution to local character and distinctiveness
  - opportunities to draw on the contribution made by the historic environment to the character of a place.
- 6.36 Paragraphs 193 – 196 set out what and how LPAs should consider in determining planning application which feature historic assets. Paragraph 195 states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- a) the nature of the heritage asset prevents all reasonable uses of the site; and
  - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
  - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
  - d) the harm or loss is outweighed by the benefit of bringing the site back into use.
- 6.37 Paragraph 196 states 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, where appropriate, securing its optimum viable use.

- 6.38 Given the comments received from the Council's Historic Buildings Officer, no harm to the setting of the adjacent listed building has been identified. However, whilst the barns at the centre of this application are not listed in their own right, they are, by association with Canon Bridge House, non designated heritage assets. In accordance with paragraph 197 of the NPPF, a balanced judgment is required having regard to the scale of any harm or loss and the significance of the heritage asset. The proposal does not seek the removal or loss of the assets and the scheme that has been proposed is found to protect the significance of the buildings. Furthermore, the retention of the buildings and the creation of the courtyard arrangement will ensure that the relationship between these buildings and Canon Bridge House can still be read.

#### Ecological impacts

- 6.39 Policies LD2 and LD3 of the Core Strategy are applicable in relation to ecology and the impact on trees. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity asset of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.40 The application has been submitted with a baseline ecology survey. The survey states recommendations that should be undertaken as part of the scheme including the timings of building demolition and any hedgrow removal, bat and bird enhancements, landscape enhancements and lighting arrangements on the site. The Council's Ecologist has had sight of the assessment and does not object to its conclusions and recommendations. It is noted that Natural England also have no objections to the proposal or the HRA AA that was sent for their consultation.
- 6.41 With the foregoing in mind, subject to recommended conditions being attached to any approval the proposal is found to be compliant with policies LD2 and LD3.

#### Foul and surface water implications

- 6.42 Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.43 The application form which accompanies the proposal states that foul water will utilise package treatment plants with soakaway drainage fields. Surface water will be disposed of by a Sustainable Urban Drainage system. Given the size of the site, the principle of these methods is found to be acceptable. There is also an opportunity for a betterment in drainage terms given that the large expanse of hardstanding on the site will be reduced in order to create individual garden space for the dwellings. As such, it is considered that the requirements of Policies SD3 and SD4 would be satisfied subject to suitably worded conditions.

#### Other matters

- 6.44 With regard to comments raised within the representations, the single storey nature of the scheme is one that is in keeping with the previous use and re-uses the appropriate buildings on the site. Whether these will attract older purchasers is not found to be relevant in relation to the lack of a garage which, as stated above, is not a necessity, or being unable to manoeuvre a car.



6.45 The highways implications of the proposal have been touched on above, and the Council's Highways Officer does not object to the proposal. The application that has been submitted is to be assessed and for the reasons stated above, the site and infrastructure is found to be adequate to accommodate three dwellings.

#### Conclusion and planning balance

6.46 Paragraph 8 of the NPPF advises that there are three dimensions to sustainable development; economic; social and environmental. Paragraph 11 of the NPPF sets out how this is to be applied in practice, advising that proposals that accord with the development plan should be approved without delay. Policy SS1 of the Core Strategy reflects this guidance.

6.47 The application is for housing and in the light of the housing land supply deficit must be considered against the test prescribed at NPPF paragraph 11 and CS Policy 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 when considered as a whole.

6.48 While the site is located away from the built up part of the settlement, the scheme proposes the re-use of existing buildings to create three residential properties of 3 and 4 bedrooms. The scheme that has been proposed for the conversion ensures that the non designated assets are retained and re-used in a sympathetic manner, ensuring compliance with chapter 16 of the NPPF. The principle of development is therefore found to be acceptable. Following amendments to the design of the buildings, including the removal of an extension located on unit 2 and fenestration alterations, the scheme is now found to respect the agricultural character of the original buildings and be capable of conversion without substantial extension or alteration.

6.49 While the comments received through the representations are noted, as covered above, in terms of design, highways, ecology and drainage impacts, the proposal is found to be compliant with the relevant policies within the Core Strategy subject to recommended conditions.

