

Agenda

Planning and regulatory committee

Date: **Tuesday 10 November 2020**

Time: **10.30 am**

Place: **Online meeting**

Notes: For any further information please contact:

Tim Brown, Democratic Services Officer

Tel: 01432 260239

Email: tbrown@herefordshire.gov.uk

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 the minutes of the meeting held on 4 November 2020.</p>	
5.	<p>CHAIRPERSON'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairperson.</p>	
6.	<p>192765 - MONKSBURY COURT BARN, MONKHIDE, HEREFORDSHIRE HR8 2DU</p> <p>Proposed erection of seven dwellings with garages and associated development.</p>	13 - 58
7.	<p>200500 CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG</p> <p>1) Change of use of the barn from agricultural to office space. Works undertaken include replacement beams and glazing to open north gable end of barn. 2) Formalise an historic change of use from riding arena to car park - works included tarmacking the arena. 3) Access road. (all works retrospective).</p>	59 - 84
8.	<p>194408 - CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG</p> <p>Proposed removal of condition 4 and variation of condition 16 of planning permission P163902/f (demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: function suite, fine dining restaurant and lounge, conference space and 16no. Accommodation suites).</p>	85 - 134
9.	<p>201254 - THE PIGGERIES, LLANGARRON, HEREFORDSHIRE</p> <p>Erection of two dwellings and associated works including the demolition of the piggery building.</p>	135 - 152

10. DATE OF NEXT MEETING

Date of next site inspection – 1 December 2020

Date of next meeting – 2 December 2020



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.

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	10 NOVEMBER 2020
TITLE OF REPORT:	192765 - THE PROPOSED ERECTION OF SEVEN DWELLINGS WITH GARAGES AND ASSOCIATED DEVELOPMENT AT MONKSBURO COURT BARNS, MONKHIDE VILLAGE ROAD, MONKHIDE, HEREFORDSHIRE, HR8 2TU For: L.T.F Properties Ltd. per Mr Graham Clark, Shiretown House, 41-43 Broad Street, Hereford, Herefordshire, HR4 9AR
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192765&search-term=192765
Reason Application submitted to Committee – Re-direction	

Date Received: 2 August 2019

Ward: Three Crosses

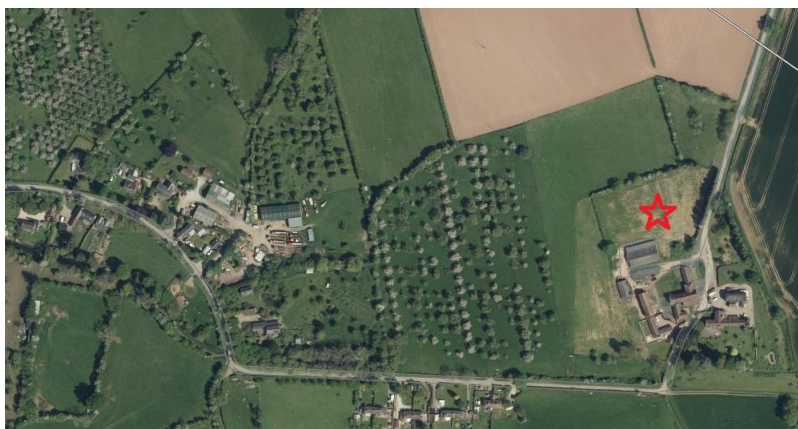
Grid Ref: 362005,244306

Expiry Date: 11 December 2019

Local Member: Councillor Jonathan Lester

1. Site Description and Proposal

- 1.1 The site comprises a parcel of grazed agricultural land, approximately just under 1 hectare, to the immediate north of Monksbury Court Barns, Monkhide, which is approximately 9.25 miles north-east of Hereford. An ordinary watercourse passes the eastern corner of site, on the other side of the existing access which serves Monksbury Court off the A417. A disused store building is located south-west of the site. The topography of the site slopes from north-west to south-east, although the site is elevated compared to Monksbury Court, equating to an approximate gradient of 1 in 30. The photo below provides an aerial view of Monkhide, an RA2 settlement within the Core Strategy, where proportionate housing growth is appropriate (4.15 settlement):



