

Agenda

Planning and regulatory committee

Date: **Wednesday 15 July 2020**

Time: **10.30 am**

Place: **online only meeting**

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

For any further information please contact:

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

Agenda for the meeting of the Planning and regulatory committee

Membership

Chairperson Councillor John Hardwick
Vice-Chairperson Councillor Alan Seldon

Councillor Graham Andrews
Councillor Paul Andrews
Councillor Polly Andrews
Councillor Toni Fagan
Councillor Elizabeth Foxton
Councillor Bernard Hunt
Councillor Terry James
Councillor Tony Johnson
Councillor Mark Millmore
Councillor Jeremy Milln
Councillor Paul Rone
Councillor John Stone
Councillor Yolande Watson

Agenda

		Pages
1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive 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>MINUTES</p> <p>To approve and sign the minutes of the meeting held on 24 June 2020.</p>	11 - 24
5.	<p>CHAIRPERSON'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairperson.</p>	
6.	<p>191449 - NEW HOUSE, CUSOP, HAY-ON-WYE, HR3 5TG</p> <p>Siting of shepherd hut to provide tourist accommodation including construction of new vehicular access and associated landscaping works.</p>	25 - 44
7.	<p>200680 - THE HAY MEADOW, PRESTON WYNNE, HEREFORD, HR1 3PE</p> <p>Erection of domestic outbuilding for purposes incidental to the enjoyment of The Hay Meadow, including associated extension to the residential planning unit.</p>	45 - 62
8.	<p>201209 - 3 AVOCET ROAD, HOLMER, HEREFORD, HR4 9WA</p> <p>Proposed ground floor extension to the rear elevation and create a covered link to the home office garage. Internal alterations to ground floor of garage to form room with access to storage area.</p>	63 - 68
9.	<p>DATE OF NEXT MEETING</p> <p>Date of next meeting – 5 August 2020</p>	

The Public's Rights to Information and Attendance at Meetings

Herefordshire Council is currently conducting its public committees, including the Planning and Regulatory Committee, as "virtual" meetings. These meetings will be video streamed live on the internet and a video recording maintained on the council's website after the meeting. This is in response to a recent change in legislation as a result of COVID-19. This arrangement will be adopted while public health emergency measures including, for example, social distancing, remain in place.

Meetings will be streamed live on the Herefordshire Council YouTube Channel at

<https://www.youtube.com/HerefordshireCouncil>

The recording of the meeting will be available shortly after the meeting has concluded on the Planning and Regulatory Committee meeting page on the council's web-site.

<http://councillors.herefordshire.gov.uk/ieListMeetings.aspx?CId=264&Year=0>

YOU HAVE A RIGHT TO: -

- Observe all "virtual" 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. (These will be published on the Planning and Regulatory Committee meeting page on the council's web-site. See link above).
- 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. (These will be published on the Planning and Regulatory Committee meeting page on the council's web-site. See link above).
- 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 access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Access to this summary of your rights as members of the public to observe "virtual" meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect documents.

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 John Hardwick (Chairperson)	Herefordshire Independents
Councillor Alan Seldon (Vice-Chairperson)	It's Our County
Councillor Graham Andrews	Herefordshire Independents
Councillor Paul Andrews	Herefordshire Independents
Councillor Polly Andrews	Liberal Democrat
Councillor Toni Fagan	The Green Party
Councillor Elizabeth Foxton	It's our County
Councillor Bernard Hunt	True Independents
Councillor Terry James	Liberal Democrat
Councillor Tony Johnson	Conservative
Councillor Mark Millmore	Conservative
Councillor Jeremy Milln	The Green Party
Councillor Paul Rone	Conservative
Councillor John Stone	Conservative
Councillor Yolande Watson	Herefordshire Independents

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?

The following attend the committee:

- Members of the committee, including the chairperson and vice chairperson.
- Officers of the council – to present reports and give technical advice to the committee
- Ward members – The Constitution provides that the ward member will have the right to start and close the member debate on an application.

(Other councillors - may 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. The case officer will then give a presentation on the report.

The registered public speakers will then be invited to speak in turn (Parish Council, objector, supporter). (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 Council's Constitution provides that 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 (see note below)

- 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.

(Note: The public speaking provisions have been modified to reflect the “virtual” meeting format the Council has adopted in response to a recent change in legislation as a result of COVID-19. Those registered to speak in accordance with the public speaking procedure are able to participate in the following ways:

- *by making a written submission*
- *by submitting an audio recording*
- *by submitting a video recording*
- *by speaking as a virtual attendee.)*

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 in the Council's Constitution (Part 5 section 6).

In the case of the ward member being a member of the Committee they will be invited to address the Committee for that item and act as the ward member as set out above. They will not have a vote on that item.

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 as an online only meeting on Wednesday 24 June 2020 at 10.30 am

Present: Councillor John Hardwick (chairperson)
Councillor Alan Seldon (vice-chairperson)

Councillors: Graham Andrews, Paul Andrews, Polly Andrews, Toni Fagan, Elizabeth Foxton, Kema Guthrie, Bernard Hunt, Terry James, Tony Johnson, Mark Millmore, Jeremy Milln, Paul Rone and Yolande Watson

120. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Stone.

121. NAMED SUBSTITUTES

Councillor Guthrie substituted for Councillor Stone.

122. DECLARATIONS OF INTEREST

None.

123. MINUTES

The accuracy of the minutes in relation to application 192711 was questioned with regard to the reference to the impact of the proposal on the line of the former Golden Valley Railway. (Minute no 118 refers). Whilst it had been stated that the impact on the line of the former Golden Valley Railway had not been considered because it was not a designated heritage asset, it should also have been reported that it was a non-designated heritage asset and therefore was a material planning consideration.

RESOLVED: That the minutes of the meeting held on 3 June 2020 be approved as a correct record and signed by the Chairperson.

124. CHAIRPERSON'S ANNOUNCEMENTS

None.

125. 191958 - LAND AT BROAD OAK, HEREFORD

(Erection of two residential dwellings (C3) with associated access and infrastructure.)

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

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

In accordance with the criteria for public speaking for virtual meetings, Mr A Hall, a local resident submitted a written submission in opposition to the scheme that was read to the meeting by the legal adviser to the Committee. Mr S Leaver, the applicant's agent, spoke in support of the scheme, as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Fagan, spoke on the application. In summary, she commented that, whilst very concerned by aspects of the application, in the absence of objections from statutory and internal consultees she could not advance policy grounds for refusal. She requested that there should be strengthened informatives/conditions in relation to controlling drainage.

The Committee discussed the application.

The Lead Development Manager summed up the principal considerations. He commented that informative 9 as set out in the recommendation addressed the point raised by Councillor Fagan about controlling drainage.

The local ward member was given the opportunity to close the debate. She reiterated her concern to ensure that drainage was effectively controlled by conditions with appropriate informative.

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. **C01 Time limit for commencement (full permission)**
2. **C07 Development in accordance with approved plans and materials**
3. **C13 Samples of external materials**
4. **CBK – Hours of construction**
5. **C58 - Domestic use only of garage**
6. **CAB - Visibility Splays**
7. **CAD - Access gates – 5m**
8. **CAE - Vehicular access construction**
9. **CAH - Driveway gradient**
10. **CAI - Parking – single/shared private drives**
11. **CAT - Construction Management Plan**
12. **CB2 - Secure covered cycle parking provision**
13. **CK3 – Landscape scheme**
14. **CK4 – Landscape maintenance plan**
15. **CE6 – Efficient use of water**

16. **CDA – Clear area adjacent to watercourse**
17. **CBM – Scheme of foul and surface water drainage strategy**
18. **All foul water shall discharge through connection to new private foul water treatment systems with final outfall to suitable soakaway mound drainage field on land under the applicant's control as approved through Environment Agency Discharge Permits (EPR/QB3294WC and EPR/PB3792AR or any subsequent permits so issued) 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 (2019), NERC Act (2006), and Herefordshire Core Strategy (2015) policies SS6, LD2 and SD4

19. **All surface water shall discharge to appropriately sized attenuated Sustainable Drainage Systems 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 (2019), NERC Act (2006), and Herefordshire Core Strategy (2015) policies SS6, LD2 and SD3

20. **Within 3 months of completion of the works approved under this planning decision notice evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least TWO Bat roosting enhancements, FOUR bird nesting boxes and TWO Hedgehog habitat homes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any habitat enhancement or boundary feature.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Core Strategy LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

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. **I11 – Mud on highway**
3. **I09 – Private apparatus within the highway**
4. **I45 – Works within the highway**
5. **I05 – No drainage to discharge to highway**

6. **I47 – Drainage other than via highway system**
7. **I35 – Highways Design Guide and Specification**
8. **Wildlife Protection and Biodiversity ‘net gain’ Informative**
9. **Well maintained watercourses, (which include drainage ditches), are a major means of protecting against flooding. The provisions of the Land Drainage Act 1991 as amended, and the common law, requires landowners, with a watercourse (or ditch) running through or adjacent to their land, to ensure that the watercourse is in such a condition that the proper flow is not impeded. Balfour Beatty Living Places working on behalf of Herefordshire Council are responsible for ensuring that most ordinary watercourses in Herefordshire, (i.e. those that exclude main rivers), are maintained to allow for this free flow of water. The proposed development includes an open ditch running through land owned solely by plot 2. The homeowner must be aware that this ditch must not be culverted without consent granted by Herefordshire Council under Section 23 of the Land Drainage Act 1991 (as amended by the Flood and Water Management Act 2010).**

126. 194052 - LEMS FORD, BROAD OAK, HEREFORDSHIRE, HR2 8DZ

(Site for the erection of one detached dwelling and two bungalows.)

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

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

In accordance with the criteria for public speaking for virtual meetings, Mr K Wise, a local resident submitted a written submission in opposition to the scheme that was read to the meeting by the legal adviser to the Committee. Mrs J Joseph, the applicant's agent, spoke in support of the scheme as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Fagan, spoke on the application. In summary, she outlined a number of policy grounds for refusing the application. She considered the substantial harm outweighed any benefits. She highlighted the objection of the Council's Senior Landscape Officer. She also noted the grounds for refusal of a nearby application for housing development. If the Committee were not minded to refuse the application she requested that consideration of the application be deferred to allow a site visit to be held to assess the landscape impact.

The Committee discussed the application.

The Lead Development Manager summed up the principal considerations.

The local ward member was given the opportunity to close the debate. She reiterated her concern about the substantial impact of the proposal. She supported a site visit.

A motion that the application be approved was lost.

RESOLVED: That consideration of the application be deferred pending a site visit.

127. 201103 - 16 CORNEWALL STREET, HEREFORD, HEREFORDSHIRE, HR4 0HF

(Proposed variation of conditions 2 & 3 of planning permission 153764 (proposed extension, dormer loft conversion and replacement of conservatory/lean to with glazed extension) to construct a single roof over the proposed first floor and existing bathroom, and to alter the cladding materials.)

The Planning Officer gave a presentation on the application.

In accordance with the Council's Constitution, the local ward member, Councillor Toynee had written stating her support for the officer recommendation to approve the application.

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. Time limit for commencement (full permission)
2. C07 (002/1/15, 005A/1/15 006A/1/15 and 007A/1/15)
3. CBK

INFORMATIVES:

1. IP1

128. DATE OF NEXT MEETING

Noted.

Appendix - Schedule of Updates

The meeting ended at 1.30 pm

Chairperson

PLANNING AND REGULATORY COMMITTEE

Date: 24 June 2020

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

191958 - ERECTION OF TWO RESIDENTIAL DWELLINGS (C3) WITH ASSOCIATED ACCESS AND INFRASTRUCTURE AT LAND AT BROAD OAK, HEREFORD,

For: Mrs Chambers per Mr Stuart Leaver, Singleton Court Business Park, Wonastow Road, Monmouth, NP25 5JA

ADDITIONAL REPRESENTATIONS

On 18 June the following general comment/query was submitted by a neighbouring resident, who has already made representations on the application.

I am confused as to how you can recommend a planning condition requiring development in complete accordance with the approved plans when those plans still detail a drainage scheme that your Drainage Consultant finds unsatisfactory. Of course in condition 17 you then ask for further drainage details. It appears flawed in that any developer could never comply with both conditions (as we know that the Drainage Engineer will require details that depart from the "approved drawings").

In response to concerns raised by the validity of the Habitat Regulations Assessment (HRA) undertaken prior to the further objection made by the Land Drainage Engineer, the Planning Ecologist has made the following further comments;

The exact distances from buildings is not a constraint in regards of HRA process, in particular as the scheme has already demonstrated the required level of scientific (and legal) compliance:

- *The River Wye is not failing its conservation status.*
- *Broad Oak is on the edge of the SAC catchment an in an area identified as low risk from all information available to the LPA*
- *The Environment Agency have confirmed through their licensing process that a mound system is appropriate and achievable*
- *A mound soakaway system is compliant with relevant national water regulations and local Core Strategy policies SD4-LD2 hierarchy of drainage systems*
- *Foul water soakaways from individual or very small developments only manage a steady and very small flow of previously treated water*
- *In different circumstances it would be acceptable on all accounts (general binding rules and HRA/Core Strategy compliance) for this outfall from a package treatment plant to be discharged directly in to the adjacent watercourse. (it is only the lack of a normal flow of water that makes this unacceptable)*
- *The LPA has no planning reason to consider that the proposed foul water drainage scheme cannot be achieved.*
- *No revised HRA process is triggered based on the additional comments from drainage on 8th June.*

Following the above, an amended site plan accompanied by a covering letter was received on Monday 22 June. This seeks to address the comments made by the Land Drainage Engineer and sets the garages 7 metres from the proposed drainage mound. The Council's Land Drainage Engineer has commented on the submission as follows;

We note the proposal to move the garages to achieve 7m clearance to the mound and remove our objection

The proposal involves using pumps to deliver water into the mound. It is more common to install a drainage mound on low lying land and to rely on gravity to deliver the water. There is no guidance in the respective design guidance relating to how this may be achieved.

The design delivered on site will need to ensure that infiltration into the ground occurs “at a controlled rate” (as referenced in British Water documentation). The applicant needs to be aware that if the drainage system is not designed correctly then there may be practical difficulties with water leaking and ponding when the drainage mound cannot cope with the water that is being delivered by the pumps.

We would suggest that the applicant considers oversizing the perforated pipes in the drainage mound to create additional storage capacity in the drainage mound. This would involve deviating from the standard detail in the building regulations.