6.50 In assessing the three indivisible dimensions of sustainable development as set out in the CS and NPPF, officers are of the opinion that the scheme is representative of sustainable development and that the presumption in favour of approval is engaged. The scheme will bring forward three dwellings with the associated economic and social benefits that small developments in rural hamlets support.

#### **RECOMMENDATION**

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

1. **C01 Time limit for commencement (full permission)**
2. **C06 Development in accordance with the approved plans**
3. **C13 Samples of external materials**
4. **C27 Details of external joinery finishes**
5. **C32 Specification of guttering and downpipes**
6. **C65 Removal of permitted development rights**
7. **CAD Access gates (5m)**



8. CAH Driveway gradient
9. CAL Access, turning area and parking
10. CAZ Parking for site operatives
11. CB2 Secure covered cycle parking provision
12. Before any work, including any site clearance or demolition begins, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) shall be supplied to the planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

**Reason:** In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018) and Herefordshire Council Core Strategy (2015) policy LD2.

13. All surface water from the dwellings approved under this decision notice will be managed through a Sustainable Drainage Scheme on land under the applicant's control as stated in the planning application form and drainage report by HYDROGEO dated July 2018, and this scheme shall be maintained hereafter as approved, unless otherwise agreed in writing by the Local Planning Authority. . In compliance with Council Policy at no point shall any part of any soakaway drainage field be constructed closer than 50m to the river bank or boundary of the River Wye SSSI.

**Reason:** In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2 and SD3.

14. All foul water from the dwellings approved under this decision notice shall discharge through individual Package Treatment Plants with soakaway drainage fields located in the garden of each dwelling as stated in the planning application form and drainage report by HYDROGEO dated July 2018; unless otherwise agreed in writing by the Local Planning Authority. In compliance with General Binding Rules and the Council Policy at no point shall any part of any soakaway drainage field be constructed closer than 50m to the river bank or boundary of the River Wye SSSI

**Reason:** In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018), General Binding Rules, and Herefordshire Council Core Strategy (2015) policies LD2, retained Biodiversity SPG and SD4.

15. At no time shall any external lighting illuminate the gardens or area between the dwellings approved under this decision notice and the River Wye SAC (SSSI) without the prior written approval of this local planning authority. This is to ensure there is no detrimental impact on bat, nocturnal bird and small mammal commuting and foraging in the locality and to help ensure the security of local 'Dark Skies'.

**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 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy

- 16. C96 Landscaping scheme
- 17. C97 Landscaping scheme - implementation

**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. 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.

Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 183083

**SITE ADDRESS :** MAGNOLIA FARM, CANON BRIDGE, HEREFORD, HR2 9JF

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Further information on the subject of this report is available from Miss Emily Reed on 01432 383894



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>27 February 2019</b>
<b>TITLE OF REPORT:</b>	<b>180573 - (RETROSPECTIVE) STORAGE BUILDING AT LAND AT SHUTTFIELD COPPICE, STORRIDGE, MALVERN</b>  <b>For: Mr Abbots per Mr Alan Steele, Corse Grange, Gloucester Road, Corse, Gloucestershire, GL19 3RQ</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180573&amp;search=180573">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180573&amp;search=180573</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