Aerial Photo of Monkhide, including Monksbury Court Barns (application site denoted by red star)

- 1.2 The landscape character type is Principal Timbered Farmlands, in which Monkhide is defined by three distinctive patterns of growth: Monksbury Court; the old Council Houses and dwellings sited

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

along the U66203 (Monkhide Village Road), the latter of which leads back to the junction with the A4103. The Riverside Meadows of the River Lodon lie east and Principal Settled Farmlands landscape character to the south.

- 1.3 The southern boundary is currently devoid of vegetation, save for well-established trees located within the south-west and south-east corners, and is thus largely open to Monksbury Court, with a western boundary of well-established mature native hedgerow. The northern boundary is a mixture of well-established hedgerow and trees and the eastern boundary is predominately tree-lined of *Leylandii* species. Views of the site can be achieved from the north-east due to a lack of vegetation and from other directions, including the east and south-east during winter months, albeit from shorter distances. PRow YK2 runs east of the site through Monksbury Court itself.
- 1.4 This application seeks planning permission for the erection of seven dwellings with garages and associated development, comprising 5 no. detached three-bedroom properties (Plots 1, 3, 4, 5 and 7) and 2 no. detached four-bedroom properties (Plots 2 & 6).
- 1.5 The dwellings are proposed to be finished in a mixture of facing brickwork, render and/or dark timber/wood effect clad walling, under plain clay tiled roofs and precast stone capping. This seeks to reflect the palette of materials currently found at Monksbury Court Barns, a number of which are in the process of being or have been formally converted to residential use. The site also establishes private garden areas for each dwelling; a shared turning head in the centre of site; retaining wall to the south, facing Monksbury Court Barns; additional landscaping to all four boundaries and within the site itself; a package treatment plant to serve the development; the introduction of a wildlife/surface water attenuation pond to the north-east of site and proposed wildflower meadow on entry into the site to the east. Rather than extensively describe the plans in detail, officers draw members' attention to the site plan and elevations for each plot below:



Proposed site plan



Plot 1 (3-bed)



Plot 2 (4-bed)



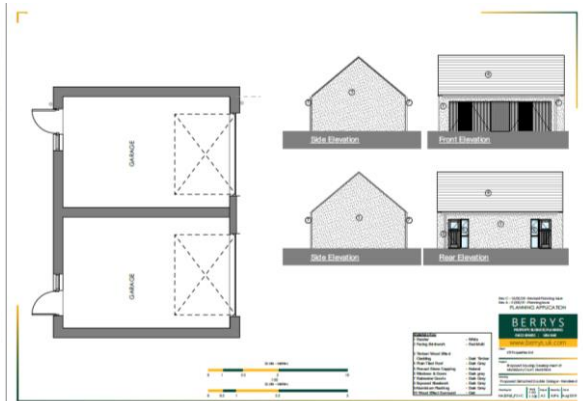
Plots 3, 4 and 5 (all 3-bed)



Plot 6 (4-bed)



Plot 7 (3-bed)



Detached garage plans

2. Policies

2.1 Herefordshire Local Plan – Core Strategy 2011-2031 (adopted 15 October 2015)

Officers consider the following policies are applicable to this application:

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

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

2.2 Yarkhill Neighbourhood Development Plan – made on 25 September 2018

The Yarkhill Neighbourhood Development Plan is made and as such, the policies within the Plan are afforded full weight, in line with paragraph 48 of the NPPF. Members will note the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, would not meet paragraph 14 of the NPPF. This is with respect to paragraph 14a) of the NPPF, in which the neighbourhood plan became part of the development plan more than two years before the date on which the decision is taken. Notwithstanding this, officers consider the following policies to be applicable:

- Y2 - Settlement Boundaries
- Y3 - Housing Development within the Settlement Boundaries of Newtown and Monkhide
- Y7 - Traffic and Transport
- Y8 - Water Supply and Sewerage
- Y9 - Reducing Flood Risk and Supporting Sustainability
- Y11 - Protecting Landscape Character

