

Agenda

Planning and regulatory committee

Date: **Wednesday 17 March 2021**

Time: **10.00 am**

Place: **online meeting**

www.youtube.com/HerefordshireCouncil

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 Terry James
Councillor Tony Johnson
Councillor Graham Jones
Councillor Mark Millmore
Councillor Jeremy Milln
Councillor Paul Rone
Councillor John Stone
Councillor William Wilding

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 3 March 2021.</p>	13 - 22
5.	<p>CHAIRPERSON'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairperson.</p>	
6.	<p>201220 - LAND AT HILL VIEW, DINEDOR, HEREFORDSHIRE</p> <p>Outline permission for the demolition of an existing dwelling, the erection of up to 3 x residential dwellings with associated drive and access alterations (all other matters reserved).</p>	23 - 44
7.	<p>204274 - LAND ADJOINING DUKE STREET, WITHINGTON, HEREFORDSHIRE</p> <p>Proposed improvements to existing field access and construction of farm track.</p>	45 - 56
8.	<p>191409 - TOWER LODGE, 15 LINTON LANE, BROMYARD, HEREFORDSHIRE</p> <p>Proposed redevelopment of Tower Lodge, 15 Linton Lane, Bromyard to include alterations to existing dwelling together with construction of two new dwellings.</p>	57 - 72
9.	<p>DATE OF NEXT MEETING</p> <p>Date of next site inspection – 6 April 2021</p> <p>Date of next meeting – 7 April 2021</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 through 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 Foxtan	It's our County
Councillor Terry James	Liberal Democrat
Councillor Tony Johnson	Conservative
Councillor Graham Jones	True Independents
Councillor Mark Millmore	Conservative
Councillor Jeremy Milln	The Green Party
Councillor Paul Rone	Conservative
Councillor John Stone	Conservative
Councillor William Wilding	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.

**The Seven Principles of Public Life
(Nolan Principles)**

1. Selflessness

Holders of public office should act solely in terms of the public interest.

2. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty

Holders of public office should be truthful.

7. Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

Minutes of the meeting of Planning and regulatory committee held at online on Wednesday 3 March 2021 at 10.00 am

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

Councillors: Paul Andrews, Polly Andrews, Sebastian Bowen, Toni Fagan, Elizabeth Foxton, Terry James, Graham Jones, Mark Millmore, Jeremy Milln, Paul Rone, John Stone, Elissa Swinglehurst and William Wilding

In attendance: Councillors Ellie Chowns, Louis Stark and David Summers

79. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Graham Andrews and Johnson.

80. NAMED SUBSTITUTES

Councillor Bowen substituted for Councillor Graham Andrews and Councillor Swinglehurst for Councillor Johnson.

81. DECLARATIONS OF INTEREST

Agenda item 9: Land adjoining Duke Street, Withington

Councillor Hardwick declared an other declarable interest because he knew the applicant.

82. MINUTES

RESOLVED: That the minutes of the meeting held on 3 February 2021 be approved.

83. CHAIRPERSON'S ANNOUNCEMENTS

None.

84. 201895 - LAND AT ACTON MILL FARM, THE BARROW, SUCKLEY, WORCESTER, WR6 5EJ

(Erection of a detached, single storey, three bedroomed agricultural workers dwelling. The application was approved, contrary to the Case Officer's recommendation.)

(Councillor Bowen was unable to be present during all of the consideration of the application and accordingly did not vote upon it.)

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, Mrs Hooper, the applicant, made a submission by video in support of the application. This was played to the meeting.

In accordance with the Council's Constitution, the local ward member, Councillor Chowns, spoke on the application. In summary, she commented that the case was exceptional and significant weight should be given to the particular circumstances and needs of the applicant's family. The existing accommodation on the site was not suitable. A new build bungalow was essential. There had been no objections to the application. Approval would be consistent with the National Planning Policy Framework and the Core Strategy.

The Committee discussed the application.

It was proposed that the application should be approved, contrary to the officer recommendation, on the grounds that there were exceptional circumstances and the application would be of social benefit to the family and the whole community.

The Lead Development Manager commented that the application needed to be considered solely on the basis of planning policy. The application had been submitted on the basis that there was a need for an agricultural workers dwelling. There was accommodation on site, permission for another dwelling on site and accommodation nearby that could meet that need. The application therefore needed to be considered as an application for a dwelling in the open countryside.

The local ward member was given the opportunity to close the debate. She commented that there was no landscape harm and reiterated the absence of any objections and the exceptional needs of the family that could not be met by the existing accommodation or the extant permission for another dwelling.

A motion that the application should be approved on the grounds that there were exceptional circumstances that outweighed any harm was carried.

RESOLVED: That planning permission be granted on the grounds that there were exceptional circumstances that outweighed any harm, having regard to policy RA3 and relevant paragraphs of the National Planning Policy Framework, with a condition tying the property to use by the family, and officers named in the Scheme of Delegation to officers be authorised to issue the planning permission with any other conditions as considered necessary.

(The meeting adjourned between 11.00 am and 11.10 am)

85. 202391 - RIVERSIDE FLATS, WYE STREET, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7BX

(Proposed conversion of and extension to the existing riverview flats building to form 6no. 2-bed apartments with new end staircores and additional storey above.)

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

She highlighted that, as referred to in the schedule of updates, the officer recommendation had been amended, removing the fifth ground for refusal as set out in the published report relating to the proposed surface water drainage strategy.

In accordance with the criteria for public speaking for virtual meetings, Mrs J Geyl, a local resident, spoke in opposition to the scheme, as a virtual attendee. Mr M Andrews, the applicant's architect, spoke in support of the application as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Stark, spoke on the application. In summary, he commented that the application would represent a significant improvement to a derelict building in the conservation area, noting the comments of Historic England on this latest iteration of the scheme, provide needed accommodation in the town centre, and cause less than substantial harm. The Town Council had no objection. Whilst there were some objections, in particular from some nearby residents, there was evidence of broad local support. He supported the application

The Committee discussed the application.

The Lead Development Manager commented that there was scope for a scheme of a higher quality of design better reflecting the local context to be provided.

The local ward member was given the opportunity to close the debate. He reiterated that there was much local support for the proposal and would remove an eyesore that may otherwise remain for some time. The scheme had benefits that outweighed the less than substantial harm. If the Committee was not minded to approve the application, deferral for a site visit would be preferable to refusing it.

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

- 1. The proposal with its uncharacteristic scale, architectural form, and materiality and by virtue of the site's location within the Ross Conservation Area has a detrimental impact upon nearby heritage assets, the character of the streetscape and the setting of the Conservation Area and fails to maintain or enhance the character and appearance of the locality, one that forms a gateway and location to the historic market town of Ross on Wye and is located within the Wye Valley Area of Outstanding Natural Beauty. As such the which would be contrary to Policies LD4, LD1, RW1 and SD1 of the Herefordshire Local Plan Core Strategy and the guidance found in Chapters 12 and 16 of the National Planning Policy Framework 2019. The adverse impacts identified in this regard would significantly and demonstrably outweigh the modest social and economic benefits of the scheme, and the proposal would hence not be representative of sustainable development.**
- 2. The proposal would result in less than substantial harm to the setting of No.s 11-14 Wye Street and the Masonic Hall which are Grade II listed buildings which is not outweighed by the public benefits of the proposal. The proposal neither conserves nor enhances the setting of the heritage asset and impacts on the public's ability to experience the heritage asset from vantage points. The proposal fails to accord with paragraph 196 of the National Planning Policy Framework, Policies LD4 & SS6 of the Herefordshire Local Plan: Core Strategy and policy EN1 of the emerging Ross Neighbourhood Development Plan.**
- 3. The proposed extensions by reason of their height, scale and bulk and relationship with adjoining buildings would have an adverse impact on the amenity of adjoining occupiers as a result of a loss of outlook, increased sense of enclosure and a loss of light/overshadowing and as such the proposal fails to accord with Policies LD1 & SS6 of the Herefordshire Local**

Plan: Core Strategy and policy EN1 of the emerging Ross Neighbourhood Development Plan and the NPPF.

- 4. The proposed extensions due to their design, massing and scale would constitute an unsympathetic and over dominant addition to the existing streetscene and as such the proposal fails to accord with paragraph 196 of the National Planning Policy Framework, Policies LD1,LD4 & SS6 of the Herefordshire Local Plan: Core Strategy and policy EN1 of the emerging Ross Neighbourhood Development Plan.**
- 5. In the absence of an up-to-date detailed ecological survey as requested including any identified optimum period survey requirements, the Local Planning Authority is unable to assess the potential impact upon protected species, in particular bat species. The proposal is therefore contrary to policy LD2 of the Herefordshire Local Plan – Core Strategy, paragraph 99 of circular 06/2005 and the relevant aims and objectives of the National Planning Policy Framework 2019.**

Informative:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.**

(The meeting adjourned between 12.07 and 12.15pm)

86. 201220 - LAND AT HILL VIEW, DINEDOR, HEREFORDSHIRE

(Outline permission for the demolition of an existing dwelling, the erection of up to 3 x residential dwellings with associated drive and access alterations (all other matters reserved).)

(Councillor Rone had left the meeting and was not present during consideration of 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, Dinedor Parish Council had submitted a written submission in objection to the application. This was read to the meeting. Mr J Lively, the applicant, spoke in support of the application as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Summers, spoke on the application. In summary, he expressed concerns about lack of infrastructure in the village, highway safety, drainage and flooding problems and conflict with the Neighbourhood Development Plan. He requested that the Committee hold a site visit.

At the outset of the Committee's discussion it was proposed that there should be a site visit.

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

87. 204274 - LAND ADJOINING DUKE STREET, WITHINGTON, HEREFORDSHIRE

(Proposed improvements to existing field access and construction of farm track.)

(Councillor Rone had left the meeting and was not present during consideration of this application. Councillor Paul Andrews 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, Withington Group Parish Council had submitted a video in objection to the application. This was played to the meeting. Mr P Bainbridge, a local resident, submitted a written submission in objection to the application on behalf of himself and other residents. This was read to the meeting. Mr P Smith, the applicant's agent spoke in support of the application as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Paul Andrews, spoke on the application. In summary, he expressed concerns about highway safety and the risk of flooding. He requested that the Committee hold a site visit.

At the outset of the Committee's discussion it was proposed that there should be a site visit.

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

88. DATE OF NEXT MEETING

Noted.

Appendix - Schedule of updates

The meeting ended at 1.05 pm

Chairperson

PLANNING AND REGULATORY COMMITTEE

Date: 3 MARCH 2021

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

201895 - ERECTION OF A DETACHED, SINGLE STOREY, THREE BEDROOMED AGRICULTURAL WORKERS DWELLING AT LAND AT ACTON MILL FARM, THE BARROW, SUCKLEY, WORCESTER, WR6 5EJ

For: Mrs R. Hooper and Mr M. Hooper per Mr John Peters, 11 St Marys Place, Shrewsbury, SY1 1DZ

ADDITIONAL REPRESENTATIONS

Following publication of the officer report, members were emailed by the applicants' agent on 26 February 2021, to provide a response to the officer report. This effectively details background supporting information, to justify the application submission.

OFFICER COMMENTS

Officers note no new material considerations have been introduced and members will appreciate an officer report can only consider the planning merits, constraints and material considerations of an application. Whilst noting the application is made for bespoke accommodation for the applicants' son, the proposal description seeks the erection of an agricultural workers dwelling.

Whilst noting paragraph 11 of the NPPF, inspectors in numerous appeal decisions in recent years have concluded that 'weight' can still be afforded to the Council's housing policies.

Due to the General Data Protection Regulation, tailored by the Data Protection Act 2018, the submitted planning statement and letter sent to members cannot be published.

NO CHANGE TO RECOMMENDATION

202391 - PROPOSED CONVERSION OF AND EXTENSION TO THE EXISTING RIVERVIEW FLATS BUILDING TO FORM 6NO. 2-BED APARTMENTS WITH NEW END STAIRCORES AND ADDITIONAL STOREY ABOVE AT RIVERSIDE FLATS, WYE STREET, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7BX

For: Mr Rollings per Mr Martin Andrews, One Wessex Way, Colden Common, Winchester, SO21 1WG

ADDITIONAL REPRESENTATIONS

Following the publication of the officer report, further clarification has been sought from ecology colleagues on this application. Officers now wish to revise the recommendation in respect of the removal of one refusal reason (reason 5), which relates to the Habitats Regulations Assessment. The outstanding matter in regards to surface water could now be

secured via an appropriately worded planning condition and thus the requirement for the removal of this reason for refusal. The revised recommendation is below:

CHANGE TO RECOMMENDATION

Remove Refusal Reason 5.

201220 - OUTLINE PERMISSION FOR THE DEMOLITION OF AN EXISTING DWELLING, THE ERECTION OF UP TO 3 X RESIDENTIAL DWELLINGS WITH ASSOCIATED DRIVE AND ACCESS ALTERATIONS (ALL OTHER MATTERS RESERVED) AT LAND AT HILL VIEW, DINEDOR, HEREFORDSHIRE,

For: Mr Lively per Mr Chris Moore, Clarendon House, 42 Clarence Street, Cheltenham, Gloucestershire, GL503PL

ADDITIONAL REPRESENTATIONS

The agent has submitted both the Biodiversity checklist and Climate Change Compliance checklist on 1st March 2021.

The Biodiversity checklist picks up that the Ecological features of: 'Development within, adjacent to or likely to affect a designated site (SAC*, SSSI*, Local Wildlife Site or nature reserve)' and 'Roof or building being demolished / replaced / altered, or loft being converted' will be impacted, however both of these have been resolved through the Ecological survey and assessment report that has been submitted with the application.

Within the Climate Change compliance checklist the agent has not ticked any of the measures but has provided the following information for reasoning why the measures have not yet been incorporated; *'The proposal is in outline and therefore the details of energy efficiency will be provided as part of the upcoming reserved matters planning application.'*

However, it should be noted that with the indicative plan the dwellings will be in a linear form with south east roof slopes which will be able to provide solar panels, and solar gain.

NO CHANGE TO RECOMMENDATION

204274 - PROPOSED IMPROVEMENTS TO EXISTING FIELD ACCESS AND CONSTRUCTION OF FARM TRACK AT LAND ADJOINING DUKE STREET, WITHINGTON, HEREFORDSHIRE

For: Ms Leake per Mr Paul Smith, 1 Whitby House, Commercial Street, Hereford, Herefordshire, HR1 2EH

ADDITIONAL REPRESENTATIONS

An additional letter of representation has been received in relation to the application, this is as follows:

“The Officers report states at Paragraph 6.12 that the ‘function’ of the access would remain unchanged. This is not correct as the applicant clearly states that it is a new/replacement farm access to replace those on Lock Road. As a main access to what could become a major farm operation, a full traffic impact assessment is required.