**Date Received: 8 February 2018**

**Ward: Bishops Frome  
& Cradley**

**Grid Ref: 374419,250042**

**Expiry Date: 24 August 2018**

Local Member: Councillor EE Chowns

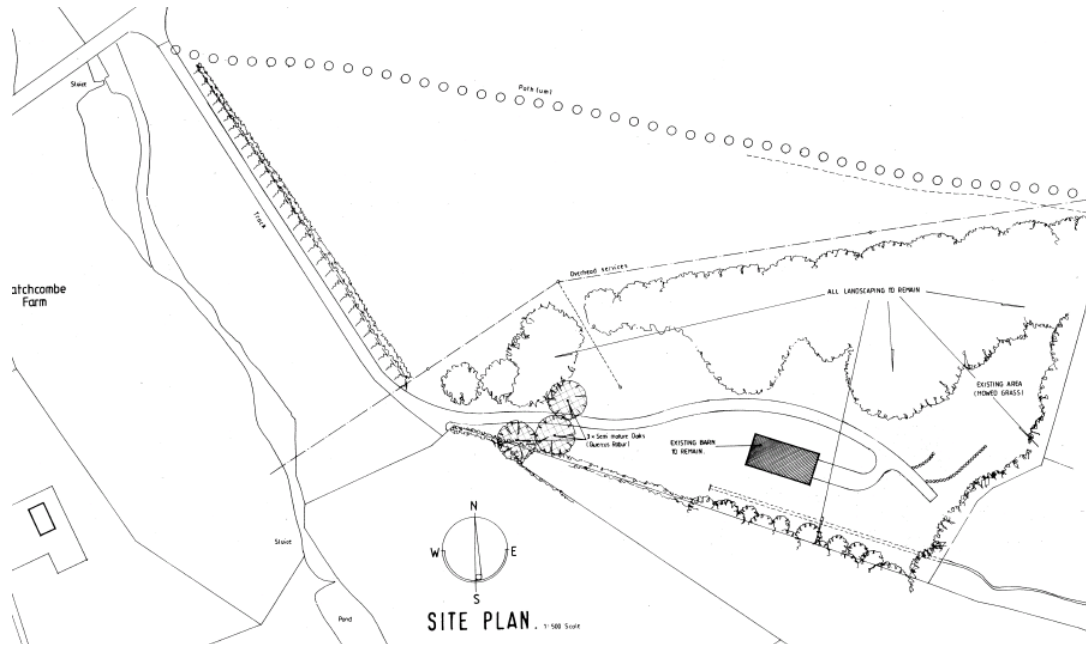
## **1. Site Description and Proposal**

- 1.1 This application is a retrospective proposal for the retention of a timber clad barn under a standing seam roof, with a footprint of 168metres square as a workshop / store.
- 1.2 Following representations received a request was made to the applicant to confirm what the barn would be used for. The applicant has confirmed that the use of the barn will be ‘the storage of Agricultural and Forestry machinery. To also include the drying and storage of Timber’.
- 1.3 The site is located within a Special Wildlife Site (SWS) referred to on the council’s records as Mallins Wood. The red line shown as the application site encompasses a significant proportion of this and amounts to 4.2 hectares.
- 1.4 The site is also located within the Malvern Hills Area of Outstanding Natural Beauty (the AONB).
- 1.5 Prior approval was granted for an L shaped building but otherwise of a similar size and scale in 2013 (see site history at Section 3). The current proposal does not accord with the plans submitted at that time and is on a smaller land holding and consequently requires the benefit of planning permission. A block plan and elevations of the building as built are shown below.
- 1.6 As can be seen from the plans, the barn is set down into the ground in part with a gable end window towards the pitch of the roof.
- 1.7 The block plan also shows a public bridleway dissecting the site in an east/west direction (CD68A). Vehicular access to the site is also gained via a public bridleway (CD65), which in turn becomes an unclassified road known locally as Batchcombe Lane.

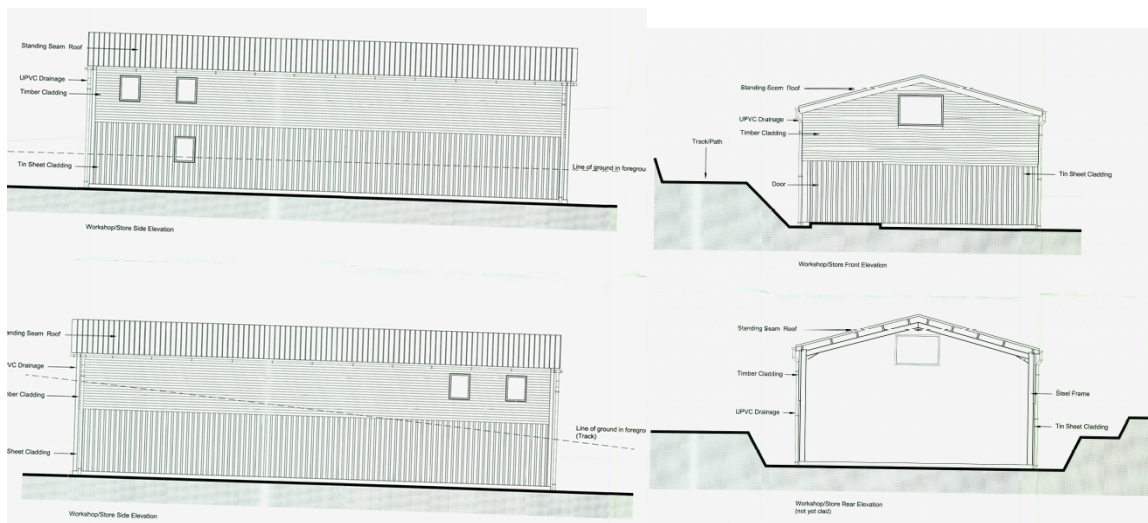
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Further information on the subject of this report is available from Mr A Banks on 01432 383085