There will also be difficulties in delivering a small amount of water into the pond on a frequent basis, if a conventional pump is used it will stop and start multiple times each day and so will wear out more quickly than if the pumps only ran occasionally. The applicant would need to consider a suitable pump specification, an alternative to a conventional pump may be a Low Volume Pump (supplied from a manufacturer such as Mono) that is less efficient but more durable.

The detail above (promoted to reduce the likelihood of sewage pollution) could be requested via condition.

Following the above, an additional further query has been raised by a neighbouring resident as follows;

I understand that an amended site plan was received early this morning which re-sites the garages for the above application and that this amended plan is currently with BBLP for your Drainage Engineer’s urgent comments.

Please could I request that you forward me a copy of the amended plan (including details of how far the garages have moved) and also any response you receive from Joel Hockenull?

OFFICER COMMENTS

Firstly, noting the query raised by the neighbouring resident, it is commented that the submitted drainage drawing is indicative in nature, purely illustrating the ability to achieve the proposed drainage strategy within the extent of the application site. As such, this would not be included as an ‘approved drawing’ at Condition 2. The applicant would be required to submit full foul and surface water drainage details which would be subject to approval by the Local Planning Authority, before commencing any development on the site. This is set out at Condition 17 of the officer’s report.

The amended site plan re-positions the proposed garages slightly to the east and this amendment to the layout of the site is considered to be non-material, raising no new planning considerations which have not already been subject to assessment. The further comments made by the Land Drainage Engineer confirm the acceptability of the proposed drainage strategy, subject to details which would be secured by way of condition. Furthermore and referring to the comments of the Planning Ecologist, the Habitat Regulation Assessment (HRA) undertaken can be confirmed as valid and need not be reviewed.

Finally, it is confirmed that the submitted amended plan and the Land Drainage response has been forwarded to the concerned neighbouring resident and these details are available to view on the relevant planning page of the Council's website.

NO CHANGE TO RECOMMENDATION

194052 - SITE FOR THE ERECTION OF ONE DETACHED DWELLING AND TWO BUNGALOWS AT LEMS FORD, BROAD OAK, HEREFORDSHIRE, HR2 8DZ

For: Messrs Partridge per Mrs Julie Joseph, Trecorras Farm, Llangarron, Ross-On-Wye, Herefordshire HR9 6PG

ADDITIONAL REPRESENTATIONS

On 22 June the following general comment/query was submitted by a neighbouring resident, who has already made representations on the application.

I refer to the above planning application scheduled to be reported to Planning Committee on Wednesday.

I am obviously disappointed by the recommendation because I fail to understand the rationale behind your exercise of "the planning balance". In my opinion, the harm to the character and appearance of the landscape is substantial and any benefits from the provision of housing at Broad Oak are at best marginal. In that respect I make the following points:

- A. *Your own report (para. 6.38) clearly says that "there may not be an acute shortage of housing in the Parish". I have to say that I am slightly confused as to why you use the words "may not be" as opposed to "is not";*
- B. *You state in para 6.37 that:- "The Parish of Garway has fared reasonably well in regards to housing provision of the Core Strategy plan period". I fail to understand why you use the words "fared reasonably well" as opposed to "very well already exceeding the proportional growth target until 2031". There is very clearly a contradictory approach to the report written in relation to refused application P191775/PIP.*
- C. *Clearly there is not a need for further housing within the Parish of Garway and Broad Oak specifically. There may be a further need in Herefordshire as a whole but that further growth should be directed to those Parishes and Towns where the proportional growth target has not been met; and*
- D. *Notwithstanding, a) b) and c) above, this development would make little contribution to addressing any shortfall in Herefordshire as a whole.*

Failure to address Tree issue

Notwithstanding the above, any report to a Planning Committee must address all the material planning considerations. If material planning matters are not addressed then third parties may mount a legal challenge via a judicial review to the High Court.

Within the views of the Senior Landscape Officer, a matter other than the character and appearance of the landscape is raised. That matter relates to trees. The Senior Landscape Officer states:-

"In terms of the indicative layout proposed the driveways would require gaps and widening in the important roadside hedgerow, which is a key landscape feature as well as an important biodiversity corridor. The large mature tree is shown for retention within Plot 2 but it's long term viability could be put at risk as it is not an ideal size and species for a garden tree, as well as potential root damage due to hedgerow works to create a visibility splay.

The application lacks any demonstration that the character of the landscape has positively influenced the site selection for residential development. It does not conserve or enhance the natural environment or protect the area's character. The indicative location of new hedgerows would need to be fully specified, but does not off-set the intrusive increase in built infrastructure. A tree and hedgerow survey in accordance with BS5837:2012 would be required."

Of course the layout is not indicative, as layout is not a reserved matter. The Officer Appraisal does not address the tree issue at all. I therefore ask you:-

- a. Was the agent for the applicant requested to provide a BS5837:2012?*
- b. Was your Tree Officer (Oliver Kaye) consulted?*

If not, I respectfully suggest that this application must be withdrawn from the agenda on Wednesday to allow for:

- a. A BS5837:2012 Assessment to be submitted; and*
- b. Your Tree Officer (Oliver Kaye) be consulted.*

Clearly in the absence of a BS5837:2012 your Tree Officer could not undertake a "desk top" assessment as he would need to visit the site and inspect the tree to ascertain its species, height, girth etc to establish the root protection area required.

On 23 June the following general comment/query was submitted by a neighbouring resident, who has already made representations on the application.

Firstly, with regard both applications I would point Members to a recent (29th October 2019) previous refusal of a planning application (P191775/PIP) at Broad Oak for two further dwellings where a ground of refusal was:-

" The amount of development when assessed in combination with the existing approved residential development allowed in Broad Oak is not considered to represent proportionate growth relative to the size off settlement and the limited facilities available. The proposal is therefore contrary to policy RA2 of the Herefordshire Local Plan Core strategy, Policy GA2 of the emerging Garway Neighbourhood Development Plan and the National Planning policy framework."

That refusal was clearly stating that a further two dwellings at Broad Oak would represent disproportionate growth.

It therefore must be the case that the same applies to the two applications under consideration on Wednesday.

With due respect your Officers appear to be inconsistent.

What is even more worrying is that the refusal I refer to is currently at appeal and clearly granting permission of one or both of the applications under consideration on Wednesday may prejudice the Council's case at appeal.

The only matter that has changed since 29th October 2019 is the fact that the emerging Garway NDP has advanced further and is now at Examination.

I would point out that:-

- a. *No objections were raised to Policy GAR1 of the Regulation 16 Garway NDP as a result of the consultation that ran from the 14th February 2020 to March 2029; and*
- b. *No objections were raised to Map 2 (Broad Oak Village Proposals Map) of the Regulation 16 Garway NDP as a result of the consultation that ran from the 14th February to 27th March 2020. In fact there was one representation of support.*

As such, considerable weight should be afforded to the Regulation 16 Garway NDP as far as it relates to Broad Oak and specifically these applications.

PLANNING APPLICATION 194052 – Lemsford, Broad Oak

With regard the above application I urge Members to read with care the objection from your own experienced Senior Landscape Officer (Amanda Neil) at paragraph 4.7. This is a very strong landscape objection. The proposal is clearly creeping ribbon development. And the gaps in the roadside hedge would negatively impact upon landscape character. Significantly the Senior Landscape Officer states that a tree and hedgerow survey in accordance with BS5837:2012 is required and expresses concerns as to whether a large mature tree in Plot 2 shown to be retained could viably be retained. No such BS5837:2012 Assessment has been submitted and incredibly it appears that the Council's own Tree Officer (Oliver Kaye) has not even be consulted.

The application should clearly be refused on the basis of on the same disproportionate ground as P191775/PIP and refused on the basis of its impact upon the character and appearance of the landscape contrary to policies LD1 and LD3 of the Core Strategy. If the application is not refused it should be deferred requiring the submission of a BS5837:2012 tree and hedgerow assessment and for the Tree Officer (Oliver Kaye) to be consulted.

Planning application P191775/PIP, currently at appeal, had a landscape ground of refusal. To permit this scheme where there is a strong landscape objection from your own professional landscape officer could clearly undermine the Council's case on the appeal relating to P191775/PIP.

Finally, I have noticed an increasing trend that Officers at Herefordshire Council appear to recommend almost all housing applications for approval whatever the environmental cost. These are both cases where there are strong objections from professional internal consultees but once again the need for housing trumps the environmental objections.

However, it is worth noting that even in paragraph 6.38 of the report in relation to 194052 the Officer acknowledges that there is not an acute shortage of housing in the Parish. Indeed I would contend that there is not a further need in Garway Parish (although there maybe elsewhere in Herefordshire). The indicative housing growth figure of 14% until 2031 (not 2020!) has already been exceeded in the Parish of Garway and the hamlet of Broad Oak specifically. These are both cases where I respectfully consider that the Officers have the "planning balance" wrong.

In the light of the above, I sincerely hope that you feel able to oppose the above two planning applications at Planning Committee next Wednesday.

OFFICER COMMENTS

Firstly in response to the points made regarding the planning balance and delivery of housing in the Parish of Garway. While the Core Strategy sets out the Rural Housing Distribution via Policy RA1 it is clear that the figures are indicative targets and do not form the upper limit in terms of housing numbers. Rather the Development Plan seeks to ensure development is proportionate and led locally via the Neighbourhood Plan process, in line with the guidance of the National Planning Policy Framework (NPPF). The Neighbourhood

Plan is given moderate weight in the recommendation in line with Paragraph 48 of the NPPF, as it has not undergone independent examination, as such conflict with it does not engage paragraph 14. As such the tilted balance at 11(d)(ii) remains engaged in earnest which is how the application has been assessed. The application site lies adjacent to the main built form of the settlement and has a clear relationship to it, there are material differences in this vein to the refused P191775/PIP (subject of an undetermined appeal)

Secondly in regards to the Oak Tree and the Senior Landscape Officer's comments, if this was not made explicitly clear in the Officer's Report, the comments were certainly taken into account in formulating the recommendation and formulation of conditions. This is an outline application and so a reserved matters application will be required prior to the commencement of works. This is controlled via recommended condition 3 which requires the submission of, among other things, landscape details. Condition 15 specifies the details required which includes:

- a) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.

This is as a result of the Landscape Officer's comments and any submission under this condition would be reviewed and assessed by the Council's arboriculture specialist.

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	15 JULY 2020
TITLE OF REPORT:	191449 - SITING OF SHEPHERD HUT TO PROVIDE TOURIST ACCOMMODATION INCLUDING CONSTRUCTION OF NEW VEHICULAR ACCESS AND ASSOCIATED LANDSCAPING WORKS AT NEW HOUSE, CUSOP, HAY-ON-WYE, HR3 5TG For: Mr Rose per Mr Barry Rose, New House, Hay-on-Wye, Hereford, Herefordshire HR3 5TG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191449&search=191449
Reason Application submitted to Committee – Redirection	

Date Received: 24 April 2019

Ward: Golden Valley
North

Grid Ref: 326583,240193

Expiry Date: 4 July 2019

Local Member: Councillor Jennie Hewitt

1. Site Description and Proposal

- 1.1 The application site is located to the north of the C1205 which runs from the east of Cusop to Michaelchurch Escley. The site itself comprises of an agricultural field and benefits from hedgerow and vegetation on all boundaries with an outbuilding associated with New House, the residential dwelling to the east, forming part of the eastern boundary. There is common land located to the east of New House (New House Patch) and New House Wood to the south of the road and across from the site.
- 1.2 New House is within the applicant's ownership who also runs a small Bed & Breakfast business from one of the rooms therein. At this level, there is not a material change of use and planning permission is not required for this function.
- 1.3 This planning application seeks permission for the siting of one shepherds hut along with landscaping and a new access at a central location within the roadside boundary. While there is an existing access in the south east corner of the site onto the C1205, this will be closed as part of the application in order to provide an improved vehicular access in terms of highways safety.
- 1.4 Below is the submitted block plan and shows the site layout along with the relationship with New House and the road:

 Further information on the subject of this report is available from Mr Simon Withers on 01432 260612



Proposed Site Plan
1 : 500

2. Policies

2.1 Herefordshire Local Plan – Core Strategy (CS):

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS5	-	Employment Provision
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA6	-	Rural Economy
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
E1	-	Employment Provision
E4	-	Tourism
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality

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

2.2 National Planning Policy Framework (NPPF):

Chapter 2	-	Achieving sustainable development
Chapter 4	-	Decision making
Chapter 6	-	Building a strong, competitive economy
Chapter 8	-	Promoting healthy and safe communities
Chapter 9	-	Promoting sustainable transport
Chapter 12	-	Achieving well designed places
Chapter 14	-	Meeting the challenge of climate change, flooding and coastal change
Chapter 15	-	Conserving and enhancing the natural environment

2.3 Cusop Neighbourhood Development Plan (NDP) (Made 1 December 2017)

Policy 1	-	Settlement Boundary
Policy 8	-	Parking.
Policy 11	-	Employment-generating proposals outside the Settlement Boundary
Policy 12	-	Cusop Hill
Policy 15	-	Avoiding Light Pollution
Policy 16	-	Design

https://www.herefordshire.gov.uk/download/downloads/id/11080/neighbourhood_development_plan_august_2017.pdf

3. **Planning History**

- 3.1 182146/F – Proposed change of use of land to allow the placement of two self contained shepherd huts on case iron on cast iron wheels. Refused

4. **Consultation Summary**

Statutory Consultations

4.1 **Natural England** – no objection

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

Internal Council Consultations

4.2 **Team Leader Area Engineer** – no objection

No objections to the proposed, the site provide an improved access to the existing access to the site. . Please conditions as follows

CAB - Visibility Splays : - 2 x 48m eastbound, 49.6 x 2 m westbound
CAD - Access gates
CAE - Vehicular access construction
CAH - Driveway gradient
CAI - Parking – single/shared private drives
CAT - Construction Management Plan
CB2 - Secure covered cycle parking provision

I11 – Mud on highway
I05 – No drainage to discharge to highway
I47 – Drainage other than via highway system
I35 – Highways Design Guide and Specification

4.3 **Principal Natural Environment Officer (Ecology) – no objection**

Initially commented (29 May 2019):

The location of the site and being within the River Wye SAC catchment triggers a Habitat Regulations Assessment process. The required appropriate assessment submitted by the LPA must be formally ‘approved’ by Natural England PRIOR to any grant of planning consent. The relevant mitigation must be secured through a condition on any planning consent granted:

Habitat Regulations (River Wye SAC-SSSI) – Foul and Surface Water Management

All foul water shall discharge through connection to existing septic tank private foul water treatment system; and any additional surface water shall discharge to appropriate soakaway-infiltration features; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2018), National Planning Policy Framework, NERC Act (2006), NPPF (2019) and Herefordshire Council Core Strategy (2015) policies LD2, SD3 and SD4.