The highway engineer has previously stated that ‘the forward visibility around the bend for vehicles travelling from the south and turning right into the access is very poor.’ (Application 190884). He recommended that, without changes to the junction, involving highway widening, the application should be refused.

The application description of this new farm access, as proposed by the applicant in the supporting documents, is unclear. The existing access only serves the field, which also has another access onto Lock Road. In 2019 in the applicant’s submission for an earlier appeal, (reference application no. 190880) an aerial photograph showed no track. The current muddy track was only created on Tuesday 19th January 2021. It is unclear as to why earlier photographs are not included in the officers’ report.

There was a previous request as to whether prior approval for a farm track was required (application 190793). This track has not been implemented, therefore any access linking up to the farm buildings should be included in the application, as the whole route will connect to the highway.

Finally the report fails to refer to the proposed traffic calming measures being prepared by Balfour Beatty for the Herefordshire Council. These include improved pedestrian safety measures just 40 metres to the south of the bend at the main pedestrian access to Withington School. Pedestrian safety will be at greater risk with this change from field to farm access, onto a blind bend of a narrow road, with no pavements.

Contrary to applicant’s statement in the supporting document, Duke Street is residential, on a bus route, with more vehicle, cycle and pedestrian usage than Lock Road.

All of the above points have been made to the planning officer but no responses have been received, or included in the Committee Report.

The residents of Duke Street, supported by many other objectors, respectfully request that the application be refused on highway safety grounds, or at the very least be deferred for a site visit by members.”

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	17 MARCH 2021
TITLE OF REPORT:	<p>201220 - OUTLINE PERMISSION FOR THE DEMOLITION OF AN EXISTING DWELLING, THE ERECTION OF UP TO 3 X RESIDENTIAL DWELLINGS WITH ASSOCIATED DRIVE AND ACCESS ALTERATIONS (ALL OTHER MATTERS RESERVED) AT LAND AT HILL VIEW, DINEDOR, HEREFORDSHIRE</p> <p>For: Mr Lively per Mr Chris Moore, Clarendon House, 42 Clarence Street, Cheltenham, Gloucestershire, GL503PL</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201220&search-term=201220
Reason Application submitted to Committee -	

Date Received: 20 April 2020

Ward: Dinedor Hill

Grid Ref: 353743,236659

Expiry Date: 4 March 2021

Local Member: Councillor David Summers

UPDATE

This application was presented to Planning and Regulatory Committee on 3 March 2021 with a recommendation of approval subject to conditions. Following Officer and Local Members presentations, and interested parties speaking and Members debate, the Committee resolved: that consideration of the application be deferred pending a site visit.

On 26 February 2021 the Examiners report for the Dinedor Neighbourhood Development Plan (DNDP) was received, which provided a number of recommended alterations to the draft DNDP. One of significance for this application is the recommended extension of the proposed settlement boundary to include the residential dwellings to the west. This includes the site of Hill View. Therefore the site is now within the settlement boundary where residential development would be supported. At the time of writing, the Examiners report is a material consideration and subject to these amendments being formally approved in the Decision Document (expected in the week commencing 8 March 2021), the DNDP would then attract significant weight. Accordingly the Committee report set out below has been updated to incorporate the Examiners amendments and the exact status of the DNDP will be the subject of a further Update.

The position of officers and the recommendation remains substantively unchanged from the position set out in the Committee Report on 3 March 2020. The updates and comments are to be read in conjunction with the committee report as a whole.

1. Site Description and Proposal

- 1.1 The site currently comprises a detached chalet bungalow and its garden curtilage located to the south east of Hollow Farm Road, in the parish of Dinedor. The site is located at the eastern edge of Dinedor village and is approximately 1.2km from Rotherwas Industrial Estate.
- 1.2 To the east of the site are existing residential properties, to the south (rear) of the site are agricultural fields and to the west is a currently undeveloped site with a recent approval for up to 6 dwellings (P193329/O).
- 1.3 The proposal is for the demolition of the bungalow (known as Hill View) and erection of three dwellings with associated drive and access. All matters, with the exception of access, are reserved and an indicative plan has been submitted to show the three dwellings in a linear form fronting the roadside.



- 1.4 It should be noted that the original proposal was for 4 dwellings with an indicative plan showing a cul-de-sac layout. However following discussions with Officers, the proposal was amended to three units to facilitate a linear form fronting the road.
- 1.5 The application is accompanied by a Planning Statement, a Transport Statement, a Preliminary Ecological appraisal and an indicative drainage layout.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy (CS)

- SS1 - Presumption in favour of sustainable development
- SS2 - Delivering new homes
- SS3 - Releasing land for residential development
- SS4 - Movement and transportation
- SS6 - Environmental quality and local distinctiveness
- SS7 - Addressing climate change
- RA1 - Rural housing distribution
- RA2 - Housing in settlements outside Hereford and the market towns
- MT1 - Traffic Management, highway safety and promoting active travel
- LD1 - Landscape and townscape
- LD2 - Biodiversity and geodiversity
- LD3 - Green Infrastructure
- LD4 - Historic environment and heritage assets
- SD1 - Sustainable design and energy efficiency
- SD3 - Sustainable water management and water resources
- SD4 - Waste water treatment and river water quality

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

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made and on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.

2.2 Dinedor Neighbourhood Development Plan (DNBP)

A Neighbourhood Area was designated on 12 August 2013 and the Examiners Report in relation to the Regulation 16 Plan was received on 26 February 2021. The recommendations are a material consideration and subject to the recommended amendments being approved in the Decision Document, it can be afforded significant weight whilst it awaits a Referendum.

- Policy A - New housing development in Dinedor village
- Policy C - High quality design
- Policy F - To protect and enhance the rural environment and landscape
- Policy G - Protecting local Heritage assets
- Policy J - Local Residents enjoyment of the Parish

<https://www.herefordshire.gov.uk/downloads/file/21031/neighbourhood-development-plan-january-2020>

2.3 National Planning Policy Framework (NPPF)

Chapter 2	-	Achieving sustainable development
Chapter 4	-	Decision-making
Chapter 5	-	Delivering a sufficient supply of homes
Chapter 9	-	Promoting sustainable transport
Chapter 12	-	Achieving well-designed places
Chapter 14	-	Meeting the challenge of climate change, flooding and coastal change
Chapter 15	-	Conserving and enhancing the natural environment
Chapter 16	-	Conserving and enhancing the historic environment

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

3. Planning History

3.1 No planning history on this site.

4. Consultation Summary

Statutory Consultations

4.1 **Natural England** - 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 objections to the proposed amended plan condition as follows: -

CAB - Visibility Splays – 2.4 x 52.9m, northeast bound and 2.4 x 43.6m south west bound

CAD - Access gates 5 m

CAE - Vehicular access construction – Road standard construction

CAH - Driveway gradient

CAI - Parking – single/shared private drives

CAT - Construction Management Plan

CB2 - Secure covered cycle parking provision

I11 – Mud on highway

I09 – Private apparatus within the highway

I45 – Works within the highway

I05 – No drainage to discharge to highway

I47 – Drainage other than via highway system

I35 – Highways Design Guide and Specification

4.3 Principal Building Conservation Officer

The amended scheme has satisfactorily address previous heritage concerns; approval with conditions is recommended A reduction in dwelling numbers has enabled better spatial use of the site, which has improved containment and minimised the impact on both streetscape and landscape aspects.

The indicative elevations present an architectural and material character which would be considered appropriate in this context, and a good balance between residential and agricultural scale and form.

4.4 Principal Natural Environment Officer (Ecology)

Initial Comments

The proposed works seeking approval include demolition of existing buildings. The 'non-technical summary' of the supplied Preliminary Ecology Appraisal (PEA) report by Sharpe Ecology dated February 2020 states:

“The site has the potential to support roosting bats (within the house), reptiles (particularly slow-worm), hedgehog and nesting birds. Therefore, the demolition of the house of the works has the potential to impact bats (and their roosts), while site clearance works have the potential to impact reptiles, hedgehog and nesting birds.

As such, further surveys to establish the presence / absence of bats and reptiles are required, and if found to be present, to inform detailed mitigation. “

These are discussed in greater detail in Section 6 of the PEA. These further 'optimal period' surveys – eg for bats emergence and return surveys completed between mid-May and August inclusive (to allow for consideration of any maternity roosts) do not appear to have been supplied in support of this application.

The LPA has a duty of care to ensure all potential effects on protected species if they are present – as identified in the PEA – are fully considered PRIOR to any grant of planning consent, in particular where significant works are proposed and potential permanent loss of habitats or roosting is proposed (e.g. through Demolition). The LPA cannot make the required considerations without further specific baseline data on which comments and any relevant conditions for discharge at the Reserved Matters stage can be made and included on any outline consent granted.

The LPA Ecology must raise an Objection to the application as currently submitted. This position can reviewed once further detailed, optimal period ecology surveys have been undertaken to provide clear evidence whether any protected species are present and could be impacted by the development. This additional report must include full details of survey efforts, survey results, relevant discussions, clear conclusions on presence or absence and the level of use and specific species involved if a presence is confirmed. The outline details of any required mitigation-compensation must also be detailed so the LPA can be assured these can be accommodated within the new development. This will allow the LPA to ensure relevant conditions are included on any outline consent granted in respect of any further ecology assessment required and secure any species licences that will be needed.

As currently proposed the application is contrary to; Conservation of Habitats and Species Regulations (2017), Wildlife & Countryside Act (1981), NPPF (2019), Core Strategy (2015) policies SS6 and LD2.

Additional ecology comments, notwithstanding the above:

In addition to any mitigation or compensation required as part of the updated ecology report all developments should clearly demonstrate a 'biodiversity net gain'. A relevant condition can be included on any consent finally granted. As a minimum Net Gain enhancements for Bats, Birds, insects /Invertebrates and Hedgehogs are expected.

There are known local populations and commuting and foraging routes for nocturnal protected species in the locality including adjacent habitats such as the brook corridor and hedgerows. The area is an 'intrinsically dark landscape' creating amenity and nature conservation interest. To ensure this is maintained after any development occurs a relevant condition is requested.

The site falls within the catchment of the River Wye Special Area of Conservation and a Habitat Regulations assessment process is triggered by this application. The appropriate assessment completed by the LPA should be subject to consultation and a 'no objection' response received prior to any final grant of outline planning consent.

The following points are notes in relation to the HRA process based on information available to the LPA and supplied by the applicant.

- Plot specific private treatment plants will be installed.
- The individual PTP will discharge to a shared soakaway field managing the outfall from all THREE proposed plots and their PTPs.
- The management/maintenance for the lifetime of the development of the shared drainage field can be secured through a relevant condition on any consent granted
- The LPA has no reason to believe that the proposed drainage field cannot be achieved at this specific location
- All surface water will be managed through onsite soakaway-infiltration systems

The agreed drainage scheme can be secured by condition on any outline consent granted.

Subject to any comments by Natural England suggested conditions

Further comments following additional details

The detailed 'optimal period' bat survey and final report by Star Ecology dated 23rd September 2020 supplied by applicant is noted, including the results that there is a small bat roost within the current building and so a relevant European Protected Species Licence issued by Natural England is required PRIOR to any works commencing on or adjacent to the existing building being demolished. The report appears relevant and appropriate and should be secured by a relevant condition on any planning consent granted.

The reptile survey and report also by Star Ecology and dated 23rd September 2020 is noted and the presence of habitats that could support reptiles is noted. The suggested mitigation (ecological working methods) appear relevant and appropriate and should also be secured by condition on any consent granted.

Standard condition CKP should be utilised with relevant amendments and inserted text as highlighted.

The previously requested conditions for managing Lighting and Biodiversity Net Gain enhancements and the Habitat Regulations Assessment and associated condition all remain valid.

No further ecology comments and **no objection** is now raised.

4.5 **Principal Minerals and Waste Officer**

Minerals

The site is within an area identified under policy M5 of the HUDP for the safeguarding minerals due to the presence of a sand and gravel deposit which is present underneath the site and in the surrounding area.

If an area is identified as being within a Mineral Safeguarded Area it does not automatically preclude other forms of development. Neither is there a presumption that an application to extract the mineral resource defined within the Mineral Safeguarding Areas will be granted permission. What it does mean however, is that attention to the presence of important mineral resource is needed and that any proposals should adequately and effectively considers the importance and nature of the reserve in land-use planning decisions.

Further information on the subject of this report is available from Mrs G Webster on 01432 261803

The NPPF requires mineral planning authorities to maintain a minimum land bank of 7 years for sand and gravel. At the end of 2019 the land bank for sand and gravel (using a 10 year sales average) stood at 21.5 years. The HUDP does not currently identify any 'preferred' sites for future extraction of sand and gravel, nor does it identify constraints of sites with known minerals resources.

The Council recognises that mineral resources are finite and must be protected for future generations to meet their own needs. Minerals can only be worked where they naturally occur but with increased pressure on land use the Council must also ensure that those resources are not needlessly sterilised by other forms of development.

On balance, I am satisfied that given the characteristics of this site and its surrounds, together with there not currently being an immediate need within the County for sand and gravel, the physical sterilisation of this relatively small resource is not significant in a local and national context. Similarly, it is considered unlikely that the prior extraction of the resource would be environmentally and economically viable.

In conclusion, I have no objection to the application with regards to saved Policy M5 of the HUDP and national planning policy contained within the NPPF and NPPG

Waste

The treatment and handling of any site waste is a necessary initial requirement before any demolition and groundworks are undertaken in the interests of pollution prevention and efficient waste minimization and management so as to comply with the Policy SD1 of the Herefordshire Local Plan - Core Strategy. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.

If you are minded to recommend a condition be imposed requiring a Construction Environmental Management Plan (CEMP), I recommend that a scheme for the management of all waste material arising from the site (i.e. stockpiles, waste soils, materials movements etc) form a sub component of such a Plan.

5. Representations

5.1 Dinedor Parish Council

Initial comments

Dinedor Parish Council has considered this application at a meeting held on 19th May and wishes to object to the application on the following grounds:

1) This application is separate from, but adjacent to three other applications for multiple dwellings on existing single dwelling sites along the main access road into the village. Total dwellings on the adjacent sites, if granted, would amount to 13, or 17 including the 4 for this site. We believe the current undecided applications should be reviewed in the light of this additional, albeit unconnected, proposed development as the total impact on the village is considerable.