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

<https://www.herefordshire.gov.uk/directory-record/3125/yarkhill-neighbourhood-development-plan>

2.3 National Planning Policy Framework (February 2019)

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

- 1 - Introduction
- 2 - Achieving sustainable development
- 4 - Decision-making
- 5 - Delivering a sufficient supply of homes
- 6 - Delivering a strong, competitive economy
- 8 - Promoting healthy and safe communities
- 9 - Promoting sustainable transport
- 11 - Making effective use of land
- 12 - Achieving well-designed places
- 14 - Meeting the challenge of climate change, flooding and coastal change
- 15 - Conserving and enhancing the natural environment
- 16 - Conserving and enhancing the historic environment

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**

3.1 In relation to the parcel of land under consideration before members:

DCNE2004/2328/O – Outline application for the demolition of redundant agricultural buildings and erection of new residential units – refused

DCNE2003/1787/O – Demolition of buildings & erection of residential units – withdrawn

4. **Consultation Summary**

Statutory Consultations

4.1 **Natural England** – No objection:

“SUMMARY OF NATURAL ENGLAND’S ADVICE- NO OBJECTION

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

Internationally and nationally designated sites

The application site is within the catchment of the River Lugg which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the ‘Habitats Regulations’. The SAC is notified at a national level as the River Lugg Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features. In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have.

The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

River Lugg SSSI – No objection

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection”

4.2 Welsh Water – Conditions recommended:

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

Sewerage

Since the proposal intends utilising an alternative to mains drainage we would advise that the applicant seek advice from The Environment Agency and or the Building Regulations Authority / Approved Building Inspector as both are responsible to regulate alternative methods of drainage.

Water Supply

A water supply can be made available to serve this proposed development. The developer may be required to contribute, under Sections 40 - 41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site watermains and associated infrastructure. The level of contribution can be calculated upon receipt of detailed site layout plans which should be sent to the address above.

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

4.3 The Ramblers – No objection:

“This development doesn’t appear to have any impact upon the adjacent Public Right of Way, Yarkhill YK2, however we ask you to ensure that the developer is aware that there is a legal requirement to maintain and keep clear a Public Right of Way at all times.”

4.4 Open Spaces Society – No response received

4.5 River Lugg Internal Drainage Board – No response received

Internal Council Consultations

4.6 Transportation – No objections/conditions recommended if approved:

1st consultation – 27th November 2019

“The local highway authority (LHA) has no objection to the proposals subject to the access track being made up to an adoptable standard, albeit it would remain private. The access currently serves a high number of properties and is in a very poor state of repair. The access should meet the standards set out in Herefordshire Council’s Highway Design Guide for New Development and Highways Specification for New Development with particular reference to the width of the access (particularly for the first 50m off the A417) and carriageway construction. This is required due to the not insignificant number of dwellings that the access would serve should this development be approved. The LHA also notes that the location of the development would give rise to the car being the dominant mode of transport due to the very limited pedestrian facilities within the vicinity of the site.

Conditions: CAE, CAR”.

2nd consultation – 12th March 2020

“The local highway authority’s original comments dated 27/11/19 still stand. The development is only acceptable if the access road from the A417 is upgraded”

4.7 Landscape Officer – Objection/conditions recommended if approved:

1st consultation – 25th November 2019

The proposed site is adjacent to Monksbury Court, which is now converted from farm buildings to residential dwellings. It is at the far eastern end of Monkhide, which is a very small settlement that fits with the typical pattern in the area of frequent roadside dwellings, set amongst winding lanes. The landscape character type is Principle timbered farmlands, with the Riverside Meadows of the River Lodon immediately to the east and Principle settled farmlands to the south. There are several orchard fields around Monkhide which are a key landscape feature. I visited the site and surroundings on 22nd November 2019.