From information supplied and images available there are no immediate ecology related concerns with this proposal. There are no ecological records of important or Protected Species immediately on or adjacent to the site. The applicant and their contractors have their own legal duty of care towards wildlife protection under UK Legislation that applies throughout any demolition and construction process. Any breach of this legal Duty of Care would be a criminal offence. In this instance this LPA has no reasonable cause to require further information as part of the planning application or include a specific ecology protection condition. However a relevant information note is requested.

Wildlife Protection Informative

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained. Any external lighting shouldn’t illuminate any ‘natural’ boundary feature or increase night time sky illumination (DEFRA/NPPF Dark Skies Guidance 2019/2013).

Commented further on 25 February 2020:

I note hedgerow is being translocated to behind visibility splay so a minimal length will be lost to create the new access. If not within a planning application then this creation of a new access (not any translocation) would be exempt from any requirements under the Hedgerow Regulations 1997. We could perhaps consider a condition to ensure translocated hedgerow is managed, maintained as necessary gapped up for 10 years to ensure full and proper establishment – similar with any new planting.

Eg: “The translocated length of hedgerow and all new planting shall be gapped up, dead plants replaced like for like and the planting managed and maintained in line with all best practice guidance for a minimum of 10 years from completion of works and planting on the site – unless otherwise approved in writing by the LPA”

Reasons: To ensure establishment of ecological mitigation and enhancement features in compliance with Conservation of Habitats and Species Regulations, NPPF, NERC Act, Core Strategy SS6, LD1-3

I cannot see any indications that any significant trees within the hedgerow are proposed to be removed. The trees indicated for retention could be secured by a relevant standard condition if we want to be sure.

Thus any potential wildlife connectivity created by the hedgerow is maintained with retained trees acting as additional 'beacons' for wildlife to follow. This wildlife value is actually enhanced by the proposed additional corner copse planting and 'thickening' of the hedgerow.

There is no indication of any identified Habitat of Principal Importance (Priority Habitats) such as woodland within the site boundary based on latest mapping data we have from Natural England/Forestry Commission.

And further the same date:

Sorry there is a strip of deciduous woodland - likely an overgrown hedgerow or a fragmented line of hedgerow trees – but the mapping confidence is low on this so likely a fragment created by the GIS process NE/FC use for the forest inventory (2014) entry it relates to – likely as the trees on aerial images create a bigger looking area than a basic hedgerow would. Not recorded as any form of 'Ancient' woodland just means there are trees present - so no significant consideration and as only indicated as thin strip I would treat this as a hedgerow in all respects.

Looking on street view, clearly just a hedgerow.

Interestingly the mixed plantation woodland shown on mapping and as established trees on 2016 aerial images and street view on opposite side of the road has no habitat records associated with it.!

Suggest we just secure proposal with conditions. With this retained and woodland opposite no issues of habitat connectivity lost in any way + new planting is the Bio Enhancement.

4.4 Principal Natural Environment Officer (Trees) – no objection

Initially commented on 5 February 2020:

I confirm that I do not have an objection to the proposed siting of shepherd hut to provide tourist accommodation including construction of new vehicular access and associated landscaping works.

The proposals are, in my opinion to be complaint with policies LD1 & LD3.

Commented further on 25 February 2020:

From what I can see the quality of individual trees isn't great and as James says we can include a condition to make sure only identified trees are removed.

Condition
CKA Retention of existing trees

No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for [...] years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars.

Reason: To safeguard the character and amenity of the area and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4.5 **Environmental Health Service Manager (Private Water) – no objection**

The proposed development plans to use an existing spring water supply. The applicant is advised that the Private Water Supplies (England) Regulations 2016 (as amended) and the Water Supply (Water Quality) Regulation 2016 will apply. In accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard.

If the supply is to be used for shared or commercial purposes including renting, the Private Water Supplies (England) Regulations 2016 specify that the water supply cannot be used until it has been risk assessed by the local authority's private water supplies team (01432 261761) and found compliant.

Applicants that are connecting to existing private water supplies or accessing sources of water on land over which they have no control are advised to give careful and specific attention to contractual/civil arrangements including rights of access, maintenance arrangements, provision of alternative water supply are agreed in writing at the outset.

5. **Representations**

5.1 **Cusop Parish Council – object**

Cusop Parish Council objects to Planning Application P191449/F on the following grounds: -

- It appears from the plans submitted that approximately 50 metres of hedgerow needs to be removed – set back. This would leave an area of land in questionable ownership. Moreover, who would be responsible for maintaining this land? The Highway Authority or the landowner?
- It would also appear that some of the hedgerow to be removed/set back falls outside the ownership of the applicant.
- There is a lack of information about the adequacy of the water supply and the impact on other users.
- There are concerns about highway sightlines for access to parking. If Herefordshire Council is minded to give permission it should be subject to conditions: (a) strictly limiting use to holiday accommodation, (b) requiring removal of the shepherd's hut if it ceases to be used as holiday accommodation for more than six months.
- The area of changed use to the footprint of the shepherd's hut should be explicitly limited.
- External lighting to be kept to an absolute minimum in accordance with Neighbourhood Plan Policy 15. Preferably no lighting at all to maintain minimum light pollution levels.

Commented further on 20 February 2020:

Resolved: that the Parish Council objects to this application as amended because:

- a) when balanced against the gain of one shepherd's hut (which in effect is a caravan and by its nature temporary) the total or partial removal of 25 metres of mature hedge and trees is a disproportionate loss,
- b) the remote hilltop location, reached up a steep and narrow hill road with hairpin bends, is an inappropriate location for new holiday accommodation intended for car users. The accommodation does not need to be in this location,
- c) the extent and nature of the change of use sought is unclear. Section 17 of the Application Form indicates Use C1 Hotels for the shepherd's hut, but the Location Plan red-lines the

- entire site including New House itself. The current permitted use of the field is agricultural and of New House is residential and both should remain so,
- d) apart from the resolution of the ownership of the hedge to be removed, all six points made in the Parish Council's objection dated 27 June 2019 stand.

5.2 Dorstone Parish Council – object

Dorstone Parish Council has been consulted as an adjoining parish. Our Neighbourhood Development Plan Policy on Tourism, DNPT1, encourages the promotion of tourism opportunities. However, the Council considers there is a number of problems with this application that count against the granting of planning permission in this case.. Our concerns are:

- a) We are alarmed at grubbing out of the old hedge, no information if an ecological survey has been carried out, no plan to move the existing hedge to accommodate the visibility splay thereby not destroying potentially ancient existing habitat.
- b) We feel it is very important to preserve the environment in this fragile upland landscape.
- c) We are informed there is a road drain issuing into the field of the proposed site for the shepherds hut. We are concerned that interruption of this drainage flow may lead to road flooding problems
- d) We note the original decision, P182146/F, included change of use of land, we note this application does not include change of use
- e) We are concerned about effects of additional demands on the limited shared water supply and how this will impact the adjacent dwelling within Dorstone Parish.

We cannot therefore support the application

- 5.3 To date a total of 10 objecting responses have been received with 12 supporting responses. The comments therein are summarised below:

Objecting comments

- Inconsistencies between the documents and application form
- Concerns over the hut proposed on the site and if there would be additional ones sited in the future
- Access is depicted in two different locations (this has since been amended to the central access point and re-consultations carried out)
- Implications of hedgerow loss not fully assessed. Biodiversity impacts not assessed
- After severe local flooding to remove hedgerows seems ill-advised
- Important to assess the impact that climate change will have. Both drought and floods
- Concerns over the traffic implications and traffic survey carried out
- No indication of drainage arrangements
- Landscape impacts with lack of buildings along the road and public footpaths in vicinity. On edge of AONB
- Tourism needs to be controlled. Proposal does nothing to improve employment opportunities
- Details of trees missing both for the customer and for privacy of neighbours
- Impacts on water supply and usage
- Existing dwelling could provide space for expansion of B&B use
- Parking is already an issue and there is a lack of details relating to parking areas. No explanation regarding number of car parking spaces
- Lighting impacts noting it is on the edge of a designated dark skies area
- No mention of change of use
- Unsure on what base the hut would sit
- Does not fall within NDP settlement boundary
- Non-compliant access onto the lane
- Other holiday accommodation has been refused within 1.5 miles

- Hay on Wye is only some 3 miles away with 71 establishments for tourists to stay
- Encroachment onto common land adjacent to New House (this is not related to the current application for consideration)

Supporting comments

- Evidence has shown their existing bed & breakfast has always been fully booked up
- Increasing value to the Wye Valley area of tourism, as highlighted in the media
- Such trends must be capitalised upon in a manner sympathetic to the local environment and endemic population.
- Shepherd hut intended to evoke a sense of rural idyll for visitors. As a means of extending the B&B business seems a sound approach
- In Cornwall many existing accommodation businesses offer extended capacity by opening fields for seasonal camping, or establish semi-permanent yurts
- Shepherd hut would be a great addition to the local pool of accommodation
- There is a shortage of quality, reasonably priced accommodation in and around Hay-on-Wye, especially during the Festival
- Hay-on-Wye thrives economically and culturally because of the Festival
- Dorstone NDP encourages the promotion of tourism opportunities
- Main concern appears to be grubbing out of an old hedge but this is not ancient
- Another concern is that the shared water supply may run dry. New House has its own separate supply and it is a large house suitable for a large family with only two people living there
- Would only mean 1 extra car each day on a quiet rural road
- Recently quite a few B&Bs in Hay and the surrounding area have closed down due to retirement etc
- Accommodation is sympathetic and fits into its surroundings
- Rewilding and copse planned with the development

5.4 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=191449

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

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' Cusop Neighbourhood Development Plan (NDP). At this time the policies in the NDP can be afforded full weight as set out in paragraph 48 of the National Planning Policy Framework 2019, which itself is a significant material consideration.

Principle of development

- 6.3 With the application seeking planning permission for the provision of holiday accommodation, policies RA6 and E4 of the CS are engaged in the first instance, along with Policy 11 of the NDP. Chapter 6 of the NPPF is also relevant which touches on supporting a thriving and prosperous economy.
- 6.4 Policy 11 states that employment-generating proposals will be permitted outside the Settlement Boundary in excepted circumstances including where they are activities such as farming or some types of tourism that can function effectively only if based within the countryside.
- 6.5 This policy of the NDP is reinforced through policies RA6 and E4 of the CS. Policy RA6 acknowledges that the rural economy will be diversified through a range of economic activities, including sustainable tourism proposals of an appropriate scale and in accordance with policy E4.
- 6.6 Policy E4 states that the tourism industry will be supported by a number of measures including
- 1. recognising the unique historic character of Hereford and the market towns as key visitor attractions and as locations to focus the provision of new larger scale tourist development;*
 - 2. the development of sustainable tourism opportunities, capitalising on assets such as the county's landscape, rivers, other waterways and attractive rural settlements, where there is no detrimental impact on the county's varied natural and heritage assets or on the overall character and quality of the environment. Particular regard will be had to conserving the landscape and scenic beauty in the Areas of Outstanding Natural Beauty;*
 - 3. retaining and enhancing existing, and encouraging new, accommodation and attractions throughout the county, which will help to diversify the tourist provision, extend the tourist season and increase the number of visitors staying overnight. In particular proposals for new hotels in Hereford will be encouraged. Applicants will be encouraged to provide a 'Hotel Needs Assessment' for any applications for new hotels;*
 - 4. ensuring that cycling, walking and heritage tourism is encouraged by facilitating the development of long distance walking and cycling routes, food and drink trails and heritage trails, including improvements to public rights of way, whilst having special regard for the visual amenity of such routes and trails, and for the setting of heritage assets in their vicinity; and*
 - 5. the safeguarding of the historic route of the Herefordshire and Gloucestershire Canal (shown on the Policies Map), together with its infrastructure, buildings, towpath and features. Where the original alignment cannot be re-established, a corridor allowing for deviations will be safeguarded. New developments within or immediately adjoining the safeguarded corridor will be required to incorporate land for canal restoration. Development not connected with the canal that would prevent or prejudice the restoration of a continuous route will not be permitted.*
- 6.7 The postscript to policy E4 acknowledges that many visitors to the county come to enjoy the beautiful countryside and there is likely to be a demand for new facilities and accommodation associated with this. It goes on to state that whilst some small scale tourism associated development may be appropriate in rural areas, any significant new development for accommodation and facilities should be focused in Hereford and the market towns to maximise sustainable transport opportunities and to protect environmental amenity.

6.8 The foregoing is supported by Chapter 6 of the NPPF which comments that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. It goes on to touch on tourism specifically saying that planning policies and decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. Paragraph 84 of the NPPF states:

Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

6.9 The applicants own and occupy New House which is directly adjacent to the field in which the shepherds hut is proposed to be sited. Whilst it is acknowledged that the applicants currently run a Bed & Breakfast from their dwelling, this does not require planning permission based upon the low key level at which this functions (one bedroom used). As such, this use could cease at any point and would not require any permission or prior approval from the Local Planning Authority and as such no weight has been given to the Bed & Breakfast use or the potential beneficial effects that the proposed shepherds hut might have on this existing activity.

6.10 From the above assessment, it is clear that there is broad support for accommodation, truly designed for holiday purposes, even if these are within open countryside locations. The site is located to the south west of Cusop and outside the settlement boundary indicated within the NDP. This notwithstanding, the NDP does support development outside of this area if it is for purposes that function only in such locations and tourism is one such use that is specifically exempted.