2) The proposed development is on a very narrow, single track road leading from the B4399 (Holme Lacy Road) into the village. This road provides the main access into and out of the village so is used by residents and agricultural vehicles. Concern has been expressed on many occasions that visibility on exiting the village at the B4399 is poor and has led to several near misses and we have requested that improvements to this junction be a condition of several of the current applications. If approved, we would reiterate that request again for this application.

3) There is a very sharp bend in the single track access road between the junction with the B4399 and the proposed development(s). Vehicle speed and volume along this road with virtually no vehicle passing places has led to further near misses at this location. We feel strongly that the additional traffic generated by the proposed development(s) represents an unacceptable increase, leading to greatly reduced safety for vehicle and pedestrian traffic. We would wish to highlight that there is no public transport accessing the village/site and Dinedor has little in the way of facilities. Residents have no option but to travel outside the village for shops, medical services, schools and most social activities (we have one village hall). We would expect the total of the proposed developments to increase the number of vehicles using this road by at least 35 vehicles with the potential for upwards of 200+ vehicle movements per day.

4) Drainage along the road is poor and the road floods when it rains. We are concerned that run off water from the proposed development(s) will increase the amount of water entering the road, increasing the potential for flooding. We are further concerned that the intensity of the development(s) will create difficulty in providing suitable soakaways for the sites themselves exacerbating the existing problems and we would suggest that a review of the cumulative effect of drainage of surface water from all the proposed sites along that limited stretch be reviewed and consideration given to a drainage solution, including holding pond, to encompass all sites/dwellings at that location.

Similarly, the village has no mains drainage or sewerage system. The proposed development will need an adequate system to deal with sewerage and surface drainage for each of the dwellings with adequate provision for soakaways within the property. Currently, drainage issues result in septic tank back ups when the road floods, leading to sewerage flooding at the lowest point of the village-the village hall. These issues must be resolved before any further development is permitted.

5) The village consists of single dwellings in a linear form along the roadways, generally within large plots. The proposed development of four homes for this application is a in a cul-de-sac layout which is not in keeping with the overall design and visual amenity of the village. Taking alongside the other agreed and outstanding applications for this site, represents a total change in the village design and is not in keeping with our draft Neighbourhood Development Plan (currently being submitted under Regulation 16). It is contrary to the views expressed during extensive consultation with residents under the Neighbourhood Plan process.

6) The proposed development is outside of the development area identified within our draft Neighbourhood Development Plan.

Considerable concern has also been expressed by residents that potential construction traffic if the current application and two undecided applications receive permission, would result in considerable disruption for the entire village and potentially block the access road for residents and possibly emergency vehicles. Conditions relating to hours of work, damage to the road, drainage channels and verges would need to be considered during any construction.

Following amended plans

Dinedor Parish Council has considered the amendment to the proposals for this site at a meeting held on 23rd June and whilst welcoming the reduction in proposed dwellings from 4 to 3 and the revised layout which is more in keeping with the linear development within the village, still feels its letter dated 20th May applies in all other respects. In particular we would wish to reiterate that all the proposed development on adjacent sites should be considered as a single entity albeit submitted by separate developers.

5.2 To date a total of five representations have been received, stating the following points:

- Along with the adjacent applications this could lead to 14 new properties in a short distance;
- No local amenities in the village
- Impact upon traffic on local roads
- Limited visibility from the village road onto the B4399
- Impact upon local residents
- Development not in keeping with existing liner development
- Road has no passing places other than private drives
- Concerns over surface water flooding on the road
- No transport links

5.3 No further letters were received following the publishing of amended plans (site notice displayed on 24th June 2020).

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=201220&search-term=201220

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

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

6. Officer's Appraisal

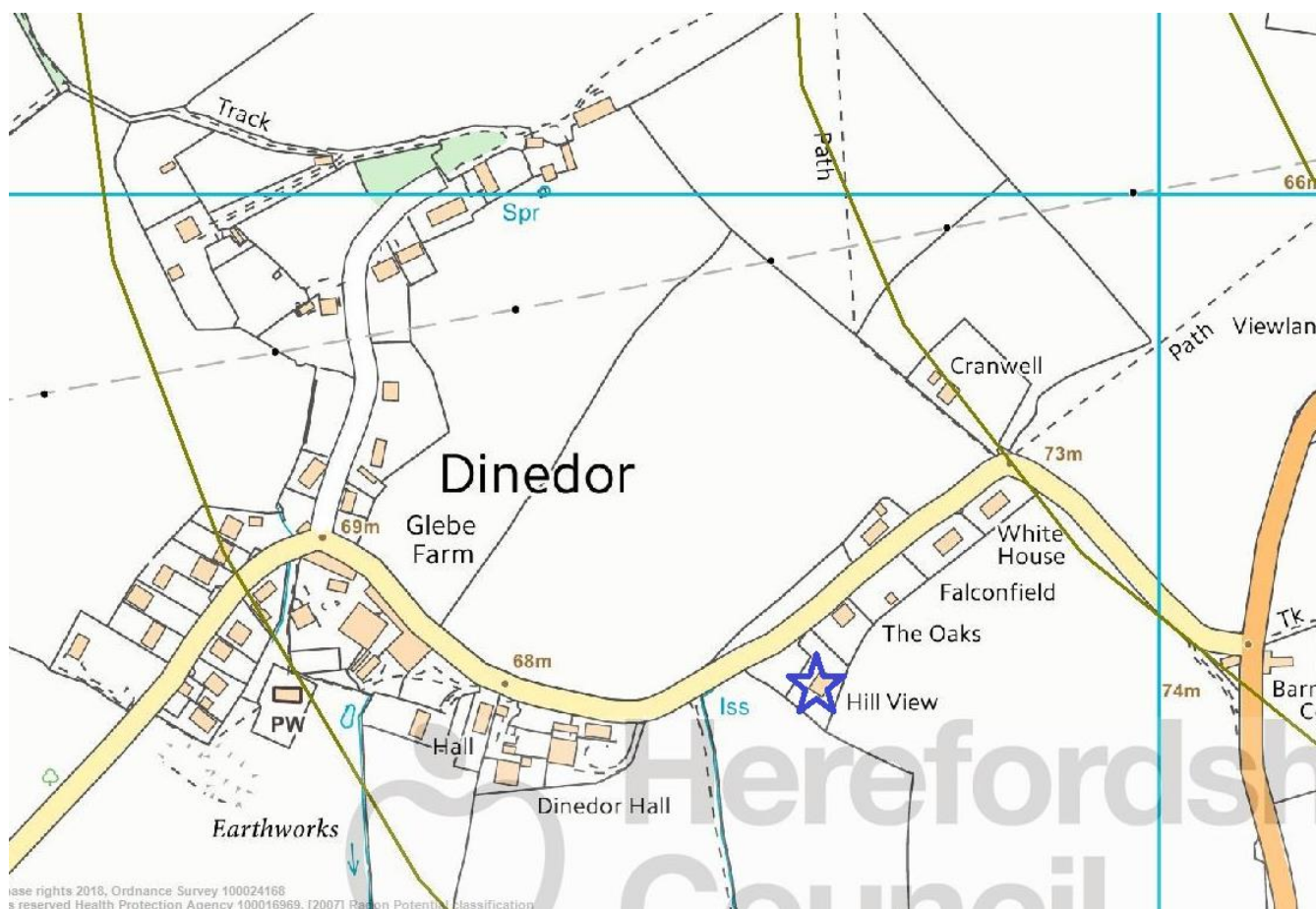
Policy context and Principle of Development

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:
"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

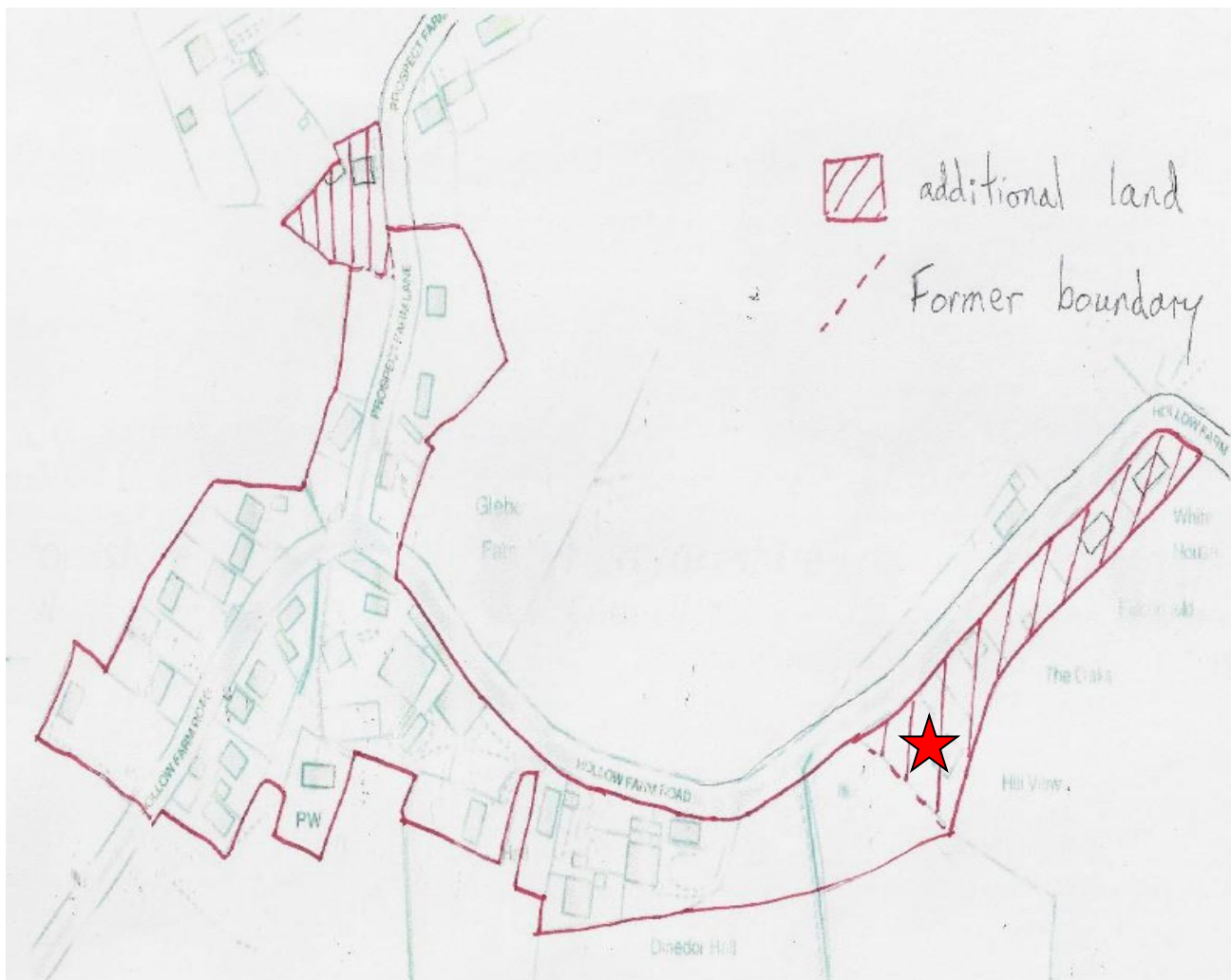
6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration. It is also noted that the site falls within the Dinedor Neighbourhood Area. As reported above, the Examiners report was received on 26 February 2021 and its recommendations are a material consideration which must be afforded weight. Subject to the recommendations being endorsed by the Council, the DNDP would be afforded significant weight whilst it awaits the necessary Referendum. A decision on the Examiners report is expected in the week commencing 8 March 2021 and a further update as to the status of the DNDP will be provided in the Schedule of Updates.

6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made and on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.

- 6.4 Policy SS1 states that Herefordshire Council will take a positive approach when considering development proposals that reflects the presumption in favour of sustainable development, which fully accords with the aims of the National Planning Policy Framework (NPPF). The approach to housing distribution within the county is set out in the Core Strategy at Policy SS2. Hereford, as the largest settlement and service centre is the recipient of up to 6,500 of the requisite 16,500 homes, with the market towns identified in the second tier as recipients of approximately 4,700 dwellings.
- 6.5 The application at this time must be considered in the context of the Council being unable to identify a five year supply of deliverable housing sites or demonstrate it can meet the housing deliverability test. At paragraph 11, the NPPF confirms that when making decisions the 'presumption in favour of sustainable development' should be applied. It goes on to set out at 11 (d) that where the policies most important for determining the application are 'out-of-date' planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or the application of the policies in the framework provides a clear reason for refusing the proposal. At footnote 7, it is confirmed that a failure to demonstrate a five year supply of housing and requisite buffer in accordance with paragraph 73 will render relevant policies to delivering housing out-of-date.
- 6.6 It is acknowledged that, at this point in time, the Council is unable to demonstrate a five year supply of deliverable housing sites. A supply statement has recently been published which outlines that the updated position in Herefordshire stands at 4.22 years. As a result, the presumption in favour of sustainable development set out under paragraph 11 of the Framework is fully engaged. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the current NPPF as a whole, or if specific policies in the current NPPF indicate development should be restricted.
- 6.7 Notwithstanding this, Supreme Court judgements and subsequent appeal decisions have confirmed that policies relevant for the supply of housing can still be afforded weight in the decision making process, and it is a matter of planning judgement for the decision-maker to attribute the degree of weight to be afforded depending on the context of the decision. Moreover, policies not directly relevant to the supply of housing (such as those dealing with matters of flood risk, highways safety or heritage impacts) still attract full weight.
- 6.8 Housing in the rural parts of the county is delivered across the settlements identified at figures 4.14 and 4.15 under Policy RA2. Here the identified settlements are arranged according to the seven identified housing market areas. Figure 4.14 identifies the settlements which will be the main focus of proportionate housing development. Figure 4.15 classifies the 'other' typically smaller settlements where proportionate housing will be appropriate. Dinedor is a settlement listed under figure 4.15.
- 6.9 The preamble to Policy RA2 states that Neighbourhood Development Plans (NDPs) will be the principal mechanism by which new rural housing will be allocated. Where these are not in place, a site's relationship with the main built up part of the settlement will be assessed, where new residential development should be within or adjacent to such areas. As stated above, the NDP is afforded significant weight at this stage.



- 6.10 The site is indicated on the plan above by the blue star. Following the Examiners Report received on 26 February 2021, the Examiner amended the extent of the settlement boundary to include the recent permissions within the village and as such the site of Hill View is now located within the defined settlement boundary of the emerging NDP, as shown in the Examiners settlement boundary sketch below, with the site indicated by the red star.
- 6.11 I am also mindful of the outline scheme for five dwellings at The Oaks to the north east (ref: 174700). Further, applications P193328 and P193229 have been approved in outline form directly adjacent to this site to the west. All three applications are demonstrating a linear form of development in a build line with the proposed development on Hill View.