## Block Plan



## Elevations



## 2. Policies

### 2.1 Herefordshire Local Plan - Core Strategy

SD1 – Sustainable design and energy efficiency

LD1 – Landscape and townscape

LD2 – Biodiversity and geodiversity

MT1 – Traffic management, highway safety and promoting active travel

### 2.2 Cradley Neighbourhood Development Plan – Adopted August 2017

Policy CNDP 5: Area of Outstanding Natural Beauty

Policy CNDP 6: Local Wildlife Sites

## 2.3 National Planning Policy Framework

Chapter 9 – Promoting sustainable transport  
Chapter 15 – Conserving and enhancing the natural environment

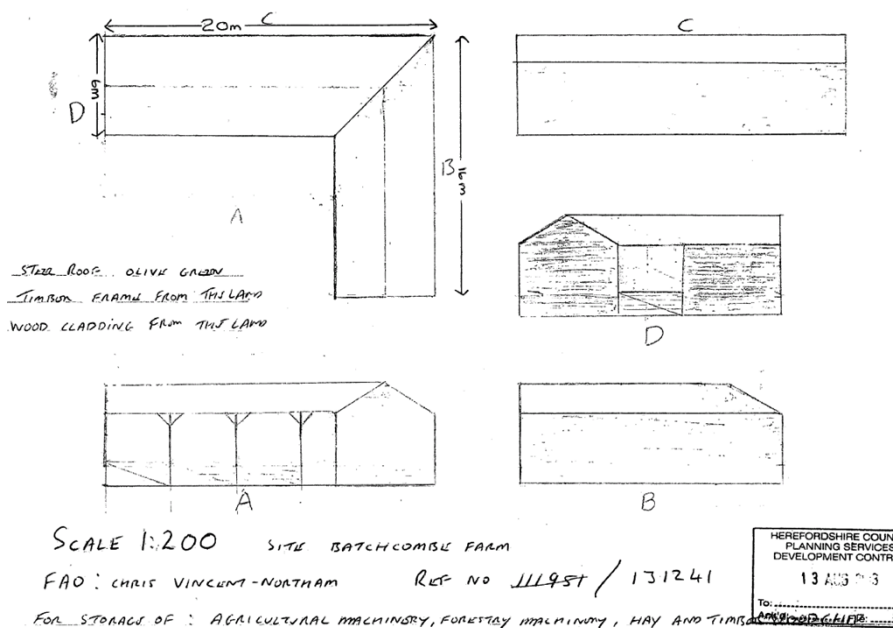
2.4 The Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

[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 P131241/S - Proposed building for the storage of farm machinery, forestry machinery, hay and wood – Determined that Prior Approval was not required on 28 October 2013.

3.2 The plans submitted at that time are shown below but, for the avoidance of doubt, the submission was based on the provision of a building with a floor area of 180 m<sup>2</sup> and a ridge height of 6.6 metres. The building was to be located in a position similar to that applied for and the submission was made on the basis that it was to serve substantively the same parcel of land.



## 4. Consultation Summary

Statutory Consultations

### 4.1 Natural England

No comments to make on this application.