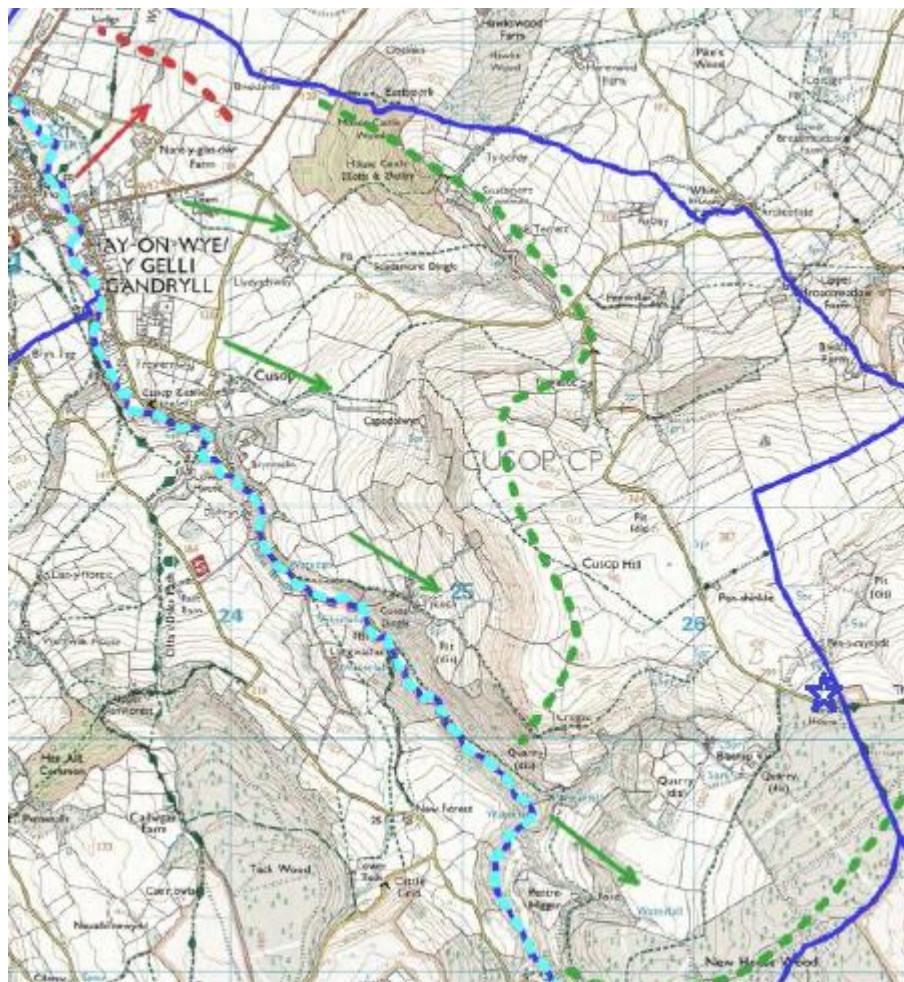
6.11 The proposal seeks planning permission for the siting of one shepherds hut for tourism accommodation with a new access point and landscaping. The principle of small scale tourism facilities are touched on under policy E4, acknowledging that a draw to the County is the countryside and that there will be a demand associated with this. The modest scale of this proposal is found to be compliant with this aim and will provide one unit of accommodation. Concerns in relation to additional units in the future are not for consideration under this application and the occupation of the proposed would be conditioned to ensure it is used solely for tourist accommodation.

6.12 The hut proposed is traditional in design and form with a height of 3.14m to the highest point (including wheels) and a length of 5.49m. The finish and colour would be conditioned on any approval to ensure that it assimilates into the wider landscape but the principle of a hut in this open countryside location is not found to be unacceptable – it represents tourist accommodation (it is not redolent of a dwelling) and not a wholly uncommon feature in rural areas.

6.13 Given the foregoing, and appreciating that both the NDP and CS, as well as National guidance, encourage small scale tourist accommodation, the proposal is found to be acceptable in principle. 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.

Landscape impacts

- 6.14 Policy 12 of the NDP states that *development proposals must protect the character and scenic beauty of Cusop Hill and views of it from the Cusop settlement and Parish. The extent of this Asset and the directions of views of it for the purposes of this Policy are shown on Map 3. For ease, an extract of this map is found below with the green lines indicating Cusop Hill and views towards it, and the site indicated by the blue star:*



- 6.15 While not specific to Cusop Hill, policy LD1 of the CS reinforces that development proposals demonstrate that character of the landscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and conserve and enhance the natural, historic and scenic beauty of important landscapes and features. The site lies outside of any landscape designations including Areas of Outstanding Natural Beauty and National Parks.
- 6.16 The postscript to policy 12 of the NDP states that *developments beyond the Hill to the east or south-east may also need assessment if they would be visible above the ridgelines.* In terms of the proposal, the ridge of Cusop Hill is approximately 0.5km to the south of the site which benefits from screening. As touched on above, a shepherds hut in a rural location such as this is not an alien feature and with the additional planting and mitigation that is proposed as part of the scheme, the proposal is found to protect views both from and to Cusop Hill. Given the scale and nature of the proposal it is not considered to lead to detrimental impacts on the wider landscape. More localised impacts associated with the loss of hedgerow will be covered in detail below.

Design and amenity

- 6.17 The detail of the design is assessed by policy SD1 of the CS. 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.
- 6.18 The policy mentioned within the foregoing paragraph is reinforced through policy 16 of the NDP. This states that the design of new buildings and extensions to existing buildings should deploy locally distinctive styles and materials and in particular respect their immediate neighbourhoods in terms of styles, materials, siting, scale, layout, roofline, proportions and massing. Different styles and materials will be permitted if there is clear evidence that higher energy conservation standards cannot be achieved without them.
- 6.19 Given the nature of the proposal, for the siting of a shepherds hut, technically it is not a building but rather a chattel (a moveable structure). This notwithstanding, it is found appropriate to condition the finish and colours to ensure it is appropriate with the rural location. I also find it reasonable to condition that the hut will be removed from site, with the land reinstated, if it becomes redundant for its intended purpose.
- 6.20 With regard to the impacts of the proposal on the amenity of neighbouring properties, the nearest to the site is New House owned by the applicant. Given that this ensures an element of self management, any approval will ensure that they are not separated from one another by condition and limits the impact upon their amenity.
- 6.21 In terms of other neighbouring dwellings, the next nearest to the site is Penymynydd located approximately 230m to the north. While the CS does not include minimum window to window distances, this is far in excess of what would be considered an acceptable distance in terms of impacts on residential amenity including overlooking or overshadowing as a result of the proposal. With the proposal being for one unit of accommodation, issues of noise and disturbance are also not found likely. With regard to loss or change of a private view, this is not a material planning consideration.
- 6.22 Comments have been received in relation to private water supply and potential impacts on this as a result of the proposal. This can be a material consideration, but noting the response from the Council's Environmental Health Officer in this regard, and given the very modest scale of this proposal it is considered to fall outside the planning remit and would be appropriately controlled under other legislation governing the protection of private water supplies. An informative note to this effect will be placed on any approval but it does not in itself represent a reason to withhold planning permission. Paragraph 183 of the NPPF makes the distinction between the role of a planning decision and other controls and states the following:
- The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.*
- 6.23 Given the above, and subject to the attachment of conditions relating to the finish and colour of the hut, the proposal is found to comply with the aims of both the NDP and Core Strategy.

Highways

- 6.24 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).
- 6.25 The NDP does not have a policy relating to highways and while policy 8 comments on parking, this is for residential schemes as assessed under policies 4, 5, 6 and 7 (size of dwellings, extensions of dwellings, conversion of residential buildings and new dwellings within the curtilage of existing dwellings). As such, there is no applicable highways policy within the NDP for this proposal.
- 6.26 The previous application on the site was refused on highways grounds due to the proposed utilisation of the existing vehicular access. This did not provide the required visibility splays and due to a large tree in one direction and outbuilding associated with New House in the other, these could not be improved upon. A new access is now proposed under this application and will be located centrally along the site frontage (this has been clarified through the application and full re-consultations carried out). As part of this, there will be an element of hedgerow removal for the access itself and then translocation for the remainder is proposed in order to provide the splays in each direction. With the hedgerow being within the applicants ownership there are not considered to be issues over future maintenance.
- 6.27 As can be seen within the consultation responses, the Council's Area Engineer is satisfied with the new access and that the splays are adequate given the scale of the proposal. The concerns regarding the timing of the speed survey are noted but they are not considered to render the results null and void. The nature of the lane is also appreciated and a new access in this location, and the closure the existing, brings about highways improvements. At the present time, there are no restrictions on the use of the existing access but splays are constricted meaning implications for both vehicles using the access as well as oncoming vehicles.
- 6.28 With regard to the internal layout, a parking and turning area is proposed. This will be provided using reinforced grass, the exact details of this would be conditioned to ensure it is sensitive but the principle is acceptable. With regard to the level of parking, given the size of the unit only a small area is required. It will also allow vehicles to turn and enter the highway in a forward gear.
- 6.29 While the comments within the representations are noted in relation to highways safety, the NPPF makes it clear that developments should only be refused on highways grounds if the cumulative residual impacts amount to severe. In light of the lack of objection from the Council's technical officer in this regard, and given that the proposal seeks planning permission for one unit of tourist accommodation along with an improved access point, the highways implications are not found to be of a level that would justify refusal.

Ecology and trees

- 6.30 Policies LD2 and LD3 of the CS 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.
- 6.31 While the application is not accompanied by an ecology survey, there are no immediate ecology related concerns with this proposal. There are no ecological records of important or Protected

Species immediately on or adjacent to the site. Additional comments have been sought from the Council's Ecologist with regard to the loss of hedgerow for the new access and there are no overriding concerns subject to a condition ensuring the translocated hedgerow is managed and maintained and as necessary gapped up for 10 years to ensure full and proper establishment. In light of this condition and a biodiversity enhancement condition being attached, it is considered that all reasonable and responsible measures such as to ensure the Local Planning Authority has fulfilled its legal duty of care with regard to ecology have been undertaken.

- 6.32 The Council's Tree Officer is also satisfied with the foregoing paragraph and recommends a condition relating to the retention of trees also be attached to any approval.
- 6.33 The proposed development has been subjected to the required Habitat Regulations Appropriate Assessment which has not identified likely significant effect upon designated site. This has been supported by Natural England who raise no objection. As such, subject to the imposition of the recommended conditions, and in light of the additional planting and translocated hedge, the proposal is found to be compliant with policies LD2 and LD3 of the Core Strategy.

Drainage

- 6.34 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 to 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).
- 6.35 During the application, the drainage methods have been clarified and a package treatment plant will be utilised for foul water with soakaways for outfall and surface. Given the size of the land owned by the applicant I do not have in principle concerns with these methods that accord with the hierarchy of policies SD3 and SD4.

Other matters

- 6.36 The comments within representations with regard to saturation of the holiday accommodation market are noted, but I do not find this to be a justified reason to refuse an application that seeks planning permission for the siting of one unit.
- 6.37 In relation to the use of New House and whether the B&B element could be expanded, this is not what planning permission is applied for. It is the proposal as described which is to be assessed - this seeks permission for one unit. Any additional expansion in the future, should the applicant wish to go down this route, would be assessed on its merits at that time. This speculation is not material and is not for consideration under this application.
- 6.38 It is acknowledged there was initially some confusion over what was applied for, particularly with regard to the new access point (one was indicated on the block plan and another within the traffic survey). However, what is proposed is clear from the plans and capable of being determined.
- 6.39 With regard to the refusal of other planning applications for holiday accommodation, the one quoted was tantamount to a single storey detached dwelling. Such residential use in an open countryside location is contrary to planning policy. The unit proposed under this application is clearly designed for tourism purposes in light of its scale and design and is capable of immediate removal should the tourism use cease.

- 6.40 If there has been encroachment onto common land to the east of New House, that is not something to be considered through this planning application. For the avoidance of doubt, this application seeks planning permission on land wholly within the ownership of the applicant.
- 6.41 The comments from the Council's Ecologist in relation to the hedgerow removal are noted. While the drainage benefits of hedgerows are appreciated, the level of hedgerow removal to form the access itself would not require prior approval of the Local Authority – the level proposed could be removed at any time. The translocated hedge and additional planting is also appreciated in this regard. Furthermore, the site lies outside of any flood constraints (such as flood zones or area of surface water flooding).
- 6.42 The impacts of climate change are appreciated, as is the fact that the Council has declared a Climate Emergency. However, given the scale of the proposal and the biodiversity mitigation put forward, I do not find this to represent a justified reason to refuse the application.
- 6.43 While not touched on specifically by the Council's Ecologist, noting that the site is near to a designated Dark Sky designation, I find it appropriate to condition details if any lighting is to be installed.

Planning balance and conclusions

- 6.44 Both CS policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that development should be approved where it accords with the development plan. The NPPF encompasses the government's view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.

Economic

- 6.45 There are clear economic benefits derived through tourist accommodation and this is supported in principle by both the Core Strategy and NDP where the scale is appropriate. Relevant conditions attached to any approval would ensure that the hut is used in the way proposed, meaning that the provision would increase the number of visitors to the locality, and benefit local businesses and facilities both within the County and the neighbouring ones. The proposal would provide additional overnight accommodation and add to the diversity of holiday units on offer.

Environmental

- 6.46 While there is an element of hedgerow removal in order to create the new access, the rest of the hedgerow will be translocated to accommodate the visibility splays and additional planting is proposed within the site itself. With this in mind, there is a clear biodiversity and ecological mitigation as part of the scheme. There is also an improvement in terms of highways safety with the closure of the existing access which is constrained and the opening up of a new one with far better visibility splays. In terms of the landscape, a shepherds hut is not out of keeping within a rural context and conditioning the finish will ensure it assimilates into the wider setting.

Social

- 6.47 The social benefits of tourist accommodation will always be limited to a degree due to the nature of how it is used. It's unlikely that visitors will become integrated into the local community, in part due to the distance from the nearest settlement but also because of the temporary nature of any occupancy.

- 6.48 While the removal of the hedgerow is noted, this is not found to significantly and demonstrably outweigh the economic benefits of the proposal, highways improvements and biodiversity gains put forward. On balance, the proposal is found to represent sustainable development and is therefore recommended for approval subject to the conditions outlined below.

RECOMMENDATION

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

1. **C01 - Time limit for commencement (full permission)**
2. **C07 - Development in accordance with approved plans and materials**
3. **No external surface of the shepherds hut hereby approved shall be of a colour and finish other than one which has previously been approved in writing by the local planning authority for that purpose.**

Reason: To conform to Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and to clarify the terms of the permission and minimise visual intrusion.

4. **All foul water shall discharge through connection to existing septic tank private foul water treatment system; and any additional surface water shall discharge to appropriate soakaway-infiltration features; unless otherwise agreed in writing by the Local Planning Authority.**

Reason: In order to comply with Conservation of Habitats and Species Regulations (2018), National Planning Policy Framework, NERC Act (2006), NPPF (2019) and Herefordshire Council Core Strategy (2015) policies LD2, SD3 and SD4.