6.12 Policy RA2 further states that if it is located within or adjacent to the main built up part of the settlement the following criteria should be met:

1. *Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned;*
2. *Their locations make best and full use of suitable brownfield sites wherever possible;*
3. *They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and*
4. *They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.*

6.13 This part of Dinedor is largely represented by dwellings within their own plots comprising of ribbon development with the majority of dwellings fronting and addressing the public highway as it sinuously winds its way through the village.

6.14 Amended plans received on 5 June 2020 demonstrate that amendments to reduce the overall number of dwellings on the site shows a characteristic linear form of development with the properties fronting the road providing a strong relationship to the road. It is considered that this indicative proposal complies with the requirements of CS policy RA2 criteria 1 in that it follows the form, layout and character of the surrounding development within the village.

Further information on the subject of this report is available from Mrs G Webster on 01432 261803

- 6.15 Whilst the DNDP policy sets out that “*small scale proposals for new market and affordable housing will be supported within the village settlement of Dinedor, shown on Figure 6a, Policies Map.*” The policy only seeks to support developments of small scale developments, thus I don’t consider the proposal for 3 dwellings to be directly in conflict with this aspect of the policy.
- 6.16 In addition, the site is considered a brownfield site which further meets criteria 2 of CS policy RA2.
- 6.17 Overall, it is considered that the principle of development on this site, for three dwellings is fully in accordance to the CS policy RA2 and Policy A of the emerging Dinedor NDP.

Access and parking

- 6.18 Policy MT1 of the CS and NPPF guidance 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.
- 6.19 The application seeks to utilise the existing access into the site, this access meets the highway in a perpendicular fashion. This maximises visibility and ensures that turning movements can happen efficiently, providing sufficient visibility splays in each direction. With regard to the impacts on the road and the associated traffic as a result of a three dwelling scheme, this is not found to amount to a ‘severe’ level. This is reinforced through the lack of objection to the proposal from the Team Leader Area Engineer.
- 6.20 The junction of B4399 and U72009 (some 420 metres from the site), has been raised as a concern by residents and although it is acknowledged that the visibility is restricted at the junction there are no officially recorded accidents at the junction and the junction has not been included in the Countywide accident cluster list. Therefore, it is not considered that this application will cause significant additional traffic that would amount to a severe impact level. Overall the proposal complies with CS policy MT1.

Ecology

- 6.21 Policy LD2 states that development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire through the retention and protection of nature conservation sites and habitats and important species, restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks and creation of new biodiversity features and wildlife habitats. Policy LD3 states that development proposals should protect, manage and plan for preservation of existing and delivery of new infrastructure.
- 6.22 The application has been supported by a preliminary Ecological report, followed by additional submissions of a Reptile survey and Bat report on 5th October 2020, which makes several recommendations. The Principal Natural Environment Officer (Ecology) has had sight of the assessments and does not object to their conclusions. The reports will be conditioned to be carried out on any approval.
- 6.23 With the foregoing in mind, subject to recommended conditions being attached to any approval the proposal is found to be compliant with CS policies LD2 and LD3.

Drainage

- 6.24 CS policy SD3 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).
- 6.25 The application site lies within the catchment for the River Wye, 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). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value.
- 6.26 The application form accompanying the submission states that foul water will be disposed of via private package treatment plants for each dwelling with the outfall utilising a shared managed soakaway field. Surface water will be managed through on site soakaway-infiltration systems. With these methods aligning with the aims of policies SD3 and SD4, and given the area of the land within the applicant's ownership, they are considered acceptable and the proposal complies with CS Policies SD3 and SD4.
- 6.27 The development has been the subject of an Appropriate Assessment under the Habitat Regulations. The HRA AA concluded that subject to conditions there would be no likely significant effect upon the River Wye SAC. Natural England has been consulted on the completed HRA with details of the condition recommended by the Council's Ecologist. Natural England confirmed no objections to the proposal. The strategy conforms to CS policies SD3 and SD4 and following Natural England agreement will have no unmitigated effects upon the River Wye Special Area of Conservation/Site of Special Scientific Interest in accordance with CS policy LD2.

Climate Change

- 6.28 CS policy SS7 requires focus on measures to address the impact that new development in Herefordshire has on climate change, outlining how development proposals should include measures which will mitigate their impact on climate change, with policy SD1 also seeking to support these measures. Herefordshire Council has unanimously passed a motion declaring a Climate Emergency, signalling a commitment to ensuring that the council considers tackling Climate Change in its decision-making, with this resolution came a countywide aspiration to be zero carbon by 2030; and a Climate Change Checklist to aid the consideration of development proposals.
- 6.29 Proposals for residential development are considered by the Council to need to help redress the climate emergency, and so notwithstanding the sustainable location of the development thus reducing the need to travel for services, the proposal is considered to need to include measures to support low-carbon ways of living & sustainable transport modes (as defined by the framework). The NPPF sets out at paragraph 108 that LPAs in assessing sites for specific applications for development should ensure that appropriate opportunities to promote sustainable transport modes can be, or have been, taken up. Further to this, paragraph 110 sets out that developments should be designed to enable the charging of plug-in and other ultra-low emission vehicles, with such vehicles contributing to the objectives of reducing reliance on fossil fuels and so climate change.

- 6.30 In line with the provision of car charging points, the government has reaffirmed by way of a Written Ministerial Statement on 18 November 2020 (Statement UIN HCWS586), the commitment to electric vehicles by seeking to “accelerate the transition to electric vehicles, and transforming our national infrastructure to better support electric vehicles” as it has announced the ban on the sale of new fossil fuel reliant vehicles by 2030, thus the need for the provision of electric vehicle charging points is amplified; it follows that to make the decision acceptable given the above material planning considerations, a condition for electric vehicle charging points is recommended to require such provisions are available for future residents.
- 6.31 The agent has submitted a completed Climate Change checklist which states that a number of measures listed within the checklist will be considered to be included at the Reserved Matters stage when detailed designs have been developed.

Heritage

- 6.32 There is no Conservation Area designation within Dinedor but there are a number of designated and undesignated heritage assets within the locality. The Grade II listed Church of St Andrew and the Grade II listed Glebe Farmhouse, and the Grade II Listed roadside barn are worthy of note as designated assets, the land to the south of the Church is also the site of a former mediaeval village, which is a Scheduled Ancient Monument. All four heritage assets are situated within 300m to the south west of the proposed site, and the character of the settlement forms part of their setting, and influences how they are experienced. In addition, a number of other historic buildings within the settlement, including Dinedor Hall and Brookfield, are considered non-designated heritage assets due to their age, architectural merit and associative value.
- 6.33 In this regard there is a statutory provision pursuant to Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 to have special regard to their setting. This provision is underpinned by the requirements of CS policy LD4 to protect, conserve and where possible enhance the character and setting of heritage assets.
- 6.34 The proposed scheme will retain the existing domestic plot dimensions, and although it will increase the density of development in this gateway location, the amended plans demonstrating the linear form of three dwellings set back into the site maintain the established building line and would not impact upon the streetscape and landscape character.
- 6.35 With no technical objection from the Principal Buildings Conservation Officer, it is considered that the proposed development will not harm the setting of heritage assets and would therefore accord with National policy and the CS policy LD4.

Conclusion

- 6.36 CS policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The 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.
- 6.37 The application is for housing and in the light of the housing land supply deficit must be considered against the test prescribed at NPPF paragraph 11 and CS Policy SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF when considered as a whole.
- 6.39 The site is located within the settlement boundary of the emerging DNDP following the receipt of the Examiners Report, and given the proposal is for up to three dwellings it is considered that this is small scale and therefore fully compliant to the NDP policy A. In assessing the location and proximity of the site to the main built up part of the settlement, I am also content that the site accords with the aims of policy RA2.

Further information on the subject of this report is available from Mrs G Webster on 01432 261803

6.40 In assessing the three elements of sustainability:

Economic

6.41 Economic benefits would be derived from the construction of three dwellings and associated infrastructure through both the supplies and employment of the required trades. After completion the occupiers would contribute some disposable income to the local economy and Council Tax revenue and New Homes Bonus would accrue. The impact of three new dwellings as proposed would result in modest benefits.

Social

6.42 The provision of housing, in the context of a shortfall, would contribute to the supply and the social needs of the county. In addition occupiers could contribute to village life at the village hall and Church, as well as potentially supporting other facilities in other villages in the locality (the primary school and colleges at Holme Lacy for example). It is recognised that this could help to provide towards the population to help sustain them and three new dwellings would make a modest contribution in this regard.

Environmental

6.43 The site is within the main built up area of the settlement, and indeed located within the proposed settlement boundary, the settlement has been identified as being suitable for proportionate growth, and as such is considered to be locationally sustainable within the current policy framework. In landscape terms, the site is not in a protected landscape nor is it the subject of any site specific heritage designations, although the setting of designated and undesignated heritage assets has been assessed. Whilst it is recognised that there is some opposition to the impact of the proposed development upon the character of the village, the set back linear form proposed and existing developed nature of the site mitigates the visual impact and whilst officers do not consider there to be harm in this instance, were this to be identified, it would not be adverse nor is it considered that it would outweigh the NPPF presumption in favour of development.

6.44 Having undertaken an overall assessment of the proposal in light of its economic, social and environmental impacts as required by the NPPF, it is considered any economic and social benefits would be modest. The environmental impacts are limited for the reasons set out above and lead officers to conclude that the proposal is representative of sustainable development and approval is therefore recommended.

RECOMMENDATION

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

- 1. C02 - Time limit for submission of reserved matters (outline permission)**
- 2. C03 - Time limit for commencement (outline permission)**
- 3. C04 - Approval of reserved matters**
- 4. C06 - Development in accordance with the approved plans**
- 5. CBK - Restriction of hours during construction**
- 6. CE6 - Efficient use of water**

7. **A Construction Site Waste Management Plan shall be submitted to and approved by the LPA prior to development commencing on site to ensure waste management provisions compliment the construction activities on site and that all waste emanating from the development are dealt with in an appropriate manner and follows the waste hierarchy. The Plan shall include, but not be limited to:**
- (i) a description of the likely quantity and nature of waste streams that will be generated during construction of the development;**
 - (ii) measures to monitor and manage waste generated during construction including general procedures for waste classification, handling, reuse, and disposal, use of secondary waste material in construction wherever feasible and reasonable, procedures or dealing with green waste including timber and mulch from clearing activities and measures for reducing demand on water resources;**
 - (iii) measures to monitor and manage spoil, fill and materials stockpiles, including details of how spoil, fill or material will be handled, stockpiled, reused and disposed of, and locational criteria to guide the placement of stockpiles; and**
 - (iv) details of the methods and procedures to manage construction related environmental risks and minimise amenity impacts associated with waste handling. Construction works shall thereafter be carried out in full accordance with the CEMP Sub-Plans.**

Reason: To ensure, manage and co-ordinate the protection and enhancement of the Environment in accordance with the requirements of Policies SD1, SD3, SD4, LD1, LD4 of the Herefordshire Local Plan - Core.

- 8. **CAB - Visibility splays**
 - 9. **CAD - Access gates**
 - 10. **CAE - Vehicular access construction**
 - 11. **CAH - Driveway gradient**
 - 12. **CAI - Parking - single/shared private drives**
 - 13. **CAT - Construction Management Plan**
 - 14. **CB2 - Secure covered cycle parking provision**
 - 15. **The ecological protection, mitigation, compensation and working methods scheme and any required European Protected Species Mitigation Licence (Bats), as recommended in the ecology reports (Reptile and Bats) by Star Ecology dated 23rd September 2020 shall be implemented in full as stated, and hereafter maintained, unless otherwise approved in writing by the local planning authority and Natural England as relevant to the protected species licence.**
- Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies LD1, LD2 and LD3.**
- 16. **Prior to any construction above damp proof course levels, a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features**

Further information on the subject of this report is available from Mrs G Webster on 01432 261803

including as a minimum significant provision for Bat Roosting, Bird Nesting, pollinating insect 'hotels', wildlife refugia and Hedgehog homes (and movement corridors through any fencing) should be supplied to and acknowledged by the local authority and then implemented in full. The approved scheme shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Core Strategy SS6, LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

17. a) At no time shall any external lighting except in relation to safe use of the approved dwellings be installed or operated in association with the approved development; and no permanently illuminated external lighting shall be operated at any time, without the written approval of this local planning authority.
- b) No external lighting should illuminate any biodiversity enhancement, boundary feature, highway corridor or adjacent habitats.
- c) All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals and Bat Conservation Trust.

Reason: To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/19).

18. All foul water shall discharge through connection to new plot specific private treatment plants with final outfall to suitably sized 'shared' soakaway drainage field on land under the applicant's control 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 be managed through plot specific soakaway and infiltration features 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. Prior to first occupation of any property approved under this permission details of how all the shared aspects of the foul drainage scheme will be managed for the lifetime of the approved development will be supplied to the Local Planning Authority for written approval. The approved management scheme shall be hereafter implemented in full unless otherwise agreed in writing by the Local Planning Authority

Reason: In order to ensure ongoing compliance 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

- 21. Prior to the commencement of any works on site a tree-hedge row protection plan in accordance with BS5837:2012 shall be submitted and approved in writing by the local planning authority and thereafter implemented in accordance with the approved details for the full duration of the construction phase.**

No trees over 75mm diameter shall be lopped, topped, pruned or removed without the prior written consent of the local planning authority

Reason: To safeguard all retained trees during development works and to ensure that the development conforms with Policies LD1, LD2 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework (2019).

- 22. All planting, seeding or turf laying in the approved landscaping scheme pursuant to condition 3 shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner. 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.

- 23. Prior to the first occupation of any dwelling of the residential development hereby permitted a scheme to enable the charging of plug in and other ultra low emission vehicles (e.g provision of cabling and outside sockets) to serve the occupants of the dwellings hereby approved shall be submitted to and approved in writing by the local planning authority.**

Reason: To address the requirements policies in relation to climate change SS7 and SD1 of the Herefordshire Local Plan Core Strategy and the guidance contained within the National Planning Policy Framework.