Internal Council Consultations

### 4.2 Ecology

Given this is a retrospective application any potential ecological damage has already occurred and I can see no relevant comments to make.

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

#### 4.3 Public Rights of Way Officer

The storage building would not appear to affect public bridleway CD68A. No objection

#### 4.4 Environmental Health

No comments to make

### 5. **Representations**

#### 5.1 Cradley Parish Council - strongly objects to the application because:

1. The previous permission was granted in relation to the storage of agricultural equipment for use on the specific plot of land in question.
2. A condition on the previous permission stated that the building would be demolished if it was not used for the above purpose within a set period of time – it is believed that the time limit has expired and there has been no evidence of any agricultural activities on the land over many years.
3. It is understood that the farm machinery to be stored in the building is not machinery used to farm the surrounding land but is to be brought in from outside the area for commercial purposes in relation to the applicant's construction and agricultural machinery retail business in Malvern.
4. The land is within the AONB and the above proposed use therefore conflicts with Policy 5 of Cradley NDP.
5. Access to the site is down a narrow lane and because machinery is being brought to the site for storage prior to being driven out when sold on, there would be an unacceptable level of heavy traffic which is not even connected to agricultural practices within the parish.

#### 5.2 British Horse Society

The BHS has received strong representations regarding this retrospective application from local riders, who are very concerned that the development is part of the sequential intensification of traffic using the Byefield road/ access road to Batchcombe Farm which is shared with Bridleway CD65. There seems to be no other access to the application site other than this lane, which is a long single track lane, with no passing places to enable traffic to pass horse riders allowing the recommended 2 metres space between horse and rider for safety purposes.

Furthermore, the BHS has recently received reports of recent near-miss accidents involving horse riders on Bridleway CD65 and HGV vehicles. The BHS encourages the Local Planning Authority to consider, as a planning condition, the installation of highway signage (warning of horse riders) at appropriate intervals along the length of Bridleway CD65/ Byefield Road, so that drivers using the route will be encouraged to keep their vehicle speed to an appropriate and safe level.

The BHS also encourages that any future developments in the locality of Batchcombe Farm which involve further intensification of the vehicular use of Bridleway CD65/ Byefield Road should trigger liaison between the Highways Department and the Public Rights of Way Team at Herefordshire Council, or the appointment of suitable Highway consultants to consider and report on whether 'passing places' need to be installed along the length of the Byefield Road as part of a planning condition - in a similar way that condition 9 in the planning permission DCNC2007/2604/F (Chase Distillery) saw the development of passing places at Felton Parish. When considering this application, the BHS would be grateful if Officers and Members could refer to the contents of Herefordshire Councils newly revised 'Rights of Way Improvement Plan 2017-2027'. In this policy document, at 5.0 the Council's own key conclusions include to 'create safer routes away from major roads' and also 'safer areas to walk cycle and ride'.



In this same document at 3.2.10 regarding 'conflict between users of rights of way' the Council states that 'any developments to the network must take account of these potential conflicts and be planned accordingly'. To summarise, the BHS recognises that national planning policy is supportive of agricultural development in general terms, however, the BHS is also keen that the Local Planning Authority should advocate and recognise, through its planning decisions, the importance of safeguarding the functional utility of Herefordshire's existing bridleway network as encouraged by the Council's own Rights of Way Policy, so that the enjoyment of rural bridleway routes by horse riders is not affected by the pressure of development.

### 5.3 Ramblers Association

I have no objection to this application as the storage building does not appear to have any impact on Cradley Bridleway 68A.