5. **The translocated length of hedgerow and all new planting shall be gapped up, dead plants replaced like for like and the planting managed and maintained in line with all best practice guidance for a minimum of 10 years from completion of works and planting on the site – unless otherwise approved in writing by the Local Planning Authority.**

Reason: To conform to Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and to clarify the terms of the permission and minimise visual intrusion.

6. **No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for 5 years from the date of first use of the shepherds hut, other than in accordance with the approved plans and particulars.**

Reason: To safeguard the character and amenity of the area and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7. **CAB - Visibility Splays : - 2m x 48m eastbound, 2m x 49.6m westbound**
8. **CAD - Access gates**
9. **CAE - Vehicular access construction**

10. CAH - Driveway gradient
11. CAI - Parking
12. CAT - Construction Management Plan
13. CB2 - Secure covered cycle parking provision
14. C81 Use as holiday accommodation
15. Within six months of any of the shepherds hut hereby permitted becoming redundant, inoperative or permanently unused, it and all associated infrastructure shall be removed and the land reinstated to its former condition.

Reason: To conform to Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and to clarify the terms of the permission and minimise visual intrusion.

16. C64 - Restriction on separate sale (from New House)
17. Details of any external lighting proposed to illuminate the shepherds hut shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

Reason: To safeguard local amenities and biodiversity and to comply with Policies SD1 and LD2 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. I11 – Mud on highway
3. I05 – No drainage to discharge to highway
4. I47 – Drainage other than via highway system
5. I35 – Highways Design Guide and Specification
6. The applicant's attention is drawn to the following comments provided by the Council's Environmental Health Service Manager (Water Quality):

The proposed development plans to use an existing spring water supply. The applicant is advised that the Private Water Supplies (England) Regulations 2016 (as amended) and the Water Supply (Water Quality) Regulation 2016 will apply. In

accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard.

If the supply is to be used for shared or commercial purposes including renting, the Private Water Supplies (England) Regulations 2016 specify that the water supply cannot be used until it has been risk assessed by the local authority's private water supplies team (01432 261761) and found compliant.

Applicants that are connecting to existing private water supplies or accessing sources of water on land over which they have no control are advised to give careful and specific attention to contractual/civil arrangements including rights of access, maintenance arrangements, provision of alternative water supply are agreed in writing at the outset.

7. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained. Any external lighting shouldn't illuminate any 'natural' boundary feature or increase night time sky illumination (DEFRA/NPPF Dark Skies Guidance 2019/2013).

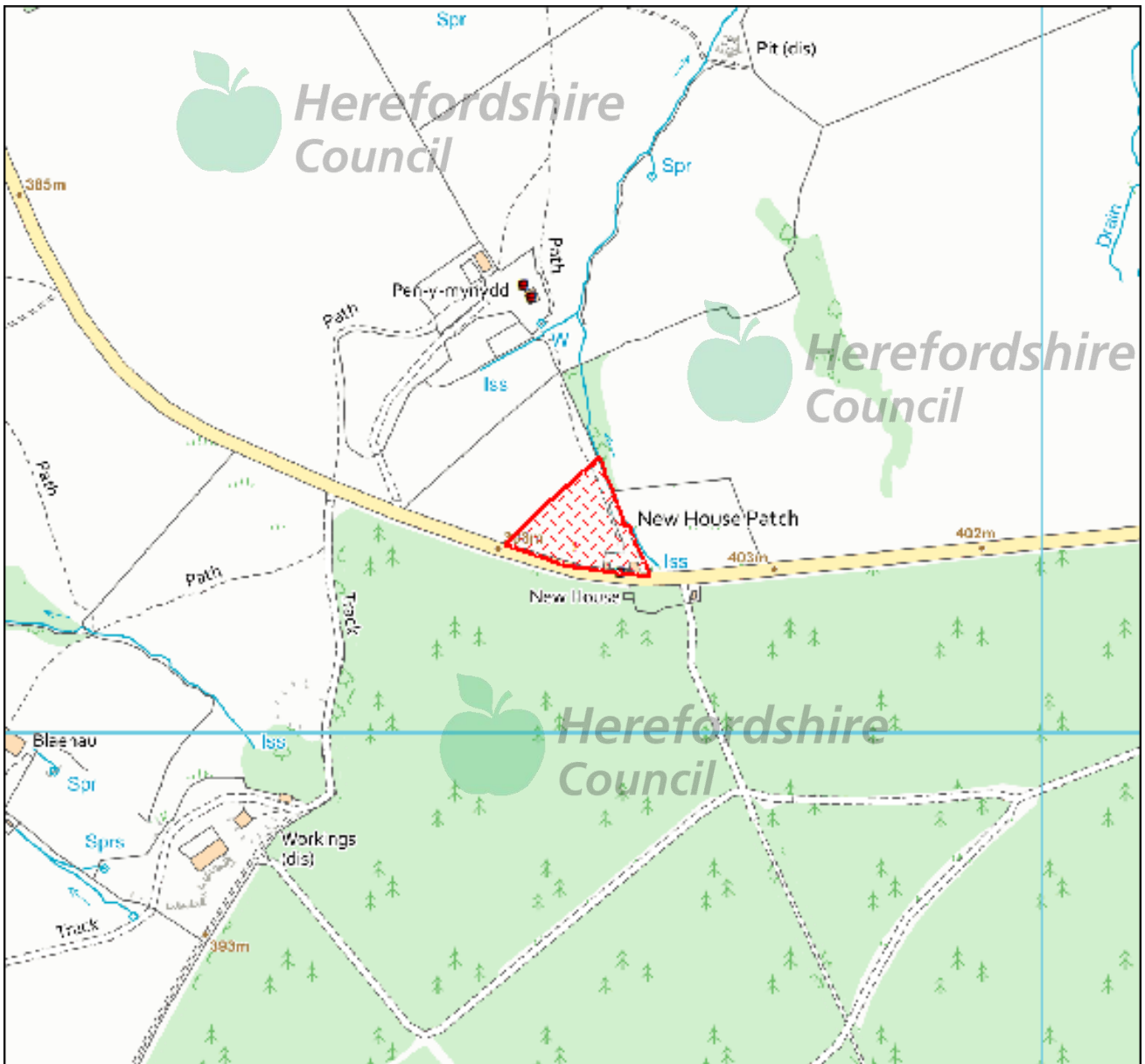
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 191449

SITE ADDRESS : NEW HOUSE, CUSOP, HAY-ON-WYE, HR3 5TG

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Further information on the subject of this report is available from Mr Simon Withers on 01432 260612

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	15 July 2020
TITLE OF REPORT:	<p>200680 - ERECTION OF DOMESTIC OUTBUILDING FOR PURPOSES INCIDENTAL TO THE ENJOYMENT OF THE HAY MEADOW, INCLUDING ASSOCIATED EXTENSION TO THE RESIDENTIAL PLANNING UNIT AT THE HAY MEADOW, PRESTON WYNNE, HEREFORD, HR1 3PE</p> <p>For: Mr Pickering per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200680&search-term=200680
Reason Application submitted to Committee: Applicant related to officer in the planning department	

Date Received: 26 February 2020

Ward: Hagley

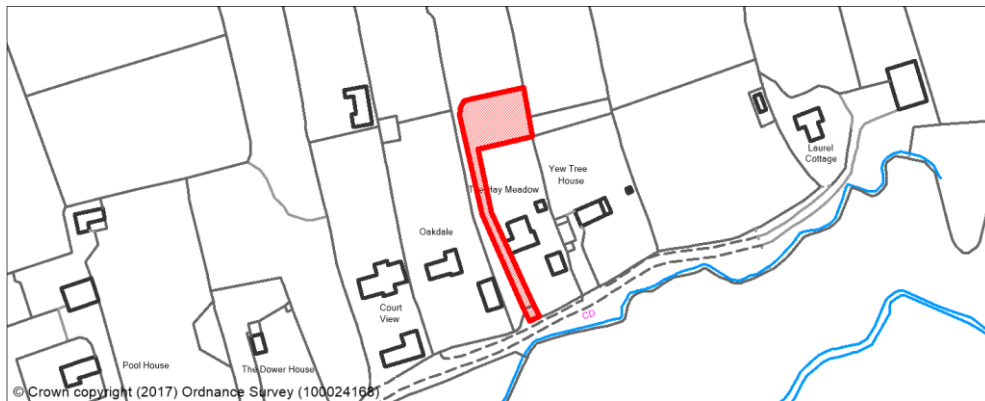
Grid Ref: 356858,246574

Expiry Date: 22 April 2020

Local Member: Councillor Paul Andrews

1. Site Description and Proposal

- 1.1 The application relates to land at the rear of The Hay Meadow, Preston Wynne, a detached dwellinghouse of brick construction with a slate roof which is set within a large residential curtilage including a gravel parking area and detached garage to the fore with garden (of predominately lawn area) to the rear. Beyond the residential garden is a modest area of rough pasture, which is in the applicant's ownership and part of which is within the application site.
- 1.2 The dwellinghouse is accessed off the public highway via a modest and private highway known locally as Marsh Lane. The dwellings in the locale, are mostly detached dwellings with a variety of outbuildings, but which notably lack uniformity or consistent vernacular.

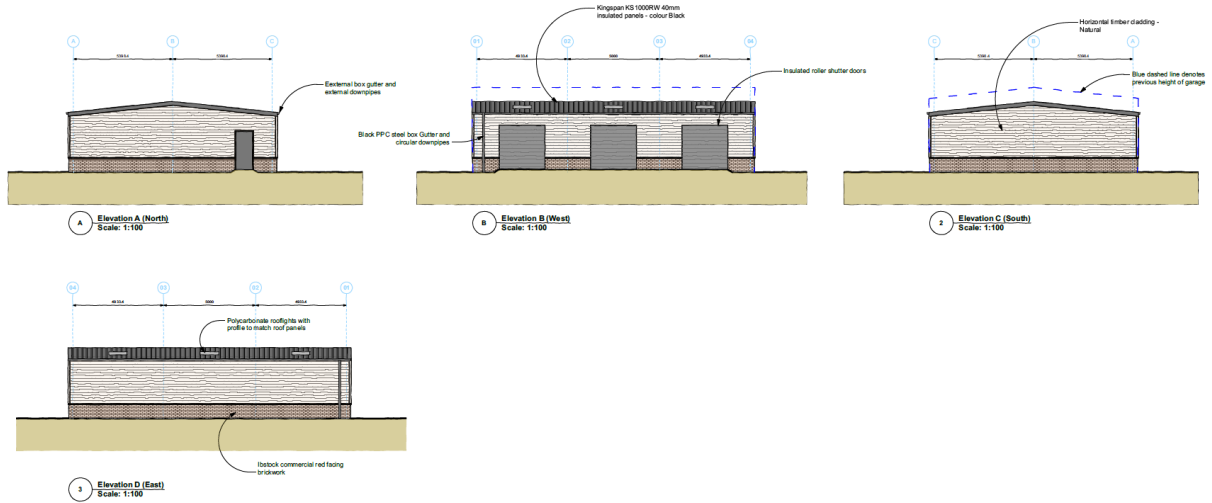


Application site edged in red

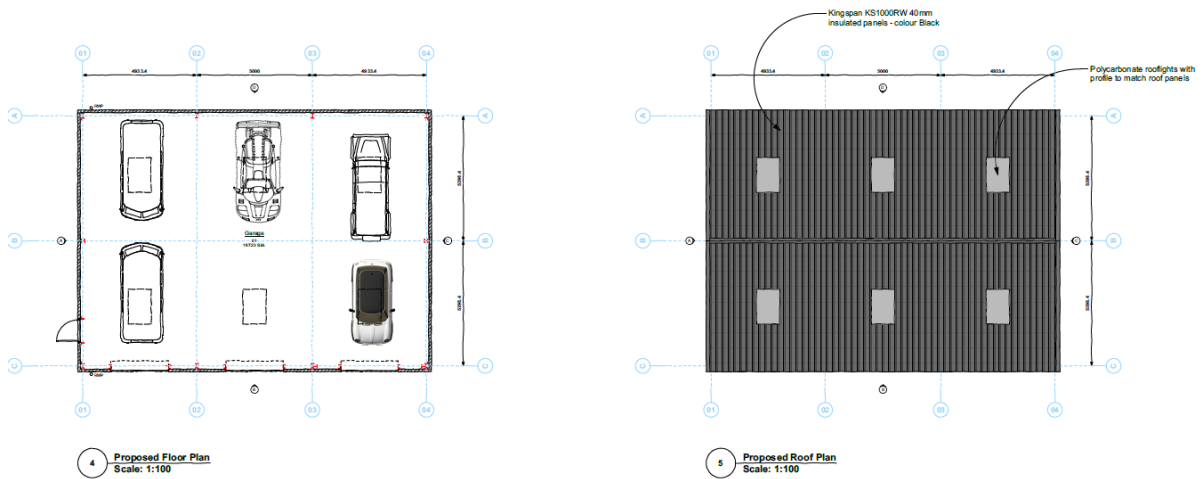


Site photo looking south towards the dwellinghouse

- 1.3 The proposal is for the erection of an outbuilding for the storage of private cars incidental to the enjoyment of the dwellinghouse, as well as the change of use of an area of pasture with no specific use to form part of the residential curtilage of the dwellinghouse. The outbuilding proposed would be sited just beyond the existing boundary to the residential curtilage, adjoining the eastern boundary hedge. The proposal also includes two modest areas of landscape planting, including native species trees.
- 1.4 The building proposed would consist of a shallow dual pitched roof covering a storage building with a width of circa 15 metres; a plan depth of circa 11 metres with a height to the ridge of just under 4 metres. The proposal would be clad in horizontal timber cladding on a red brick plinth and roofed with black insulated panels with rainwater goods also being finished in black.
- 1.5 The proposed building is understood to be necessitated to store the applicant's private motor vehicles and implement storage, in a secure and dry manner; with the applicant stressing the proposal is for domestic uses only.