INFORMATIVES:

- 1. IP2 - Application Approved Following Revisions**

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 highway**

- 4. I45 - Works within the highway**

- 5. I05 - No drainage to discharge to highway**

Further information on the subject of this report is available from Mrs G Webster on 01432 261803

- 6. I47 - Drainage other than via highway system
- 7. I35 - Highways Design Guide and Specification

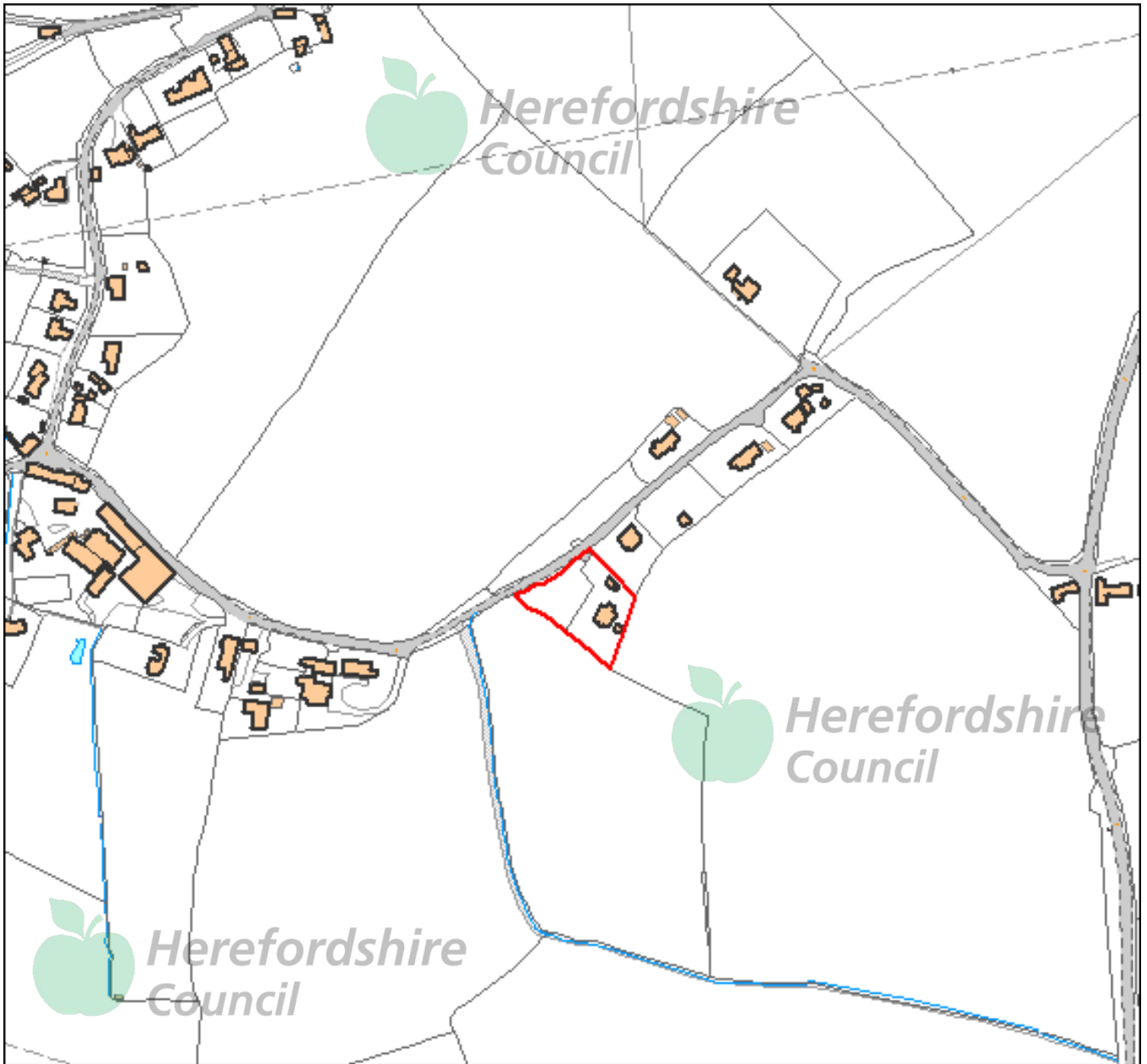
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 201220

SITE ADDRESS : LAND AT HILL VIEW, DINEDOR, HEREFORDSHIRE

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Further information on the subject of this report is available from Mrs G Webster on 01432 261803

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	17 MARCH 2021
TITLE OF REPORT:	204274 - PROPOSED IMPROVEMENTS TO EXISTING FIELD ACCESS AND CONSTRUCTION OF FARM TRACK AT LAND ADJOINING DUKE STREET, WITHINGTON, HEREFORDSHIRE For: Ms Leake per Mr Paul Smith, 1 Whitby House, Commercial Street, Hereford, Herefordshire, HR1 2EH
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204274&search-term=204274
Reason Application submitted to Committee – Redirection	

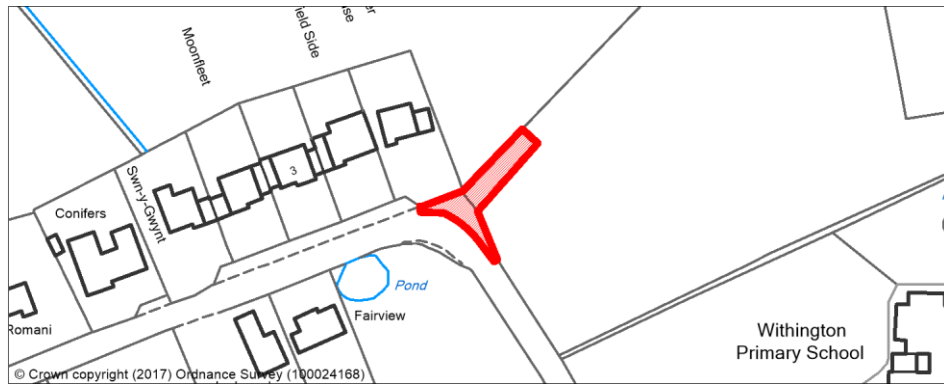
Date Received: 3 December 2020 Ward: Hagley Grid Ref: 356395,243620
Expiry Date: 28 January 2021
Local Member: Councillor Paul Andrews

UPDATE

The application was presented to Planning and Regulatory Committee on 3 March 2021 with a recommendation of approval subject to conditions. Following Officer and Local Member presentations, interested parties speaking, the Committee resolved that consideration of the application be deferred pending a site visit. One additional representation was received following the publication of the original committee report, however this does not alter the recommendation and the matters have previously been considered in the report. The officer recommendation and conditions remain unchanged.

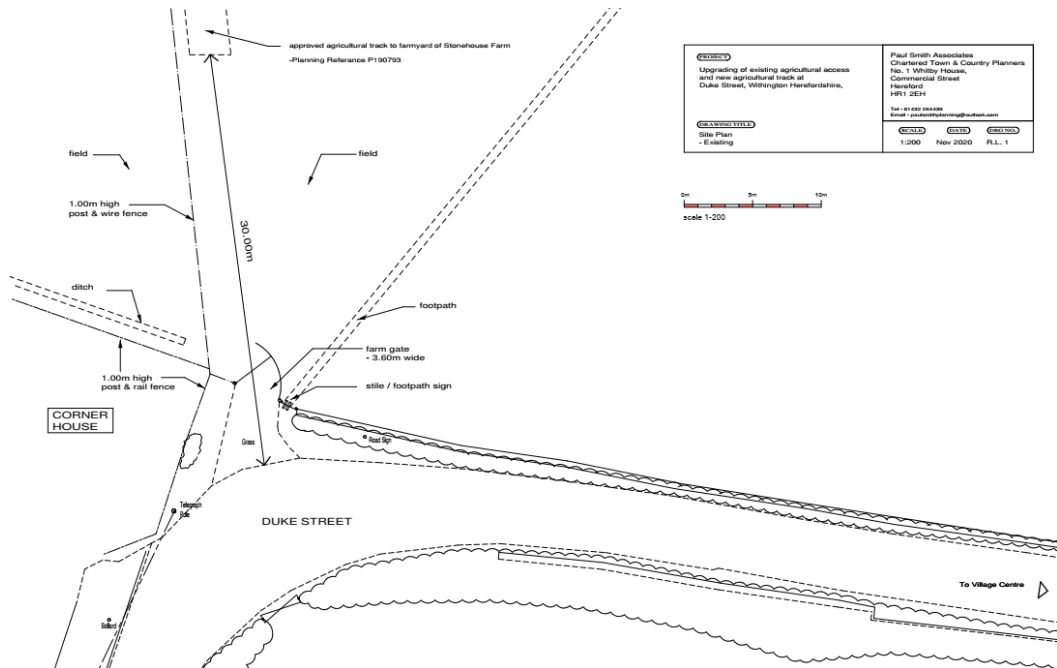
1. Site Description and Proposal

- 1.1 The application relates to land adjoining Duke Street, Withington. The site is presently occupied by a field gate which allows for access from the agricultural field onto the classified public highway (C1129). The site is within the Withington Conservation Area, is identified as local green space in the Withington Neighbourhood Development Plan and is crossed by a Public Right of Way (WT16).

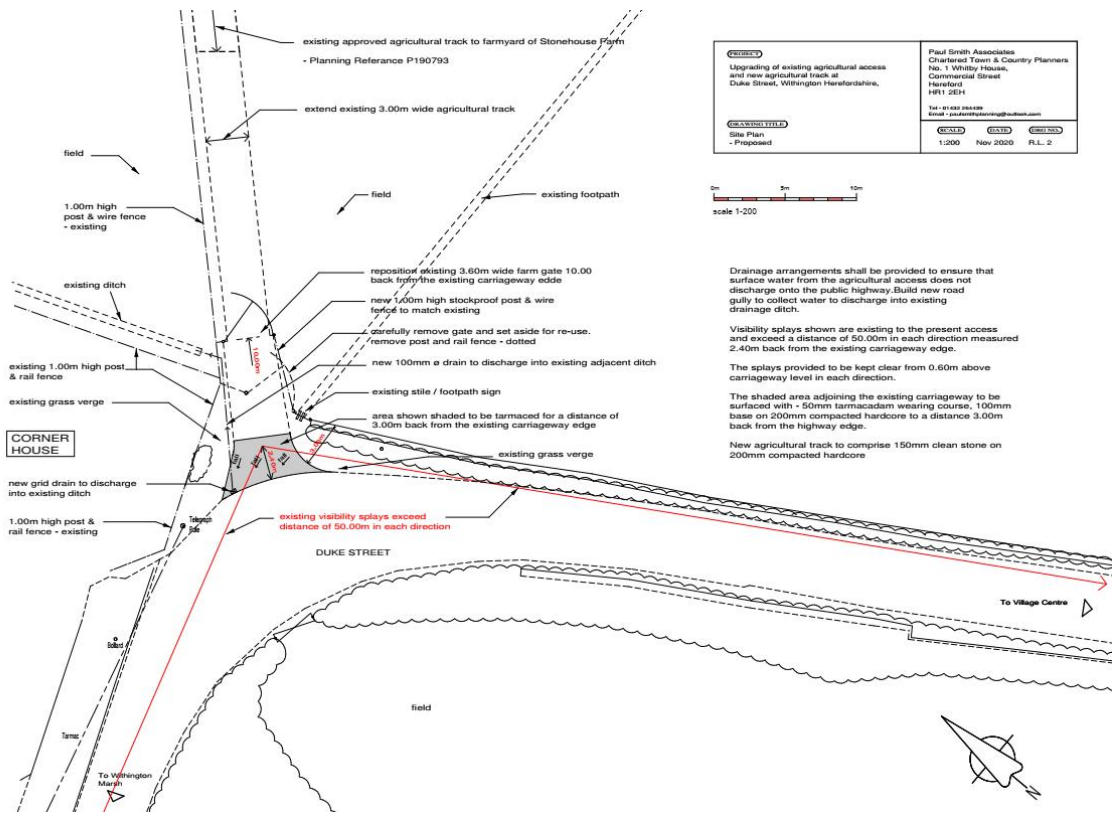


Application site edged in red

1.2 The application is for only operational development for proposed improvements to existing field access and construction of farm track. These works include the resiting of the field gate back ten metres from the carriageway edged and the formation of a track for approximately 30 metres, along with the provisions of highway visibility splays for 50 metres in either direction. No changes are proposed to the footpath nor its stile. Rather than describe the proposal in extensive detail, Officers refer one to the plans under consideration, with excerpts of the existing and proposed block plans being included below, along with two site photos.



Existing Block Plan



Proposed Block Plan



Site Photo of existing field gate

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



Site photo looking across application site towards Duke Street

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
- RA6 - Rural Economy
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- LD4 - Historic Environment and Heritage Assets
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources

2.2 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

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

- Policy P5 - Local Green Spaces
- Policy P7 - Conserving Historic Character

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

f

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
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>

3. Planning History

3.1 The following planning history on the site and immediately adjoining is pertinent for the present considerations:

190884 – Planning Application - Erection of Holiday Cottage and Construction of Vehicular Access and Drive – Refused – Appeal dismissed (appeal reference: 3244488)

190793 (adjoining land) – Agricultural Prior Approval – Prior notification of agricultural or forestry development - proposed road– Prior Approval Not Required. This agricultural track links from Stone House Farm to the current application site.

4. Consultation Summary

Statutory Consultations

4.1 None

Internal Council Consultations

4.2 Highways Engineer – No Objection

“The proposal to enhance the existing highway access is considered acceptable. The proposal includes a setback of circa 10m for the gates and this is considered appropriate for the nature of the access to create an off highway waiting area whilst the gates are opened.

The geometry of the highway network at this point allows for appropriate visibility in this type of road environment.

The construction of the access is proposed to be bound for around 3m from the carriageway edge. This construction should extend back to the limit of the extent of the highway and this is set out below for the avoidance of doubt. This can be secured by applying condition CAE in the event that permission is granted.



There are no highways objections to the proposal subject to the recommended condition being applied.”

4.3 Public Rights of Way – No objection

“Public footpath WT16 crosses the access point. If work is likely to endanger footpath users a temporary closure must be applied for.”

5. Representations

5.1 Withington Group Parish Council – Objection

“The WGPC would like to object to the application on the following grounds:-

The increased use of the field access would endanger vehicular and pedestrian safety on this residential section of Duke Street at a sharp bend, where there is no pavement and the pedestrian entrance to Withington Primary School is just to the south. Please see initial Highways objection to application for holiday house, 190884 which used the same access point.”

5.2 Hereford Ramblers Association – No objection

“No objection. However, I wonder if it would be prudent at this time to inspect the stile and if found to be in poor condition to have it replaced with a metal pedestrian gate.”