### 5.4 Eight local residents objected to the scheme, some objectors wrote in with further comments, below is the summary of the points raised:

- Loss of the ancient woodland needs to be considered
- Trees have been felled for the barn yet on the application form it states that there haven't been
- There appears to be little or no woodland management on site yet it is stating forestry use
- The building size of 172sq m is in excess of the requirements for the size of the area of land
- The design of the barn should be questioned, it does not look like storage for hay/machinery and implements but more ready for residential conversion
- The 4.2 ha is rough pasture interspersed with woodland, this area cannot sustain agricultural activity to justify the building size
- The building is obtrusive to the local landscape in terms of size and height
- Design is out of character for the location within the AONB
- Will impact upon residential amenity of neighbouring properties
- Upper level window on the gable end overlooks our property
- It appears the site could be used more for commercial use than agricultural
- No agricultural / forestry work has taken place on site since before 2011
- Site was used in 2017 for storing plant machinery
- Any commercial activity will have a noise impact upon the local area
- There are errors within the application form
- Application states one full time employee, however there is currently no business on site
- Highway safety is an issue with the additional traffic that has been arising
- There is no agricultural / forestry justification for the barn
- The applicant has never cut hay so confused over the hay storage element
- The applicant runs a plant hire business nearby and fears are that this is additional storage for the company
- The doorway to the barn is only 3 metres which is restrictive for modern machinery
- Impact upon the AONB
- Impact upon biodiversity
- The applicant and agent stated on a site visit for the PC that the site was to be used to store machinery for his business, this is now minuted and part of public record

### 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=180573&search=180573](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180573&search=180573)

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

### Policy context and Principle of Development

- 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) and the 'made' Cradley Neighbourhood Development Plan (NDP). The NPPF is also a significant material planning consideration.
- 6.3 The provision of agricultural buildings in the countryside is generally a type of development that will be accepted as a matter of principle. The key matters to be considered will usually be the likely landscape and ecological impacts of development and these are crucial to the determination of this proposal. In addition, the use of the building is an important consideration, particularly in the context of the area of land that it is intended to serve and the objections that have been received. Notwithstanding, the applicant has advised that it is to be used for the storage of agricultural and forestry machinery and for the drying of timber.

### Landscape impact and impact of the AONB

- 6.4 Policy LD1 of the Core Strategy requires that development proposals should demonstrate that the character of the landscape has positively influenced the design, scale, nature and site selection of the development. With particular reference to AONBs, it requires that development proposals should conserve and enhance them. Policy CNDP5 of the NDP makes specific reference to the Malvern Hills AONB and reinforces the thrust of LD1 in saying that:
- Within the AONB, development will be supported where it does not adversely affect the intrinsic natural beauty of the landscape and is necessary to promote the economic and social well-being of the designated area and their communities and enhance the quality of the landscape or biodiversity.*
- 6.5 In this case the site is located in a natural depression in the landscape, surrounded by woodland trees. The land rises steeply to the north and I am satisfied that the proposal has been influenced by the landscape character; particularly in terms of the siting of the building. In this regard the proposal complies with Policy LD1 of the Core Strategy.
- 6.6 The location of the building also ensures that it does not have a demonstrable landscape impact. Having visited the site I find that it is not visually prominent within a wider context and cannot be seen from either of the public bridleways referred to in the site description. This is due to a combination of topography; with the building located in a natural depression as stated previously, and the presence of existing woodland.
- 6.7 Notwithstanding the concerns raised by local residents, I do not consider that the building gives rise to a demonstrable detrimental landscape impact. It is not visually prominent and utilises the existing topography and woodland to mitigate its effects. Accordingly I do not consider that the scheme adversely affects the AONB and am satisfied that the proposal accords with Policy LD1 of the Core Strategy and CNDP5 of the Cradley NDP.

### Ecological impacts

- 6.8 As noted earlier, the site is also located within a SWS and the NDP usefully also includes a policy that refers specifically to such areas (CNDP6). It advises that proposals that harm conservation value will not be supported unless appropriate mitigation is provided. The policy reads as follows:

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

*The extent of a Local Wildlife Site is defined on the Cradley village Policies Policy Map. Development proposals which could directly or indirectly affect this site will not be supported unless it can be demonstrated that there would be no harm to the substantive nature conservation value of the site, or that appropriate mitigation and compensatory measures can be taken, or that the reasons for the development clearly outweigh the need to safeguard the nature conservation value of the site.*

- 6.9 Policy LD2 of the Core Strategy is also of relevance in that proposals should conserve, restore and enhance biodiversity assets.
- 6.10 The council's ecologist has commented on the scheme and advises that, as the scheme is retrospective, any ecological harm that might have been identified has already taken place. Notwithstanding, and in the words of Policy CNDP6, I do not consider that the development has given rise to harm that would have a detrimental impact on the substantive nature conservation value of the site; in this case Mallins Wood. In the absence of any demonstrable harm I find no conflict with either Policy LD2 of the Core Strategy or CNDP6 of the Cradley NDP.