Elevation plans as proposed



Floor and roof plans as proposed



Site photo looking north away from the dwelling

Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882



Site Plan as proposed (showing entire application site)

2. Policies

Herefordshire Local Plan – Core Strategy

2.1 The following policies are considered to be relevant to this application:

- SS1 - Presumption in Favour of Sustainable Development
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- RA1 - Rural Housing Strategy
- RA2 - Housing in Settlements Outside Hereford and the Market Towns
- RA3 - Herefordshire's Countryside
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Wastewater Treatment and River Water Quality

2.2 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/downloads/download/123/adopted_core_strategy

Withington Group Parish Neighbourhood Development Plan (Made 11 October 2019)

2.3 The following policies are considered to be relevant to this application:

Policy P4 Local Distinctiveness - Housing Layout and Design

https://www.herefordshire.gov.uk/download/downloads/id/18550/withington_group_neighbourhood_development_plan_july_2019.pdf

National Planning Policy Framework (2019)

2.4 The following chapters of the framework are considered to be pertinent to this application:

1. Introduction
2. Achieving Sustainable Development
3. Plan Making
4. Decision-making
9. Promoting sustainable transport
12. Achieving well designed places
15. Conserving and enhancing the natural environment

2.5 The Planning Practice Guidance published by the Government at the following link is considered to be a material consideration.

<https://www.gov.uk/government/collections/planning-practice-guidance>

- 2.6 Further the government's recently published National Design Guide is considered to be material to the consideration of this application, link below.

<https://www.gov.uk/government/publications/national-design-guide>

3 Planning History

- 3.1 The proposal site itself has not been the subject of any past planning applications. The following applications on the wider site are considered relevant:

153789/F - Erection of a self-build detached four bedroom dwelling with a separate double garage and office above – Approved with conditions

162232/AM -Non-material amendment to permission 153789 - Erection of self -build 4bed dwelling with detached garage and office above – amendments to remove chimney – Approved

174669/FH - Proposed single storey orangery extension to rear – Approved

4 Consultation Summary

Statutory Consultations

- 4.1 None.

Internal Council Consultations

- 4.2 Transportation Manager

“There are no highways objections to the proposals.”

- 4.3 Conservation Manager (Ecology)

Original Comments

“The site is within the River Wye/Lugg SAC catchment and a HRA process is triggered by this application.

The LPA notes that:

- *There are no facilities creating any form of foul or dirty water proposed as part of this development.*
- *All additional surface water will be managed through on-site soakaway.*

Based on this information and details being subject to approval and secured through plans approved as part of any consent granted the LPA can conclude that there are NO identified ‘likely significant effects’ on the River Lugg/Wye and this application can be considered as ‘screened out’ from requiring any further HRA process.

From information supplied and images available there are no immediate ecology related concerns with this proposal. There are no ecological records of important or Protected Species immediately on or adjacent to the site. The applicant and their contractors have their own legal duty of care towards wildlife protection under UK Legislation that applies throughout any demolition and construction process. Any breach of this legal Duty of Care would be a criminal offence. In this instance this LPA has no reasonable cause to require further information as part of the planning application or include a specific ecology protection condition. However a relevant information note is requested:.

Wildlife Protection Informative

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as Great Crested Newts and all Bat species that are present and widespread across the County and recorded in the wider locality around this application site. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained.

As identified in the NPPF, NERC Act and Core Strategy LD2 all developments should demonstrate how they are going to practically enhance (“Net Gain”) the Biodiversity potential of the area. To secure these enhancements a relevant Condition is suggested:

Nature Conservation – Biodiversity and Habitat Enhancement

Within 3 months of completion of the works approved under this planning decision notice evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least TWO Bat roosting enhancements and TWO bird nesting boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any habitat enhancement, boundary feature or adjacent habitats.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Core Strategy LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.”

5 Representations

5.1 Withington Group Parish Council

Initial Comments

“The WGPC objects to this application for a number of reasons. These include that:-

- The application is outside the settlement boundary and thus the rural development policies apply, which would be against the proposal.*
- The proposal is beyond that which could normally be described as 'ancillary' to the dwelling house and there is already a substantial garage on the site.*
- Should the planning application be granted, the Parish Council would ask for a condition to be placed on it for 'no commercial or business use' as there is local concern about noise pollution should it be used for industrial use.”*

5.2 Third Party Representations

The application has received 16 representations to date objecting to the development, which have been received from eight members of the public. The main points raised are summarised below:

- Proposed development inappropriate in terms of its size, location, type of construction (being industrial in its appearance) and use
- The potential for noise when ‘stored vehicles’ are being renovated, impact on amenity
- There is a risk applicant will mix business use with the use of the building

- Applicant already has a large double garage and workshop in the curtilage of the dwelling
- Impact on nearby oak tree
- Impact on tranquillity of lane
- Impact on views from adjoining dwellings
- Domestic garage and store cannot be treated under the reference of purposes incidental to the enjoyment of the house

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200680&search=200680

6 Officer's Appraisal

Policy context and Principle of Development

6.1 The proposal is considered in line with the statutory requirements of Section 70 (2) of the Town and Country Planning Act 1990 (as amended) which requires that when determining planning applications, the local planning authority shall have regard to the provisions of the development plan, local finance considerations (so far as material to the application) and any other material considerations. Following this requirement, Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states the following:

"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 (taken as a whole) is the Herefordshire Local Plan – Core Strategy (CS) and the Withington Neighbourhood Development Plan. The National Planning Policy Framework (NPPF) is also a significant material consideration, but does not constitute a statutory provision, unlike the development plan.

6.3 As is set out at paragraph 30 of the framework and stipulated at Section 38 (5) of the Planning and Compulsory Purchase Act 2004 (as amended), *"if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document"*. In this way should a conflict between the NDP and the CS arise, the NDP will take precedence over the CS unless there are other material considerations that dictate otherwise.

6.4 CS Policy SS1 sets out the presumption in favour of sustainable development, which is reflective of the positive presumption enshrined by the current NPPF as a golden thread running through plan-making and decision-taking. Policy SS1 also confirms that proposals which accord with the policies of the CS (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise. Again, this is broadly reflective of Paragraph 11 of the current NPPF.

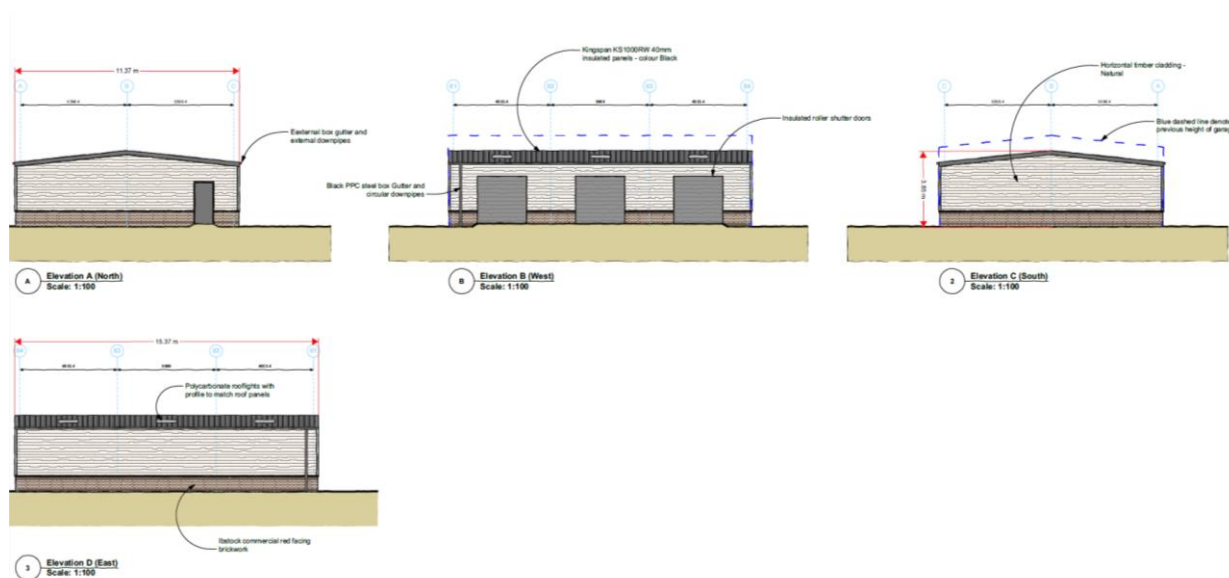
Proposed change of Use

6.5 The application proposes the change of use of an area of land which is currently rough pasture to a residential use as part of the domestic curtilage for the dwellinghouse. This area measures slightly over 500m². Officers consider this change in use of land to be acceptable, as there would be no adverse effect on the appearance or character of the area, as the land is well related to the existing residential curtilage which is of much the same form, with the scale being modest such that it wouldn't amount to an unacceptable domestic incursion into the open countryside.

Design & Appearance

- 6.6 In regards to the design of the proposed building, the Local Planning Authority has a statutory duty under Section 39 of the Planning and Compulsory Purchase Act 2004 to have regard to the desirability of achieving good design.
- 6.7 When considering the design and landscape impact of a proposed development, Policy SD1 of the Core Strategy is significant as it requires that development proposals create safe, sustainable, well integrated environments for all members of the community. In so doing, all proposals should take into account the local context and site characteristics. Moreover, new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. Where appropriate, proposals should also make a positive contribution to the architectural diversity and character of the area, including through innovative design. They should also safeguard the residential amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing. Specifically regarding landscape matters, Policy LD1 requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design scale, nature and site selection of the development, as well as the protection and enhancement of the setting of settlements and designated areas. Development proposals should conserve and enhance the natural, historic and scenic beauty of important landscapes and features (specifically designated assets) through the protection of the area's character and by enabling appropriate uses, design and management. New landscape schemes along with their management should ensure development integrates appropriately into its surroundings and maintains tree cover. In wider terms, policy SS6 sets out that development proposals should conserve and enhance environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity, heritage assets, and especially those with specific environmental designations. All proposals should be shaped through an integrated approach to planning to ensure environmental quality and local distinctiveness.
- 6.8 The NPPF is a key material consideration for the proposal , it includes a chapter focused on achieving well-designed places (chapter 12), which sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, as good design is a key aspect of sustainable development. Decision-making (as directed at paragraph 127 of the framework) should ensure developments will: function well and add to the overall quality of the area over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character including the surrounding built form and landscape setting (whilst not preventing innovation or change); establish or maintain a strong sense of place creating attractive and distinct places to live and visit; with a high standard of amenity for existing and future users that doesn't undermine quality of life or community cohesion and resilience. Additionally paragraph 98 of the NPPF sets out that decisions should protect and enhance public rights of way, including taking opportunities to provide better facilities for users.
- 6.9 The NPPF is clear at paragraph 130 that "planning permission should be refused for development of poor design that fails to take 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." The government has confirmed by way of a Written Ministerial Statement (on 1st October 2019) that "in the absence of local design guidance, local planning authorities will be expected to defer to the illustrated National Design Guide"; the National Design Guide is therefore considered to be a material consideration for considering what achieves good design in proposed developments. Equally design shouldn't be concocted as a reason for refusal when proposals accord with the design expectations of the NPPF, material considerations and development plan. Additionally at paragraph 131, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

- 6.10 The Withington Neighbourhood Development Plan is also applicable in this regards as policy P4 relates to local distinctiveness, housing layout and design with its criteria being relvant for all new development. Specifically criteria (d) in that detached garages to dwellings should not usually project beyond the front or principal elevation of the dwelling and attached garages should be designed to appear subservient to the main dwelling and not visually dominate the street scene, along with criteria (e) in that external materials should respect and complement their setting and context.



Elevation plans as proposed (and annotated with measurements in red)

- 6.11 The proposed outbuilding is noted to be sited to the rear of the existing dwelling, though it is separated from the dwelling by an expanse of lawn. The development plan policies that relate to garaging, specifically NDP policy P4, set out that garaging should be set behind the principal elevation of dwellings and not visually dominant in the street scene. This proposal is set well behind the dwelling and is visually highly discrete in the streetscene and vantage points from the public realm. In this manner the proposal is not considered to detrimentally impact the character, tranquillity or landscape appearance of the area. Further at this juncture, officers note that views from private vantage points such as dwellings are considered to be private interests and rarely form material planning considerations.
- 6.12 Officers consider that the proposal is of an acceptable appearance for its context to the rear of a residential dwelling, as the proposal materials are considered to be in line with those one would expect in a rural context with the utilisation of timber cladding for the elevations providing a natural hue to the proposal which will weather down into its context. Whilst the proposal does utilise black panelling for the roof, due to the shallow pitch of the roof this will not be the prominent visual element of the proposal and the colour is recessive providing the finish is matt.
- 6.13 In terms of the scale of the proposed building, it is considered to be of acceptable massing due to the reduced ridge height, with the proposal being read as a subservient addition to the curtilage as it will not visually challenge the primacy of the dwellinghouse on the property as a whole. The scale of the building in terms of its footprint is noted to be approximately 160m², which is noted to be rather large for a proposed garage however when considered in the context of the scale of other outbuildings found in the area it is not considered to be disproportionate with there being detached home offices and stable buildings in the locale which are of a similar scale. It follows that the scale and mass, whilst in the high echelons of what officers would deem to be permissible, is never the less regarded to be acceptable.

- 6.14 Further, I note that reference has been made to fall back positions in relation to the physical scale of the proposal, it is noted that as the dwellinghouse benefits from permitted development rights; however whilst this proposal could not be erected within the existing curtilage using the provisions of the Town and County Planning (General Permitted Development) Order 2015 (as amended) Part 1, Class E as the eaves heights exceed the criteria. However I do note that a building with a dual pitch roof with a ridge height of less than four metres can be erected and equally a building of a similar footprint can be erected for incidental uses; thus a building of this scale would be a realistic addition to the curtilage of domestic dwellings. However I do not consider provisions under permitted development rights to be overly determinative in the case of this proposal, and the proposal is considered on its merits as presented.

Amenity

- 6.15 The proposed building is for the express purpose of storing vehicles and implements, it is not proposed to be for commercial purposes or a mechanics workshop, which officers would expressly deem to be unacceptable in such a location. The proposal is assessed on the basis of what is proposed, with it considered that noise being produced from the development would be relatively minor. The outbuilding would be sited some distance from the nearest residential dwellings as sensitive receptors and it is noted that as the property in its current form would generate some level of domestic noise from operations such as lawn maintenance and as such any noise generation is considered to be comparable to the existing uses on the site.
- 6.16 The proposed development is single storey, with no windows on the elevations and so is not considered to have an overbearing, overlooking or dominating impact on the landscape or neighbouring properties.