5.3 Third Party Representations

The application has received 21 representations to date objecting to the development, the main points raised are summarised below:

- Highway safety implications from the increased use of the access by agricultural vehicles
- Duke Street is a busy rat run in a parlous state which already accommodates school traffic, commuter traffic and heavy goods vehicles
- There is no justification for an additional access onto Duke Street, it is not in the public interest
- Vehicles turning right into the access across the ninety degree bend would have limited forward visibility of oncoming traffic

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

- 5.4 All consultation responses may 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=204274&search-term=204274

6. Officer's Appraisal

- 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' or 'the framework' henceforth) is also a significant material consideration, but does not constitute a statutory presumption, unlike the development plan which carries the statutory presumption as set out above.
- 6.3. The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the framework require a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain consistent with the NPPF and as such can be afforded significant weight.
- 6.4. 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 Core Strategy arise, the NDP will take precedence over the Core Strategy.

Principle of Development

- 6.5. As a starting point for consideration, Officers note that the site is presently occupied by a field gate for agricultural access into the field and the proposal is for the resiting of this existing gate back from the highway, along with the formation of an agricultural track. In broad policy terms proposals which support the retention of existing agricultural businesses are supported under policy RA6 of the Core Strategy, with the Withington NDP being silent on this matter.
- 6.6. The framework sets out (at paragraph 108) applications for development should ensure opportunities to promote sustainable transport have been taken, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network or highway safety can be mitigated. Policy MT1 of the Core Strategy is reflective of this approach, as it seeks to promote active travel and development without adversely affecting the safe and effective flow of traffic on the highway network. Further at paragraph 109 the framework sets out that development should only be prevented or refused on highways grounds

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

if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe. In this instance the Highways Engineer considers that the proposed development would be acceptable, given the provision of highway visibility splays and the agricultural use of the access with the proposal being to enhance the existing access. Having regard to the representations received, officers consider the proposed development to be acceptable in highway terms and it accords with the provisions of the development plan and the framework in this regard.

- 6.7. Policy SD1 of the Core Strategy requires that development proposals take into account the local context and site characteristics. Moreover, new building should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area. Policy SS6 states that development proposals should be shaped through an integrated approach to planning a range of environmental components from the outset, including the historic environment and heritage assets. Moreover, Policy LD4 states that development proposals affecting heritage assets and the wider historic environment should protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and design. The Withington NDP Policy P7 relates to conserving historic character, it requires that all applications consider the significance of any heritage assets affected including the contribution made by their setting; the policy sets out that significant weight will be given to the conservation of a heritage asset and any harm will require clear and convincing justification in line with the national policy (which is set out the framework); further within the conservation area, new development must preserve or enhance the character or appearance of the area (thus reflecting the statutory requirements for conservation areas); development adjacent to any heritage asset should be carefully considered to ensure that no harmful effects arise.
- 6.8. The application site is within the Withington Conservation Area, thus the Local Planning Authority has a duty as respects conservation areas in exercise of planning functions and must pay special attention to the desirability of preserving or enhancing the character or appearance of that area, when it is determining this application, as per Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The House of Lords in the South Lakeland case (4) decided that the “statutorily desirable object of preserving the character of appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved.” However it goes on to acknowledge that change per se isn’t unacceptable, as all development must involve a form of change and if the purpose of the legislation was to prevent development it would have done so in very different language. In that way where a particular development is not considered to have any adverse effect on the character or appearance of the area and is otherwise unobjectionable on planning grounds, this would not be a sound planning reason for refusing it.
- 6.9. The application site has previously been the subject of an appeal decision where a Planning Inspector appointed by the Secretary of State dismissed an appeal for development including improvements to this vehicular access; it is well held in case law that previous appeal decisions can be material considerations for subsequent applications. In this case, Inspector Gibson identified at paragraph 14 of the decision letter (appeal reference: 3244488):

“14. ...The proposed access driveway would also serve to visually erode the physical extent of the Conservation Area, by encroaching within the Conservation Area and constructing a new post and wire fence and field gate to enclose the driveway area.

15. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be given to the desirability of preserving or enhancing the character or appearance of conservation areas. The proposed access driveway and associated structures enclosing it would directly harm the CA by eroding the visual and physical extent of the CA, which attracts great weight.”

- 6.10. However equally the Inspector noted at paragraph 19 that "...the access track subject of the prior approval determination stopped short of the access driveway proposed and does not appear to be accompanied by enclosing structures such as fences and gates as is proposed under this appeal. As such, I do not consider the cases and their effects to be comparable in this regard." In this manner the Inspector found the encroachment of built form and the enclosure of the driveway to be harmful but the agricultural track alone to not be of harm (though this was not the primary subject of consideration). In this manner officers note that the proposed location of the field gate broadly adjoins the existing boundary line and does not project wildly into the open field.
- 6.11. Further to being designated as a Conservation Area, the application site is identified in the Withington NDP as being a Local Green Space on the 'Withington Policies Map' and at NDP Policy P5, which seeks to protect identified areas from development which would detract from the character, appearance and function of the locale.
- 6.12. Turning to consider the matters of the character and appearance of the development in the context of the locale and the statutorily desirable objective of preserving the character of appearance of an area. Officers consider that the character of the area would remain unchanged due to the continuance of the agricultural use and whilst there is an element of change to the appearance of the area, this would not be harmful. Further the function would remain unchanged. Thus the development is acceptable from both a heritage standpoint with no harm identified and in terms of the local green open space where equally no harm is identified.
- 6.13. The proposed development is not considered to give rise to the possibility of a 'likely significant effect' to the River Wye Special Area of Conservation as it is not a form of phosphate generating development and so there is no possibility of additional phosphates reaching the River Lugg as a result of this proposal; accordingly it is screened out of the Habitat Regulations Assessment and is considered to conform with policy LD2 of the Core Strategy.
- 6.14. The application is not considered to give rise to conflict with the Public Right of Way nor harm its amenity, nevertheless an informative is included as part of the recommendation for clarity.

Conclusion

- 6.15. To conclude, the development plan carries a statutory presumption in its favour and the proposal is considered to accord with the policies of the development plan when taken as a whole, with there not being any material considerations to the contrary. Accordingly officers recommend the application for approval subject to 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. C01 - Time limit for commencement (full permission)**
- 2. C07 - Development in accordance with approved plans and materials**
- 3. CAE - Vehicular access construction**

The construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.

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

- 4. Before any other works hereby approved are commenced, visibility splays, and any associated set back splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 50 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.**

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

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. P1 Positive and proactive.**
- 2. A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under Section 257 of the Town and Country Planning Act 1990 provided that the Order is made before the development is carried out. If the right of way is obstructed before the Order is made, the Order cannot proceed until the obstruction is removed.**

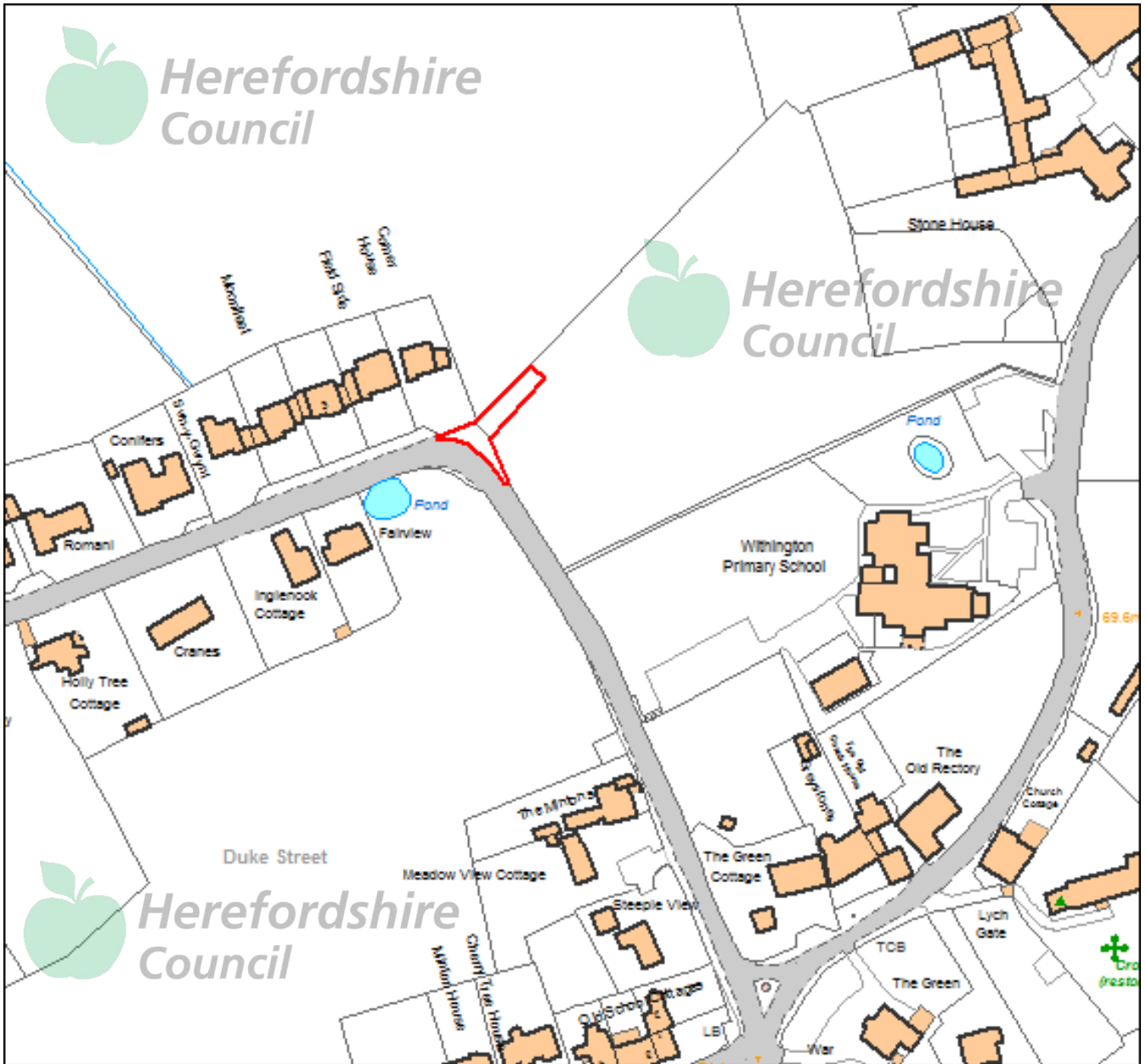
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 204274

SITE ADDRESS : LAND ADJOINING DUKE STREET, WITHINGTON, HEREFORDSHIRE

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	17 MARCH 2021
TITLE OF REPORT:	191409 - PROPOSED REDEVELOPMENT OF TOWER LODGE, 15 LINTON LANE, BROMYARD TO INCLUDE ALTERATIONS TO EXISTING DWELLING TOGETHER WITH CONSTRUCTION OF TWO NEW DWELLINGS AT TOWER LODGE, 15 LINTON LANE, BROMYARD, HEREFORDSHIRE For: Mr Paul Brooks, Allsetts Farm, Broadwas, Worcester, WR6 5NS
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191409&search-term=191409
Reason Application submitted to Committee – Re-direction	

Date Received: 16 April 2019

Ward: Bromyard
Bringsty

Grid Ref: 365643,254432

Expiry Date: 11 June 2019

Local Member: Councillor Nigel Shaw

1. Site Description and Proposal

- 1.1 The site comprises a largely triangular shaped plot, which lies immediately south of the A44 (Bromyard Bypass), to the south-east of Bromyard Town Centre. Topography slopes gently east, in which boundary treatments comprise a mixture of trees and hedgerow to all sides. The site itself currently comprises a single detached dwelling with considerable garden area and the area hereabouts is of urban land use, with a caravan park to the immediate south and residential properties both east and west. To the north, on the other side of the A44, uses comprise a Petrol Station, currently closed car dealership and further residential dwellings.
- 1.2 Vehicular access is via an existing cul-de-sac off Linton Lane (U65407) that currently serves three other dwellings in addition to the application site (No. 7, 9 and 11 Linton Lane) and the site is well-connected. This includes a pedestrian footpath north-west of site, which leads directly to the A44, with a bus stop 150 yards from the footpath to the east, where Linton Lane meets the A44, which serves passengers to Hereford, Leominster and Worcester.
- 1.3 The application seeks planning permission for alterations and extensions to 15 Linton Lane, along with the erection of two detached dwellings and associated development within the garden area. Officers refer members to the proposed site plan below under consideration:



Proposed Site Plan

1.4 Officers wish to highlight that there is an outstanding objection in respect of HRA/phosphates, however the applicant requests the application be determined, as submitted.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy 2011-2031 (adopted October 2015)

- SS1 – Presumption in favour of sustainable development
- SS2 – Delivering new homes
- SS3 – Releasing land for residential development
- SS4 – Movement and transportation
- SS6 – Environmental quality and local distinctiveness
- SS7 – Addressing climate change
- BY1 – Development in Bromyard
- RA1 – Rural housing distribution
- H3 – Ensuring an appropriate range and mix of housing
- MT1 – Traffic management, highway safety and promoting active travel
- LD1 – Landscape and townscape
- LD2 – Biodiversity and geodiversity
- LD4 – Historic environment and heritage assets
- SD1 – Sustainable design and energy efficiency
- SD3 – Sustainable water management and water resources
- SD4 – Waste water treatment and river water quality

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

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

2.2 Bromyard and Winslow Neighbourhood Development Plan is at drafting stage, although a request has been made to withdraw the neighbourhood area.

2.3 National Planning Policy Framework (NPPF – revised February 2019)

The revised NPPF sets out the UK government's planning policies and how these are expected to be applied. Officers view the following sections are applicable to this application:

- 1 – Introduction
- 2 – Achieving sustainable development
- 4 – Decision-making
- 5 – Delivering a sufficient supply of homes
- 8 – Promoting healthy and safe communities

- 9 – Promoting sustainable transport
- 11 – Making effective use of land
- 12 – Achieving well-designed places
- 14 – Meeting the challenge of climate change, flooding and coastal change
- 15 – Conserving and enhancing the natural environment
- 16 – Conserving and enhancing the historic environment

The NPPF, together with all relevant documents and revision, are viewable at the following link:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

2.4 Planning Practice Guidance (PPG)

PPG categories have been revised and updated to make it accessible and should be read in conjunction with the NPPF. PPG can be accessed at the following link:

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

3. **Planning History**

None

4. **Consultation Summary**

Statutory Consultations

4.1 **Welsh Water – Conditions recommended:**

“We have reviewed the information submitted as part of this application and note that the intention to drain foul water to the mains sewer and surface water to a soakaway. We have no objection to this proposal in principle, however if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

Conditions

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

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

Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times”.

Internal Council Consultations

4.2 **Transportation – Conditions recommended:**

“The site benefits from existing sustainable links and a number of suggestions previously made relating to this site have been included in the proposal which makes it acceptable. These are set out in the Design and Access Statement and the Site Plan drawing which are part of the submission. In the event that permission is granted it would be beneficial to include condition CAZ to ensure that Site Operatives can park within the site extents.”