#### Use of the building

- 6.11 The letters of representation submitted in response to the public consultation suggest that the building is to be used in connection with the applicant's plant hire business and not for agricultural and forestry purposes. They also suggest that the land has not been actively managed in the time that the applicant has owned the land and that the building is not commensurate with the requirements to manage the 4.2 hectare holding.
- 6.12 Whilst photographs submitted by some objectors would appear to show plant hire vehicles going to and from the building in the past, I did not encounter any such use during my site visit and it does not appear to me that the building has been used for such purposes recently. The building is still partially complete, does not have a floor and is open at the far gable end:
- 6.13 As will be noted from an earlier section of this report, the council has previously accepted that a building was reasonably necessary to serve the land. The 2013 prior approval was for a slightly larger building than the one that has actually been built, albeit that the plans showed that it was to serve a marginally larger piece of land; 5.66 ha as opposed to 4.2 ha. Whilst there is a reduction in the area of land served by the building, I do not consider this to be so significant to lead the council to an entirely different conclusion now. Furthermore, at 168 square metres the building is not unduly large in the context of the land holding. I therefore conclude that the building is reasonably necessary.
- 6.14 With specific regard to use, the applicant's agent has been asked to confirm this and he has advised that the building is intended for agricultural / forestry use, and referred to the description of the development given on the application form. He has also confirmed that his client is content for a condition to be imposed on any planning permission to reflect this and ensure that the building will only be used for purposes associated with the holding as shown on the plans submitted.
- 6.15 Concerns relating to highway safety and the intensification in use of Batchcombe Lane are based on the presumption that the building will be used for plant hire. Assuming that it will be used for the purpose applied for I do not consider that there will be increased traffic movement along Batchcombe Lane to warrant the refusal of the application. On this basis I do not consider it to be reasonable to withhold permission on the assumption that the applicant will use the building in connection with his plant hire business.

## Residential Amenity

- 6.16 Some local residents have expressed concerns that the building includes a high level window in its west facing gable end and that its inclusion will give rise to a loss of privacy to their properties.
- 6.17 The building is over 200 metres away from the closest property (Batchcombe Farm) and over 250 metres from Batchcombe Mill and its associated buildings. Notwithstanding the fact that the plans do not show a first floor in the building, the distance between buildings and the topography are such that the proposal will not cause any demonstrable loss of residential amenity. I am therefore satisfied that the scheme is compliant with Policy SD1 of the Core Strategy in this regard.

## Planning Balance and Conclusions

- 6.19 The principle of there being a building to be used for agricultural and forestry purposes to serve the land has previously been accepted. Whilst the area of land now served is reduced, it is not considered that this is so significant as to lead to a different conclusion.
- 6.20 The site is discreetly located and the proposal does not cause demonstrable harm to the setting of the AONB or the surrounding area. Again the Council previously accepted that the erection of a similarly sized building in the same location was acceptable in terms of landscape impact and there has been no change in circumstances to lead to a different conclusion.
- 6.21 Whilst the concerns raised about the use of the building are acknowledged, this can be readily addressed through the imposition of an appropriately worded planning condition. The scheme does not give rise to any demonstrable loss of residential amenity to nearby properties and will not result in an unacceptable increase in vehicle movements along Batchcombe Lane. There are no other matters of such weight to warrant the refusal of the application and on this basis the recommendation is for approval.