Incidental Use

- 6.17 The application is for the change of use of the land to domestic curtilage and then for the erection of an outbuilding for the storage of vintage private motor vehicles and garden implements, with the applicants submitting that the building will be for uses incidental to the dwellinghouse. It is notable when considering this aspect of the proposal that the Town and County Planning Act 1990 (as amended) is explicit at Section 55 (2) (d) that *“the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such”* is excluded from the definition of development. In this manner whilst the proposed building is for the storage of vehicles and implements, it is made on the basis that it does not constitute a material change in use (to a B8 storage use) as the use would be incidental to that of the host dwelling.
- 6.18 To assess if a proposed use is incidental to another use, the primary use must firstly be identified and then the relationship between the incidental use to the primary use must be considered as a matter of fact and degree, as a planning judgment by the decision-maker.
- 6.19 The primary use of the land (on the basis of the conclusions above) would be as part of the domestic curtilage of the dwellinghouse, with this being read as a singular planning unit,. The host dwelling is a detached four bedroomed property with existing outbuildings to the fore and an ample curtilage.
- 6.20 In terms of the physical relationship, the proposed outbuilding would be sited approximately 30 metres to the rear of the existing dwelling with all access arrangements being down the side of the host dwelling. Turning to consider the nature of the secondary use, the scale of the proposed building is for the storage of up to six vehicles (as indicated on the plans submitted, though it is noted that varying degrees of implement storage would reduce the number of vehicles that could be stored), with the vehicles being stored being those in the private ownership of the applicant and which are for the private enjoyment of the applicant. As a metric for considering the reasonableness for such a proposal, elsewhere dwellinghouses have been known to

accommodate: collections of tens of motorbikes, standard gauge railway tracks and rolling stock, or observatory buildings for star gazing. It follows that a use for the storage of a handful of private cars is not, in this instance, considered to be an unreasonable one, in the context of a detached dwelling within a spacious curtilage.

- 6.21 In the consideration of the proposed use, the ability to impose conditions to secure the acceptable form or use of a scheme is of some relevance, in this regard officers are content that the imposition of planning conditions to limit the use of the outbuilding would offer adequate levels of control to ensure that the use remains one incidental to that of the main dwellinghouse. In this manner, if a different use were desired in the future, an application would be needed to change its use and so the merits of such a proposal could be assessed at that juncture.
- 6.22 Officers consider that it is reasonable to conclude that the building is for an incidental use, due to the proposal being for the accommodation of the residents hobby, a private motor vehicle collection which is considered to sensibly related to the enjoyment of the dwelling, and with the proviso that a condition is imposed to ensure no commercial activity takes place in the outbuilding, it is considered to be acceptable in this regard.

Ecology

- 6.23 In regards to ecology and biodiversity matters generally on the site, Policy LD2 of the CS is most applicable in considering matters of ecology and this broadly requires that all developments should conserve, restore and enhance the biodiversity assets of the county through a range of measures. Policy LD3 also requires that proposals should protect, manage and plan for the preservation and provision of green infrastructure, whilst policy LD1 states that developments should maintain and extend tree cover where they are important to amenity. All off these policies are in line with the dictum set out by Chapter 15 of the NPPF.
- 6.24 The proposed building, as noted in representations from members of the public, is nearby to a large oak tree which lies on adjoining land in third party ownership and forms part of the curtilage of Yew Tree House which lies to the east. The centre of the tree is considered to be approximately 20m from the edge of the application site, with the canopy extent being circa 12 metres from the edge of the application site.



Site photo from beyond application site looking south towards host dwellinghouse (oak tree shown on left hand side)



Site photo looking across application site to the east, showing the oak tree in background



Application site edged in red, tree shown to the east

- 6.25 The level of detail provided as part of the application is considered to be sufficient given the separation between the proposed development and the tree. Officers consider that the proposed building would not have an adverse impact on the existing oak tree in the adjoining garden and so the proposal is accords with policy LD2 in this regard.
- 6.26 The application site is noted to adjoin a Natural England Priority Habitat, namely a traditional orchard; as the application does not relate to this parcel of land, officers do not consider the proposal to harm or impact the adjoining habitat. Further, the application includes the provision for the planting of two modest areas of native trees. This is not considered necessary to offset any identified harm from the proposal, however, it is considered to offer a biodiversity enhancement as does the proposed condition from the Council’s ecologist for the provision of

Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

modest enhancements; both elements are secured via conditions recommended by officers below and are regarded to weigh positively in the planning balance though minor weight is attributed to them.

Habitat Regulations Assessment

- 6.27 The application site lies within the catchment for the River Lugg, which comprises part of the River Wye Special Area of Conservation (SAC), a European site covered under the Habitats Directive & the Conservation of Habitats and Species Regulations 2017 ('Habitats Regs.' henceforth). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value.
- 6.28 Under the Habitat Regs, Herefordshire Council (as the 'competent authority') has a statutory duty to assess if a proposal is likely to have "a significant effect" whether in combination or alone, this must take place before granting planning permission. This initial assessment is known as the 'screening stage' which considers if there is a possibility of a 'likely significant effect' on the integrity of the SAC, this considers both the effect of the proposal and the in-combination effect; this is considered to be a notably low threshold which acts as a trigger, (thus ruling out only cases where there is no doubt or no real risk of significant effects). At the screening stage the proposal must be considered without regard to any mitigation, any integrated or additional avoidance or reduction measures when considering at the HRA screening stage whether the plan or project is likely to have an adverse effect on a European Site, these may only be considered as part of an appropriate assessment. Any proposal that has the possibility of a 'likely significant effect' on the integrity of the SAC triggers an 'Appropriate Assessment' of the proposal.
- 6.29 Once an 'Appropriate Assessment' has been triggered by the screening stage, the competent authority may only grant consent if it can be demonstrated 'beyond reasonable scientific doubt' using the 'best scientific knowledge in the field' that the proposal will not adversely affect the integrity of the SAC, this assessment should utilise 'best scientific knowledge in the field' as well as considering mitigation and in-combination effects.

Screening Stage

- 6.30 The proposal in this case does not include any foul water drainage and would not result in additional persons visiting the site, as the use would be incidental to the enjoyment of the dwellinghouse; the proposal is for all surface water drainage to be managed via soakaways as is the norm, with a condition being recommended to secure the surface water drainage arrangements as is the standard approach. However it is not considered reasonable or necessary in this instance to condition that no toilet facilities are installed in the outbuilding in the future, because the use is considered to be incidental and so there would be no net increase in persons at the property as a whole, thus there would not be any additional foul water (and so phosphates), irrespective of the quantum of toilets or sinks. As is noted by the Council ecologist, the officers conclude that there is no possibility of a adverse likely significant effect on the integrity of the River Lugg which is a catchment within the River Wye Special Area of Conservation; accordingly the proposed development is screened out at this stage and the proposal is considered to accord with the habitat regulations, policy LD2 of the Core Strategy and the framework in this regard.
- 6.31 As the development is screened out and is acceptable in HRA terms, it is not necessary to undertake an appropriate assessment.

Planning Balance and Conclusions

- 6.32 The National Planning Policy Framework has at its heart a presumption in favour of sustainable development which is echoed in CS policy SS1. Sustainable development is considered to consist of three key elements, 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); :

- a) 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;
- b) 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
- c) 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

6.33 Though the three objectives of sustainable development are not criteria against which every decision can or should be judged, decision-making 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.

6.34 Development proposals that are considered to represent sustainable development, meet the first test and are considered to be sustainable development, thus benefiting from a presumption in favour of the development. The second half of Paragraph 11 of the NPPF applies the presumption in-favour of sustainable development for decision-making; 11 c) outlines that development proposals in accordance with an up-to-date development plan should be approved without delay; 11 d) outlines that where the development plan is silent or the policies most relevant for the determination of the application are out-of-date (those being the housing policies), permission should be granted unless either of the following criteria are met.

- i) The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii) 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.

6.35 The restrictive policies set out at Paragraph 11 are set out at Footnote 6 of the framework, they include protected areas or assets such as Special Areas of Conservation, Sites of Special Scientific Interest, Local Green Space, Areas of Outstanding Natural Beauty, designated heritage assets or areas at risk of flooding. None are considered to apply in this instance.

6.36 The application as proposed and with the conditions recommended below is not considered to give rise to any conflict with the development plan nor the provisions of the framework. At the heart of both the development plan and framework lies a positive presumption in favour of development, specifically the framework is clear that development proposals in accordance with an up-to-date development plan should be approved without delay.

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. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out strictly in accordance with the following approved plans, Drawing Numbers:

- Elevation and floor plans – 329 03 Rev A
- Block plans – 329 02
- Site location plan - 329 01

except where otherwise stipulated by conditions attached to this permission.

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

3. With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls, roofs and rainwater goods have been submitted to and approved in writing by the local planning authority. 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.

4. The garage hereby permitted shall be used solely for the garaging of private vehicles and for purposes incidental to the enjoyment of the dwelling house as such and not for the carrying out of any trade or business.

Reason: To ensure that the garage is used only for the purposes ancillary to the dwelling and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

5. The outbuilding and access thereto must be reserved for the garaging or parking of private motor vehicles in the ownership of residents of the host dwelling and the garage shall at no time be converted to habitable accommodation.

Reason: To ensure adequate off street parking arrangements remain available at all times and to comply with Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no garages shall be erected within the curtilage of the dwellinghouse other than those expressly authorised by this permission.

Reason. In the interests of the amenity of the development and to comply with the requirements of Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7 All surface water shall be managed through a soakaway system within the development boundary; 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), and Herefordshire Local Plan - Core Strategy policies LD2, SD3 and SD4.

8 Within 3 months of completion of the works approved under this planning decision notice evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least TWO Bat roosting enhancements and TWO bird nesting boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any habitat enhancement, boundary feature or adjacent habitats.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Core Strategy LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

9 All planting, approved scheme (Block plans – 329 02) shall be carried out in the first planting season following the first use of the building. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

- 1. IP2 Application Approved Following Revisions
- 2. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as Great Crested Newts and all Bat species that are present and widespread across the County and recorded in the wider locality around this application site. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained.

Decision:

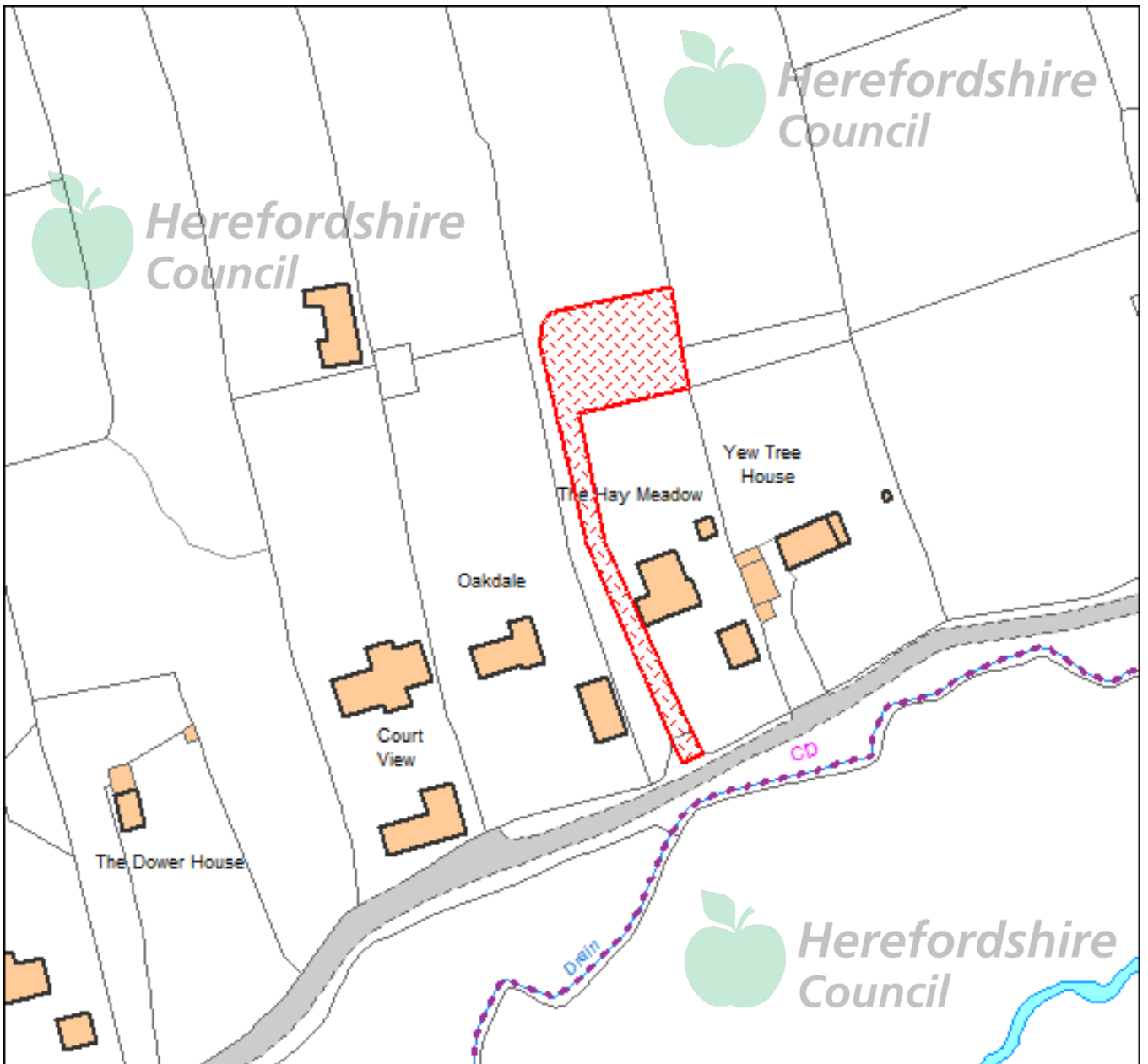
Notes:

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Background Papers

Internal departmental consultation replies.

Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882



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APPLICATION NO: 200680

SITE ADDRESS : THE HAY MEADOW, PRESTON WYNNE, HEREFORD, HEREFORDSHIRE, HR1 3PE

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	15 JULY 2020
TITLE OF REPORT:	201209 - PROPOSED GROUND FLOOR EXTENSION TO THE REAR ELEVATION AND CREATE A COVERED LINK TO THE HOME OFFICE GARAGE. INTERNAL ALTERATIONS TO GROUND FLOOR OF GARAGE TO FORM ROOM WITH ACCESS TO STORAGE AREA AT 3 AVOCET ROAD, HOLMER, HEREFORD, HR4 9WA For: Ms Marie Watkin, 3 Avocet Road, Holmer, Hereford, Herefordshire HR4 9WA
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201209&search-term=201209
Reason Application submitted to Committee - Councillor Tyler application	

Date Received: 17 April 2020

Ward: Holmer

Grid Ref: 349924,242275

Expiry Date: 6 July 2020

Local Member: Councillor Mark Millmore

1. Site Description and Proposal

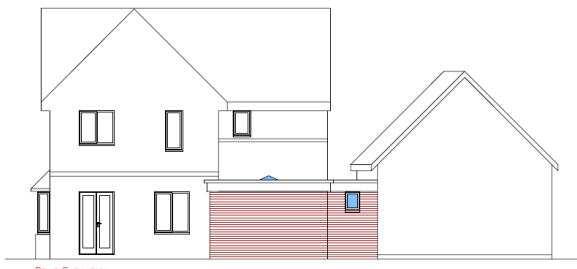
- 1.1 3 Avocet Road is a two-storey detached dwelling on the newly built Bloor Homes development in the parish of Holmer and Shelwick. The dwelling is constructed of multi red brick walls, a tiled roof and white upvc windows and doors. The proposal is for a single-storey rear extension, creating a covered link which connects the host dwelling to the home office garage. Moreover, internal alterations to the garage are proposed in order to form a room with access to a storage area. The single-storey extension would have an approximate height of 2.7 metres and an approximate total floor area of 29 square metres. The extension would be constructed from brick to match existing, sustainable grey rubber roofing and anthracite upvc windows and doors



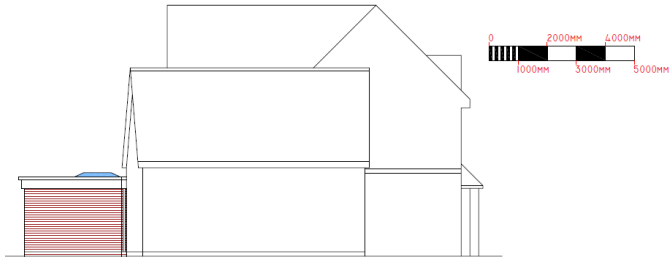
1.2

East side elevation

Further information on the subject of this report is available from Miss Emily Brookes on 01432 261825



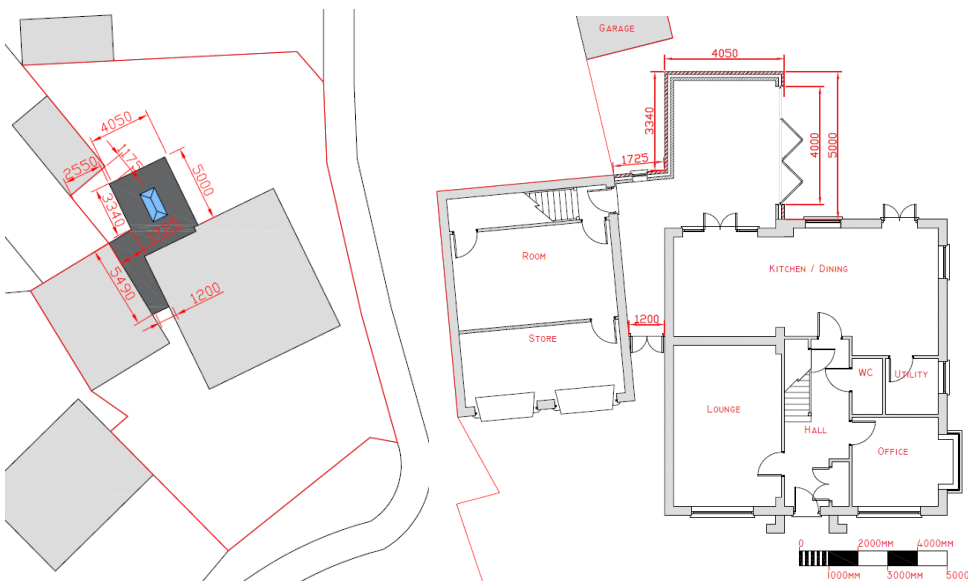
REAR ELEVATION



WEST SIDE ELEVATION

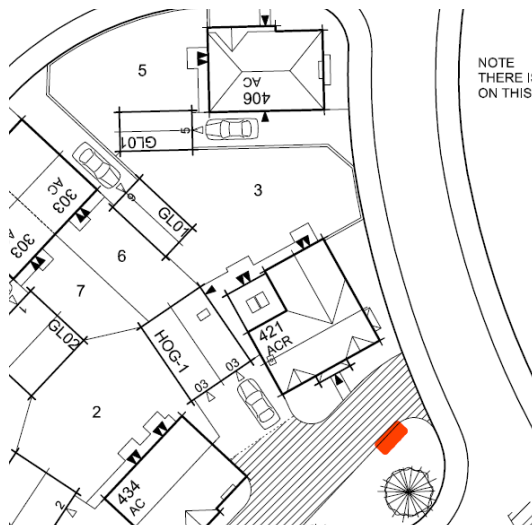
Rear and West elevation

1.3



Site plans

1.4



Site layout (from application P171073/RM)

1.5



Site photo

1.6

2. Policies

2.1 Herefordshire Local Plan – Core Strategy

SS1 – Presumption in favour of sustainable development

SD1 – Sustainable design and energy efficiency

LD1 – Landscape and townscape

2.2 Holmer and Shelwick Parish Neighbourhood Development Plan (Made 11 March 2020)

HS4 – Design

https://www.herefordshire.gov.uk/download/downloads/id/19166/neighbourhood_development_plan_december_2019.pdf

2.3 National Planning Policy Framework (NPPF) – February 2019 Chapters:

2 – Achieving sustainable development

4 – Decision-making

12 – Achieving well-designed places

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

https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

3. Planning History

3.1 **P150478/O** – Proposed erection of up to 460 dwellings and associated infrastructure [approved]

P171073/RM – Erection of 82 dwellings and associated infrastructure [approved]

4. Consultation Summary

4.1 Internal Council Consultations – None required

5. Representations

5.1 Holmer and Shelwick Parish Council considered this application at their meeting dated 08/06/2020 and wished to make the following comment: *“It was noted that the garage can no longer be used for car parking due to the addition of a partition and as such restrictions should be placed on future use to ensure it is not used for residential purposes”*.

- 5.2 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=201209&search-term=201209

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

- 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' Holmer and Shelwick Parish Neighbourhood Development Plan (Holmer and Shelwick Parish NDP). At this time the policies in the Holmer and Shelwick Parish NDP can be afforded full weight as set out in paragraph 48 of the National Planning Policy Framework 2019, which itself is a significant material consideration.
- 6.3 When assessing planning applications for residential extensions, Policy SD1 and LD1 of the CS are applicable. SD1 states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, and 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. Policy LD1 requires that the character of the landscape/townscape has positively influenced the design and scale of development, amongst other matters. These policies accord with the principles as set out within the NPPF with regards to good design and ensuring a high standard of amenity for existing and future occupiers. Policy HS4 of the made Holmer and Shelwick Parish NDP reinforces the point that development proposals should respect the character of the site and surrounding area, having regard to the privacy, outlook, sunlight and daylight of existing residents on the site's boundaries.

Assessment

- 6.4 The single-storey extension will have a maximum height sitting below the roofline of the host dwelling, ensuring it is read as a subservient addition. The material to be used for the external walls on the single-storey extension is brick to match existing. It is not considered that the proposal, with regards to design and scale, would depart from the character of the host dwelling or surrounding area, nor would the proposal impact upon the amenity of the adjacent neighbouring residents. As such, the scheme is considered to be of an appropriate and acceptable scale, utilising appropriate materials and is in adherence with SD1 and LD1 of the CS, and HS4 of the Holmer and Shelwick Parish NDP.
- 6.7 Whilst no concerns have been raised with regards to the impact the extension would have on the amenity of neighbouring dwellings by way of overlooking and loss of light, I must give this due consideration. The topography of the site results in the rear garden of 3 Avocet Road being at a decreased height in relation to the surrounding properties and garages. The site is bounded to the north by the driveway to 5 Avocet Road, to the east by Avocet Road and to the west by the rear garden and garage of 6 Avocet Road. The rear garden of 6 Avocet Road has fencing erected, as seen on the site photo provided above, of which the extension would not exceed. Taking into consideration the topography of the site and the relationship between the proposal and the surrounding uses, it is considered that the proposal would not impact the amenity of the adjacent neighbouring properties. Therefore the proposal is considered to adhere to the requirements of both SD1 of the CS and HS4 of the Holmer and Shelwick Parish NDP.
- 6.8 As seen in the site plan at paragraph 1.5, 3 Avocet Road benefits from off street parking in addition to a garage. Therefore, the proposed internal alterations to the garage, despite resulting in the

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garage no longer being able to be used for parking, would not result in parking on the street. In the Holmer and Shelwick Parish NDP it is noted that Policy H4, criteria b, excludes garages when considering parking, stating “*Highway design and car parking should allow for adequate off-street parking, excluding garages, at a rate of one space per bedroom*”. Therefore, it is not considered that the proposal would give rise to any prejudicial impact on the local highway network and therefore no conflict is found with Policy H4 of the Holmer and Shelwick NDP, CS Policy MT1 or the principles found within Chapter 9 of the NPPF. However, given that these alterations would result in the garage no longer being able to be used for car parking, a condition shall be put in place that prevents this building from being used for independent residential use in the future.

6.9 In summary, the proposal has been designed to match and complement the character of the host dwelling and surrounding area. The visual impact, in relation to the layout of the site, is limited due to both the scale and design. It is not considered that the proposal will have an undue impact upon the amenity of neighbouring residents with no concerns for overlooking or overshadowing. Moreover, the proposal will not give rise to any prejudicial impact on the local highway network. There are no other matters pertinent to the proposal which requires discussion or assessment, and taking the above into account, it is my recommendation to grant planning permission subject to the below conditions.

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. **CO1 – Time limit for commencement (full permission)**
2. **CO6 – Development in accordance with the approved plans (drawings 14B, 13B, 11C and 12C)**
3. **CBK - Restriction of hours during construction**
4. **The garage conversion shall be used solely for purposes incidental to the enjoyment of the dwelling house and not as a separate unit of accommodation**

Reason: To ensure that the development is used only for the purposes ancillary to the dwelling and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

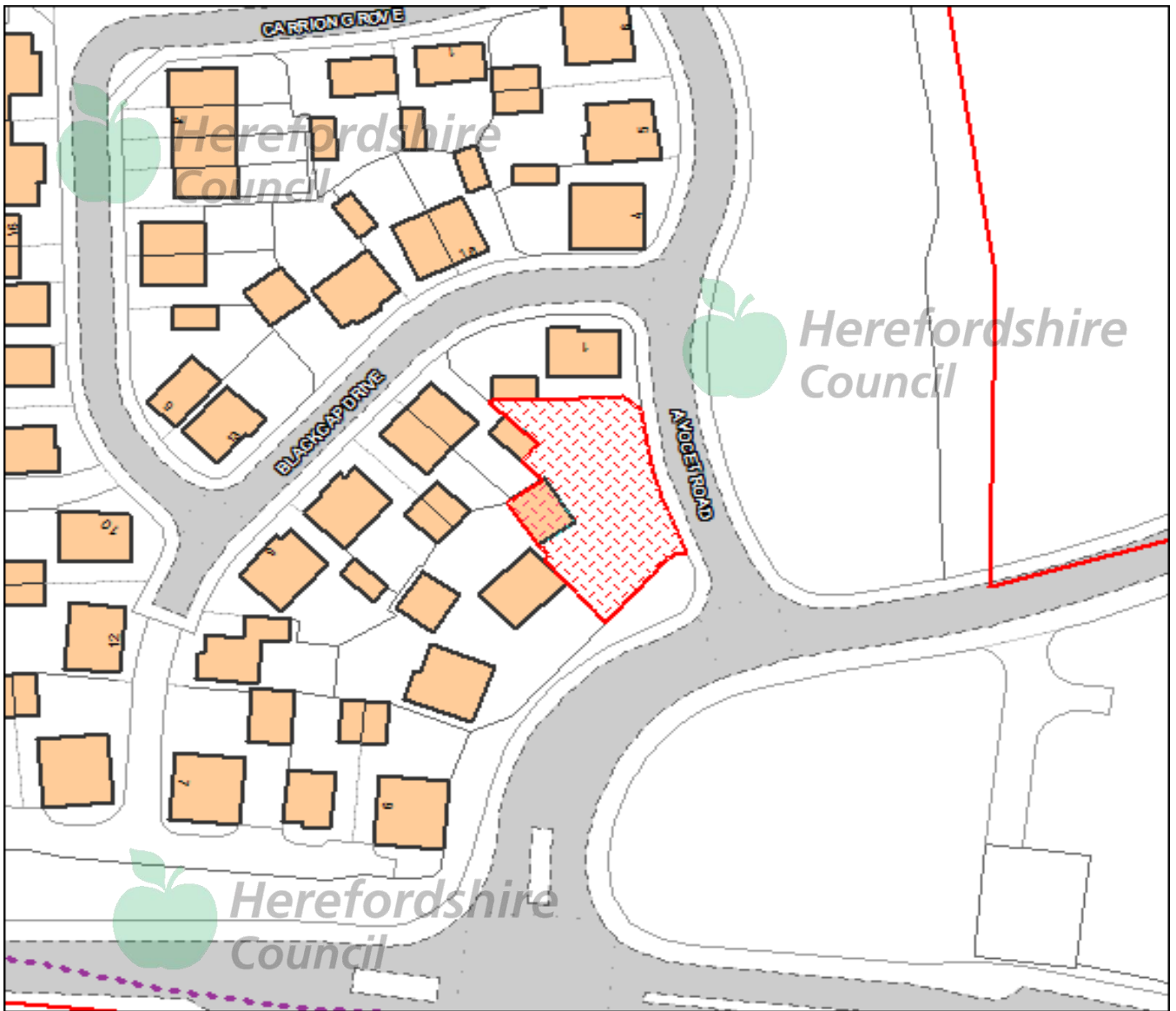
1. **IP1**

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 201209

SITE ADDRESS : 3 AVOCET ROAD, HOLMER, HEREFORD, HEREFORDSHIRE, HR4 9WA

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