4.3 **Ecology – Objection:**

Most recent response (5th March 2020):

“The previous comments (holding objection) as regards the River Lugg Sac and phosphate pathways are updated below for completeness in addition to the updated ‘ecology’ comments.

The application site lies within the catchment of the River Lugg catchment, which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under the Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017) as being of international importance for its aquatic flora and fauna. At present the levels of phosphates in the River Lugg exceed the water quality objectives and it is therefore in unfavourable condition. Where a European designated site is considered to be ‘failing’ its conservation objectives there is limited scope for the approval of development which may have additional damaging effects.

The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process. Permission can only be granted if there is scientific certainty that no unmitigated phosphate pathways exist and that the HRA process can confirm ‘no adverse effect on the integrity of the River Wye SAC’. Natural England; the statutory nature conservation body, advise that recent case law requires effective mitigation to be demonstrated on a case by case basis whilst the River Lugg Nutrient Management Plan is reviewed to ensure greater certainty that this can provide large scale mitigation development in the area.

Therefore at this point in time on the basis of the information provided I find that the proposed development would harm a designated nature conservation site and would therefore conflict with policy SD4 of the Core Strategy which seeks to ensure that development does not undermine the achievement of water quality targets for rivers within the county and policy LD2 which states that development should conserve, restore and enhance biodiversity and geodiversity. Additionally, the proposal would be inconsistent with the provisions in the NPPF in relation to conserving and enhancing the natural environment and would not accord with the Conservation of Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017). Notes: See position statement and any additional information at:

https://www.herefordshire.gov.uk/info/200142/planning_services/66/about_planning_services/12

The site proposes connection to the Bromyard mains Sewer which is managed through DCWW Bromyard STW which discharges in to the River Lugg SAC catchment area. This application clearly demonstrates an increase in occupancy for the site - previously 1x4 bedroom (6p foul water flows) – proposed 1x2bed, 2x3 bed (total 15P foul water flows) and so significant increased flows in to the main sewer system and an associated increase in Phosphate loading. These flow numbers are based on current water industry standard calculations. It is advised that no consent should legally be granted until such time as this HRA process has been fully and satisfactorily completed.

Updated other ecology comments:

The updated ecology report now supplied is noted and the detailed working methods, mitigation and biodiversity net gain enhancements should be secured through a relevant condition.

Nature Conservation – Ecology Protection, Mitigation and Biodiversity Net Gain

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity net gain enhancements, as recommended in the ecology report by Clarke Webb Ecology dated 1st March 2020 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2018 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006”

4.4 Land Drainage – Conditions recommended:

“Overall Comment

In principle we do not object to the proposals, however we recommend that the following information provided within suitably worded planning conditions:

- Provision of a detailed drainage strategy that demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features;*
- A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change;*
- Evidence that the Applicant is providing sufficient on-site attenuation storage to ensure that site-generated surface water runoff is controlled and limited to agreed discharge rates for all storm events up to and including the 1 in 100 year rainfall event, with an appropriate increase in rainfall intensity to allow for the effects of future climate change;*
- Evidence that the Applicant is providing sufficient storage and appropriate flow controls to manage additional runoff volume from the development, demonstrated for the 1 in 100 year event (6 hour storm) with an appropriate increase in rainfall intensity to allow for the effects of future climate change;*
- Results of infiltration testing undertaken in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;*
- A foul water drainage strategy showing how foul water from the development will be disposed of including evidence that the Applicant has sought and agreed permissions to discharge foul water from the site with the relevant authorities;*
- Confirmation of the proposed authority responsible for the adoption and maintenance of the proposed drainage systems”.*

5. Representations

5.1 Bromyard & Winslow Town Council – Objection

“At their meeting on 05/08/19 the Town Council resolved to object to this application (Minute Ref P19/75 1.) on the following material considerations; over development of the site, unreasonable development within this location, inadequate highway in both width and in non-conformity to modern standards resulting in increased endangerment to public health & safety, poor

Further information on the subject of this report is available from Mr Josh Bailey on 01432 261903

landscaping and negative environmental impact. In addition, the Council wish to draw attention to the recent Planning Inspectorate Appeal Decision APP/W1850/W/19/3222582 - Red Lynch, Old Road, Bromyard HR7 4AU as it creates a precedent. The Town Council have again requested that Cllr Nigel Shaw as Ward Member to call this application into Committee and that Cllr Roger Page of the Town Council be allocated a speaking slot (P19/53.1)."

5.2 46 letters of representation, from 32 parties have been received, all objecting to the application. They raise the following considerations:

- Highway and pedestrian safety;
- Noise and disturbance;
- Overdevelopment;
- Impact on character and townscape; and
- Damage to property

A 35 signatory petition objecting to this application was also submitted.

The application can be viewed on the Council's website by the following link:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191409&search-term=191409

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."* In this instance, the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.2 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the NPPF require a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The CS was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the CS was taken in November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.
- 6.3 The Council is currently unable to demonstrate a 5-year housing land supply, currently at 4.22 years (January 2021). The latest Housing Delivery Test results show the Council have had three good years of housing delivery and no longer (until the next results are published) need to apply a 20% buffer to the target. Instead, a 5% buffer is applied. As set out at paragraph 11 of the NPPF, which engages a presumption in favour of sustainable development, the relevant policies in the Development Plan for the supply of housing should not be considered up to date where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusal (11di) or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF, taken as a whole (11dii). This is consistent with Policy SS1 of the CS.

Further information on the subject of this report is available from Mr Josh Bailey on 01432 261903

- 6.4 The matter of housing land supply has been the subject of particular scrutiny in a number of recent appeal inquiries and it has been consistently concluded that the Council is not able to demonstrate a 5 year supply. However, this does not render such policies irrelevant and they may still be afforded weight. The spatial strategy of the Council's CS is considered sound and consistent with the NPPF; which itself seeks to avoid isolated development, as set out at Paragraph 79. It is considered the CS continues to attract weight, as confirmed by previous appeal decisions. It is a matter for the decision-maker to ascertain the degree of weight to be attributed to these policies, accounting for the specific context and circumstances of the case.

Principle of development

- 6.5 Policy SS1 of the CS states the Council will take a positive approach when considering development proposals that reflects the presumption in favour of sustainable development, which fully accords with the aims of the NPPF. The approach to housing distribution within the county is set out at Policy SS2. Hereford, as the largest settlement and service centre is identified to accommodate up to 6,500 of the requisite 16,500 homes, with the market towns identified in the second tier as recipients of approximately 4,700 dwellings. A separate policy for Bromyard, Policy BY1 (development in Bromyard) describes the town will accommodate a minimum of 500 new homes, balanced with approximately 5 hectares of employment land. Within Bromyard, new development proposals will be encouraged, where relevant, provided they facilitate a genuine choice of modes of travel including public transport, cycling and walking as alternatives to the private car; take account of the ability of existing and proposed infrastructure including foul drainage, water supply and water resources, allow the highway network to serve the development proposed without undue environmental impact; and contribute to the quality of Bromyard's local environment, including its landscape and historic character.
- 6.6 Policy BY1 focuses on delivering quality, sustainably constructed new homes to meet housing need and demand. It also aims to balance new development against the environmental constraints of this historic market town. The policy aims to deliver new homes in a dispersed manner, namely between a single strategic site expansion to the north-west of the town (Policy BY2) and through other smaller sites within and around the town. This is economically viable and spreads the effect of new buildings across this sensitive town and its surroundings.
- 6.7 In the absence of an NDP, it is for officers to assess an application in terms of its relationship to the main built form. In this instance, the site lies north of Linton Lane, within what would be regarded as an established and built up residential area of Bromyard. Indeed the existing use of site is residential. It is within walking distance of the town centre and officers are of the view that, in purely locational terms, the site is sustainable and development in this location is found to be compliant with Policy BY1 of the CS, which is consistent with the NPPF. The principle of development would be accepted. Of course, an application is not assessed on a matter of location alone and that there other material considerations, which are discussed in turn.

Design and Scale

- 6.8 Following receipt of amended plans, it is considered that the proposal would not result in development that would be of an unacceptable scale or constitute over development. The proposal, which was originally submitted for alterations to Tower Lodge, and for the erection of three new dwellings, has since been amended, omitting a new dwelling in the front garden to the west of site, to address concerns over scale.
- 6.9 The existing dwellinghouse (Tower Lodge) will be altered by demolishing the existing garage, insertion of new windows to the north and south elevations, together with a new single storey garage extension to the west elevation. This is shown below:



Figure: Tower Lodge (15 Linton Lane) proposed alterations

6.10 The two proposed detached dwellings take the form of 1 no. 3-bedroomed one-and-a-half storey dwelling and 1 no. 2-bedroomed single storey bungalow. They are shown below:

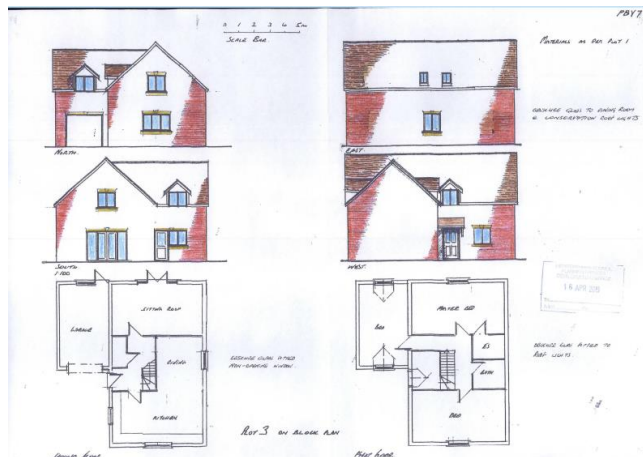


Figure: Plot 1 (3-bedroomed detached dwelling of brick walling and concrete plain tile to match Tower Lodge)

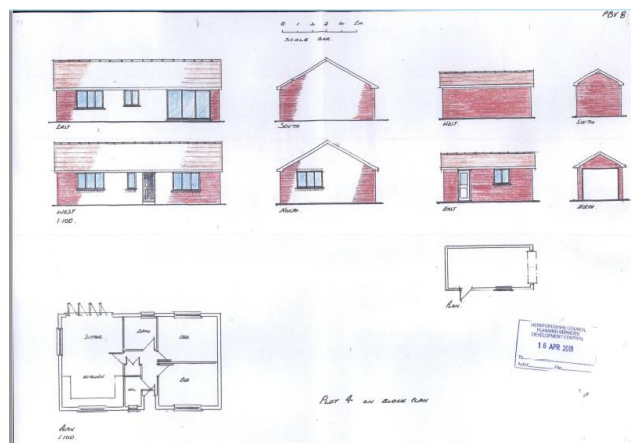


Figure: Plot 2 (2-bedroomed bungalow of brick walling and concrete plain tile to match Tower Lodge)

6.11 The scale, mass and appearance of the dwellings is reflective of the surrounding built form. Proposed materials and inclusion of local architectural detailing shows that the proposal has considered surrounding development, including dormer windows.

- 6.12 The provision of a 1.5 storey three-bedroomed dwelling and a single-storey 2-bedroomed dwelling will deliver an appropriate development which reflects the well-established need of housing in the Bromyard Urban HMA, which particularly identifies a need single storey bungalows and smaller 3-bedroomed dwellings. The proposed new dwellings reflect their immediate environment and are acceptable in terms of their design. It is considered the proposal is of an acceptable design in line with policies SD1 and LD1 of the CS, consistent with Section 12 of the NPPF.

Residential Amenity

- 6.13 The new dwellings will introduce development in closer proximity to existing properties, and this will inevitably give rise to a perception of a loss of residential amenity. However, officers are of the view that the new and existing dwellings will be sufficiently spaced from one another, particularly respecting that this forms part of an urban area, and do not consider that there is justification to refuse this application on amenity. Furthermore, the orientation of the dwellings and their layout does not give rise to overarching concerns for overshadowing or overbearing that would lead to conflict with the requirements of SD1 of the CS, which strives to safeguard levels of residential amenity, which is consistent with paragraphs 127 and 180 of the NPPF.

Landscape and Townscape Impact

- 6.14 It is not considered that the proposal departs from the character of the area, in which brick walling and concrete tiled roof are the primary materials on dwellings hereabouts. Thus, the development as a whole reflects the character of its immediate environs. The development will read; particularly from longer distances on the approach to the town, as part of a well-established built form that would not look out of place. Landscape and townscape impact is therefore minimal and the proposal is considered to conserve local character and the character of the area, in line with Policy LD1 of the CS, which is consistent with Section 15 of the NPPF.

Heritage

- 6.15 Based on evidence before officers, including site history and observations, there are adequate separation distances between the site and the nearest identified listed buildings of 24 Linton Lane (Grade II); Tower Hill (Grade II) and Tower Hill House (Grade II* Listed), largely as a result of built-up inter-visibility and land topography. Officers are also mindful of assessing the impact on the setting of the Bromyard Conservation Area, which lies east and west of the application site. The statutory duties of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 hence apply. Although the site is elevated when viewed from the east of town looking west, it is relatively well screened, although this existing vegetation will be non-existent in certain months of the year. The density of development is also not uncharacteristic for the town. Although there will be glimpses of the proposed new dwellings, the development, in the view of officers would not result in harm to the character and appearance of the setting, experience and significance of these identified designated heritage assets. In the absence of any identified harm, no conflict is identified with CS Policy LD4, which is consistent with Section 16 of the NPPF.

Ecology

- 6.16 As confirmed by the ecologist, no loss of hedgerow is proposed and there are no significant ecological related concerns. There are also no ecological records of important or Protected Species on or adjacent to site. The updated ecology report now supplied is noted and the detailed working methods, mitigation and biodiversity net gain enhancements can be secured through a relevant condition, in line with CS Policies LD1, LD2 and LD3, consistent with the relevant sections of the NPPF.

Highways

- 6.17 The existing access arrangements are to remain unaltered, in which vehicles will access the site from the unclassified public highway at Linton Lane, which has appropriate visibility and is mitigated by road geometry, therefore reducing vehicle speeds. A new access within site will be created to provide for the two new dwellings. As confirmed by the transportation area engineer, there are no highway objections to the proposal, with parking and turning areas suitable and no objections to the intensification of this access or concerns raised over the surrounding network, including Linton Lane itself. A condition requiring details of parking for site operatives and construction traffic prior to development commencing is recommended. Accordingly, in the view of officers, the proposal accords with Policies MT1 and SS4 of the CS, which is consistent with Section 9 of the NPPF, not contravening paragraph 109.