## **RECOMMENDATION**

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

- 1. C06 - Development in accordance with the approved plans**
- 2. The building hereby approved shall only be used for agricultural and forestry as defined by Section 336 of the Town & Country Planning Act 1990 only for purposes in connection with the land holding as shown on the approved location plan 598/01 and for no other purpose.**

**Reason: In order to define the terms of this permission, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

## **INFORMATIVE:**

- 1. IP1 – Standard informative.**

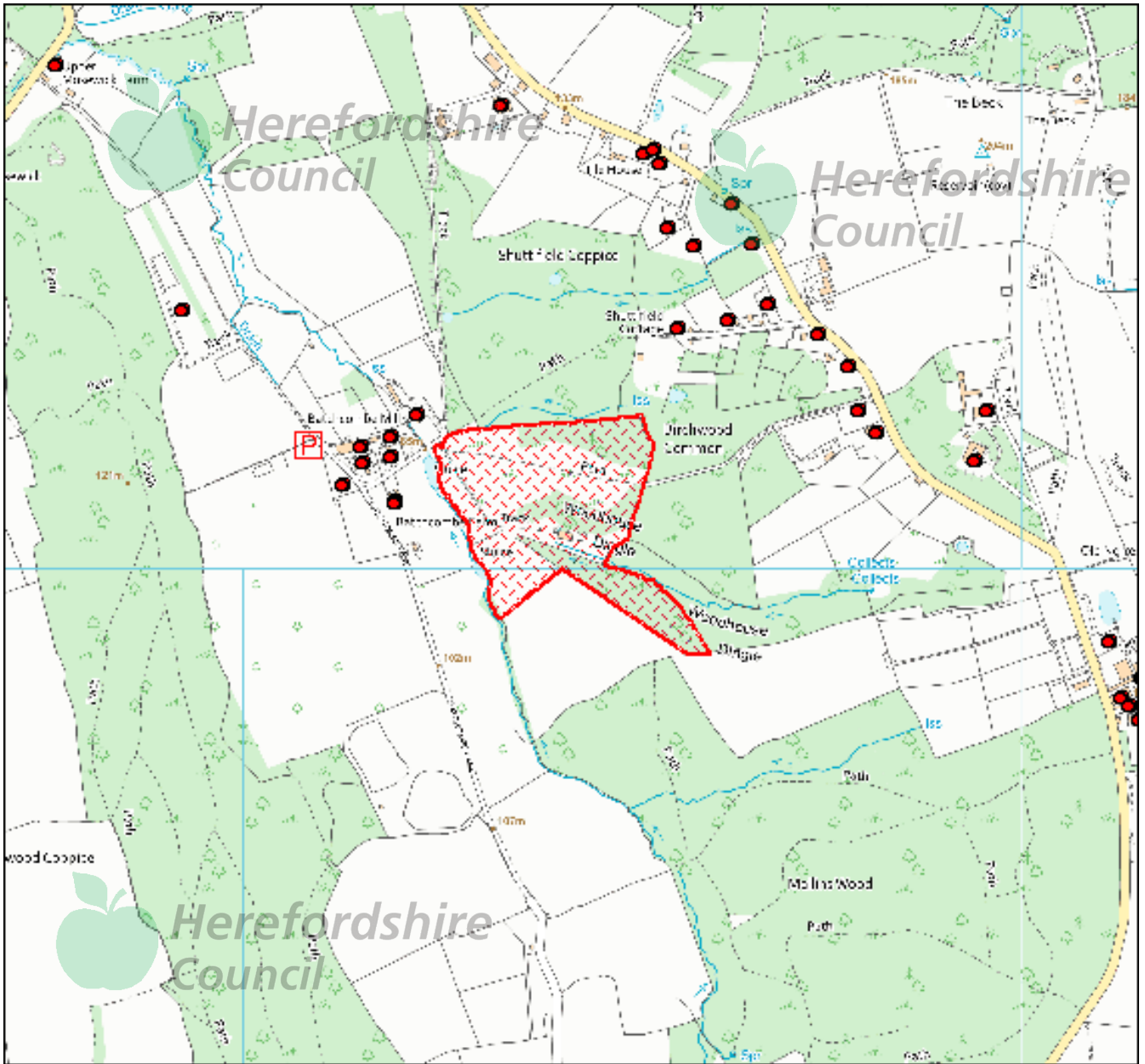
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 180573

**SITE ADDRESS :** LAND AT SHUTTFIELD COPPICE, STORRIDGE, MALVERN, WORCESTERSHIRE

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