Drainage

- 6.18 Surface water is to be disposed of by discharging to soakaways, in line with Policy SD3 and Foul Sewerage disposed of by discharging to the Mains Sewer, in line with Policy SD4 of the CS. Welsh Water do not object and relevant surface and foul water drainage strategies can be secured by condition as requested by Land Drainage.

Climate Change

- 6.19 In line with Policy SS7 of the CS, the following measures are proposed in this application (also detailed in planning statement):
- Incorporation of water saving devices to minimise use of water;
 - Rain water pipes to discharge into water butts;
 - The inclusion of solar panels on the roof slope, namely each dwelling to be provided with a 3.00 kW PV array facing east/west;
 - The site layout includes potential for passive solar gain with a higher proportion of glazing orientated within 30° of south;
 - Inclusion of cycle storage for each dwelling; and
 - Designed to meet energy performance standards as required by Building Regulations.

Habitats Regulations Assessment (HRA)

- 6.20 Policy LD2 of the CS requires proposals to conserve, restore, and enhance biodiversity and geodiversity assets in Herefordshire. The policy requires protection and retention of nature conservation sites, habitats, and important species in accordance with status.

- 6.21 Paragraphs 174 – 177 of the NPPF outlines the requirement for planning policies and decision to protect and enhance biodiversity and geodiversity. Paragraph 177 clearly states:

“The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”.

Paragraph 176 clearly confirms that Special Areas of Conservation should be given the same protection as habitats sites.

- 6.22 The application site lies within the Lugg catchment (Lugg-Middle Frome sub-catchment), which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under the Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017) as being of international importance for its aquatic flora and fauna. At present the levels of phosphates in the River Lugg exceed the water quality objectives and it is therefore in unfavourable condition.

Where a European designated site is considered to be 'failing' its conservation objectives there is limited scope for the approval of development which may have additional damaging effects. The competent authority (in this case the LPA) is required to consider all potential effects (either alone or in combination with other development) of a proposal upon the European site through the HRA process.

- 6.23 Planning Permission can only be granted if there is legal and scientific certainty that no unmitigated phosphate pathways exist and that the HRA process can confirm '*no adverse effect on the integrity of the River Lugg (Wye) SAC*'. Natural England, who are the statutory nature conservation body, advise that recent case law requires effective mitigation to be demonstrated on a case by case basis whilst the River Lugg Nutrient Management Plan is reviewed to ensure greater certainty that this can provide large scale mitigation development in the area. The 'Wealden' case judgement also confirms that it is not just individual applications (projects) that must be considered but any potential cumulative or 'in combination' effects (which applies to SSSI and SAC designated sites).
- 6.24 Case law (People over Wind and Peter Sweetman v Coillte Teoranta (Case C-323/17)) requires the decision maker, when considering the effect that a proposal may have on such a European Site either individually or in combination with other development, to consider mitigation within an appropriate assessment rather than at screening stage. In the absence of mitigation measures and using a precautionary approach, run off from drainage associated with the development may affect the nutrient levels and therefore, the water quality of nearby watercourses. The balance of which could impact on the habitat supporting wildlife and further exacerbate the unfavourable water quality condition within the SAC. As such, there is a risk of a significant effect on the internationally important interest features of the SAC.
- 6.25 Whilst previously Natural England and the Council had considered that development that accorded with the Nutrient Management Plan (NMP) for the River Wye SAC, that aimed to reduce phosphate levels to below the target by 2027, might be acceptable, the position has changed in light of more recent caselaw (Cooperatie Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Cases C-293/17 and C-294/17)). This decision suggests that where a designated European conservation site is failing its water quality objectives there is no, or very limited scope for the approval of development that may have additional damaging effects.
- 6.26 Advice from Natural England dated 5 August 2019 to the Council confirms that reasonable scientific doubt remains as to whether the NMP would provide appropriate mitigation. However, specifically in relation to the use of private foul water treatment systems discharging to soakaway drainage fields at some distance from watercourses, criteria are set whereby there would be sufficient scientific certainty to ensure that all phosphate pathways to the River Lugg would be mitigated. These criteria were reiterated following consultation under Regulation 63 (3) of the Habitats Regulations 2017 whereby Natural England have indicated that if the following thresholds are met, then there will be no likely significant effects. '*All parts of the site are more than 30m from a mains connection; The drainage field is more than 50m from the designated site boundary (or sensitive interest feature) and; The drainage field is more than 50m from any surface water feature e.g. ditch, drain, watercourse, and; The drainage field is in an area with a slope no greater than 15%, and; The drainage field is in an area where the high water table groundwater depth is at least 2m below the surface at all times and; There are no other hydrological pathways which would expedite the transport of phosphorus e.g. fissured geology, flooding, shallow soil.*'
- 6.27 In this instance, the application proposes to connect to the mains sewer that is managed through the DCWW's Bromyard waste water treatment works and which discharges a final outfall into the catchment of the River Lugg SAC. A Habitat Regulations Assessment is therefore triggered by this application. As the Lugg catchment of the River Wye SAC is currently failing its legal conservation status due to exceedance of phosphate levels, no additional flows in to the mains sewer network are currently acceptable, as this would lead to additional volumes at outfall

containing phosphate levels above the conservation status. This application would create potential for additional phosphate flows into the mains sewer network, creating a direct pathway into the River Wye SAC.

- 6.28 The proposal cannot demonstrate that the proposed development would lead to reduced foul water flows compared to those actually occurring and contributing to the 'failure' of the SAC in July 2019. The proposed development would be creating new and additional flows over those in July 2019 and so this development would lead to an increase in foul water flows and thus phosphate pathways into the River Lugg SAC hydrological catchment. These pathways are identified as having a potential unmitigated 'adverse effect on the integrity' of the River Lugg SAC and thus, planning consent should not be granted at this time. Any grant of planning consent would be contrary to Conservation of Habitats and Species Regulations (2017); Core Strategy Policies SD4 and LD2; NPPF (2019) and the council's duty of care under the NERC Act (2006).
- 6.29 Although foul water is to be managed through the existing drainage system, that is the mains system, some phosphates will remain in water discharged post-treatment and therefore there is potential pathway for the development to have an adverse impact upon the River Lugg SAC. It is therefore the view of officers that insufficient information has been provided which has enabled the LPA to conclude, with scientific certainty, that there would be 'no likely significant effects' on the Lugg catchment of the River Wye SAC.
- 6.30 The LPA is therefore unable to undertake a HRA Appropriate Assessment, concluding there would be an unmitigated adverse effect on the integrity on the River Lugg (Wye) SAC and that there are NO 'Considerations of overriding public interest' under Habitat Regulations, Part 6, section 64. At this point in time on the basis of the information provided your officers find that the proposed development would harm by having an 'unmitigated adverse effect on the integrity' of a designated 'European' nature conservation site and would therefore conflict with policy SD4 of the Core Strategy which seeks to ensure that development does not undermine the achievement of water quality targets for rivers within the county and policy LD2 which states that development should conserve, restore and enhance biodiversity and geodiversity. The application would be contrary to CS Policies SS1 and SS6 on sustainability and environmental quality and conflict with paragraphs 174-177 of the NPPF in relation to conserving and enhancing the natural environment which would not accord with the Conservation of Habitats Regulations (The Conservation of Habitats and Species Regulations 2017).

Other considerations

- 6.31 Damage to property is not a material planning consideration. Restriction on working hours during construction can be addressed through a suitably worded condition.

Summary, Planning Balance and Conclusion

- 6.32 The NPPF has at its heart, a presumption in-favour of sustainable development, detailed at section 2. Sustainable development is considered to consist of three key elements, those being Economic, Social and Environmental objectives. Development proposals that are considered to meet these objectives (when taken as a whole) 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. Paragraph 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. One, the proposed development will impact on protected areas or assets and the policies of the framework give a clear reason for refusal as set out at 11di), or the adverse impact of granting permission would significantly and demonstrably outweigh the benefits when assessed against the NPPF, as a whole, at 11dii).

- 6.33 The restrictive policies referred to at Paragraph 11di), are set out at Footnote 6 of the NPPF. This includes those relating to habitats sites, which the glossary of the NPPF confirms includes Special Areas of Conservation (SAC). Assessment of this application has identified conflict with paragraph 11di), through identification of an adverse impact upon the integrity of the River Wye SAC, namely the generation of additional phosphates through foul water into the mains sewer and create a direct pathway for phosphates to enter to River Wye SAC, without the legal and moreover, scientific certainly to demonstrate otherwise. This adverse impact would be contrary to the requirements of the Conservation and Habitats and Species Regulations 2017 and Policies LD2 and SD4 of the CS. Paragraph 177 also directs that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site. Given an adverse effect has been identified on the River Wye SAC in this case, the proposal does not benefit from the positive presumption and the tilted balance in favour of development at Paragraph 11dii) does not apply. Rather, the policies of the NPPF provide a clear reason for refusing, in accordance with Paragraph 11di). It follows that the proposed development is in conflict with the development plan as a whole, as well as the provisions of the National Planning Policy Framework and the Habitat Regulations and is unacceptable by virtue of its effect on the River Wye SAC alone.
- 6.34 The applicant has requested a determination is made, as submitted. Officers view the development is acceptable in all other regards apart from this matter. However, planning permission cannot be granted at this time and thus, the application is recommended for refusal.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1. The application site lies within the extent of Lugg catchment, which forms part of the River Wye Special Area of Conservation (SAC), and the nature of the proposal triggers the requirement for a Habitat Regulations Assessment (HRA) to be undertaken. Under the Conservation of Species and Habitats Regulations 2017, there is a requirement to establish with certainty, and beyond all reasonable scientific doubt, that there will not be any adverse effect on the integrity of the River Wye SAC. The Lugg catchment however suffers from the effects of point source and diffuse water pollution and phosphate levels in the river have already exceeded conservation objectives. The proposal in this case would add to this through the generation of additional phosphates and there is insufficient information in providing the scientific and moreover, legal certainty, to conclude that that the development would not have an adverse effect on the integrity of the River Wye SAC. In the absence of sufficient information, the Local Planning Authority is unable to undertake a HRA Appropriate Assessment and concludes that there would be an unmitigated adverse effect on the integrity on the River Lugg (Wye) Special Area of Conservation and that there are no considerations of overriding public interest under Habitat Regulations, Part 6, Section 64. As a result, a satisfactory 'no adverse effect' HRA appropriate assessment cannot be achieved at this time, as required by The Conservation of Species and Habitats Regulations 2017. Therefore, the proposal, as submitted, is contrary to Policies SS1, SS6, LD2 and SD4 of the Herefordshire Local Plan – Core Strategy, the Natural Environment and Rural Communities (NERC) Act 2006 and guidance set out within the National Planning Policy Framework, namely paragraphs 174-177.**

INFORMATIVE:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal – which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.**

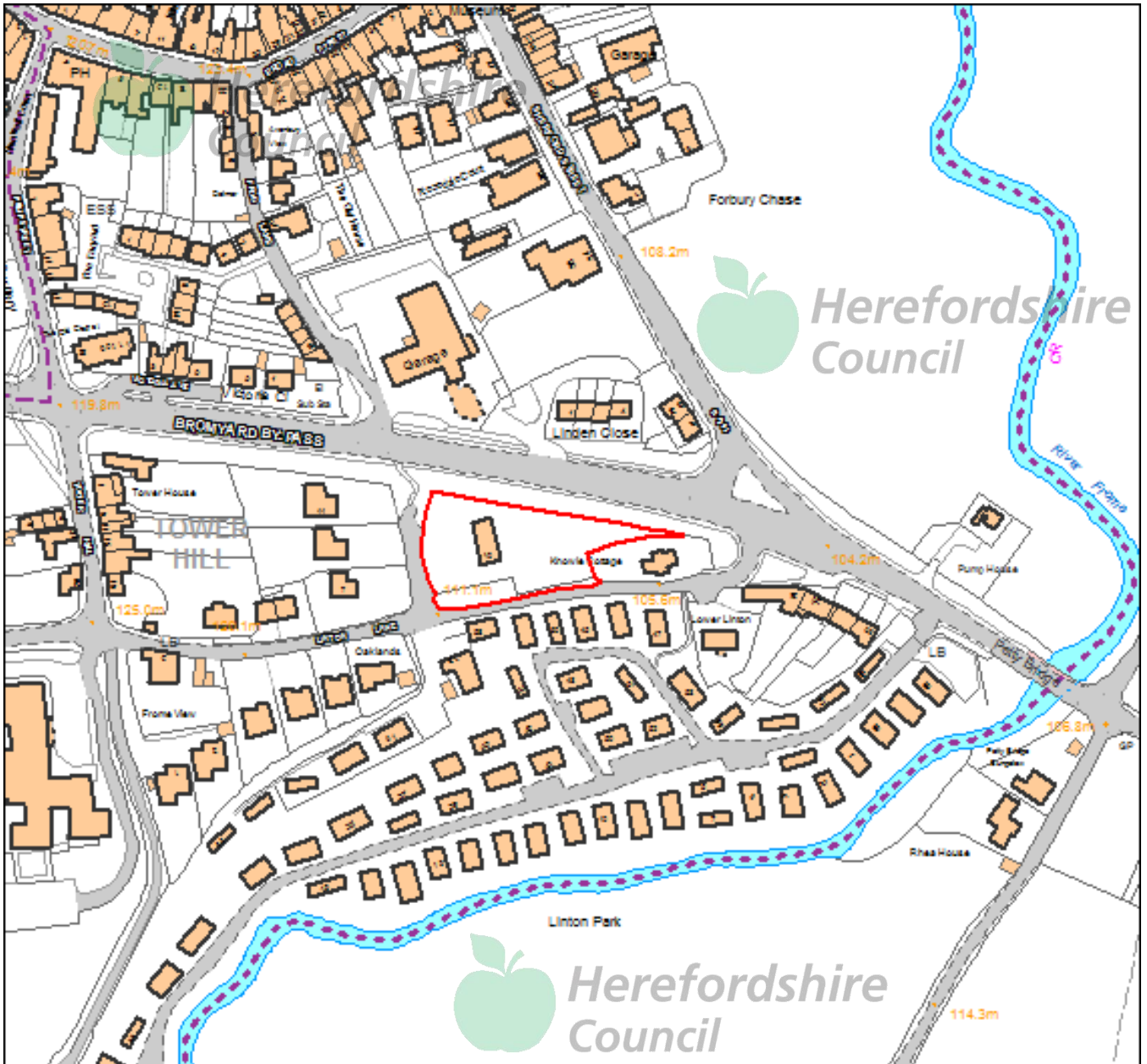
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 191409

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Further information on the subject of this report is available from Mr Josh Bailey on 01432 261903