The proposal is for 7 new dwellings to be built on a green field to the north of Monksbury Court. The application includes a Design and Access Statement (DAS), layout plans and proposed visual images. The application must be considered in relation to Core Strategy policies on Local Distinctiveness, notably LD1 which states that any development proposals will need to “demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection...”.

Layout: In terms of scale and layout of the proposed development, the DAS includes at 4.4 that the seven dwellings will maintain the rural farmyard type appearance. This is not demonstrated in the layout (dwg no. HA33962_P04_C), however, as the 7 dwellings appear to be totally unrelated to each other, set with their own separate private drives and individual front and back gardens. Other than the orientation being aligned with Monksbury Court, the proposed layout bears little relationship to a farmyard appearance. The DAS goes on at 4.5 to state that the proposed layout is sympathetic to the surrounding area and character of the village. Existing properties within Monkhide to the west are the roadside dwellings near Monksbury Cottages and Council Houses, followed by the low density individual dwellings beyond Middle Court. 4.16 of the DAS states that there will be a shared space centrally, however the individual blank lawns, with a single tree, do not achieve this. The central area instead appears stark and suburban.

Materials: The proposed materials of brick, natural stone and timber seem appropriate to the location, however the image shown under 4.9 of the DAS gives the five proposed properties in a row along the northern boundary a very suburban appearance. This is particularly due to the roof colour and design seen at this angle, as well as the density of the development giving little space between the buildings.

Visual impact: The retention of the existing northern and western boundary hedgerows and trees is welcome and will reduce the visual impact of the proposed development, however the rooflines will be well above the hedge height. Due to the high density and repetitive appearance of particularly the 5 houses on the northern boundary, it will appear incongruous with the surrounding rural setting. It is likely that the roofs and upper stories will be visible by users of the nearby public bridleway YK18, just 350m to the north-west. The conifers to the eastern boundary and part of the northern boundary are already visual detractors in the landscape, looking out of place in the setting of principal timbered farmlands. It would be more beneficial to remove these altogether and plant new native hedgerows and native hedgerow trees.

Levels: The proposed site is an elevated field, considerably higher than the existing barn and built form of Monksbury Court. The field slopes from the access road on the east boundary up to the western hedgerow. It slopes slightly from north down to the south, with a particularly steep bank down to the adjacent existing barn. The application does not seem to include any sections of the site or earthworks drawings to show how this will be dealt with. In particular the elevation of the

site separates it from Monksbury Court and increases the visual prominence of any proposed building on this site.

Landscape scheme: Limited detail has been provided in relation to details of the landscape scheme. The proposed boundary trees would need to be native species in order to fit with the local character, while internal garden trees could be local fruit species. The illustrative visual images (drawing no. HA33962_P05_B) show some suburban looking walls and fences to separate the plots, which are not in-keeping with the local character. In particular the southern boundary with the existing barn has a very hard engineered appearance, where a native hedgerow would soften the views and increase biodiversity.

The proposed re-positioning of the existing hedgerow for the visibility splay is also considered to have a negative landscape impact. The widening of the road corridor through a larger grass verge has an urbanising effect in this rural location. It is also not clear if the existing trees are to be retained, if there are to be removed they should be replaced with approved native species at a ratio of 3:1.

Conclusion: I object to this application as there will be a negative impact on landscape character and views due to urbanisation in this rural location. The proposal is not in accordance with Core Strategy Policy LD1 as it does not demonstrate that the character of the landscape has positively influenced the scale of the development. It also does not incorporate a new landscape scheme that will integrate appropriately with the surroundings, due to the proposed hard engineered and sub-urban appearance of the new proposed boundaries”.

2nd consultation – 5th March 2020

“I have reviewed the amended proposals. I note the following changes, however overall the proposal remains contrary to Core Strategy Policy LD1.

- Layout – The layout of the dwellings has been altered to remove the line of 5 and create slightly more of a courtyard feel, with Plot 6 turned and Plot 2 brought forward. This creates a little more space between the buildings.*
- Visual impact – The roofs and upper stories will remain visible due to the raised ground.*
- Levels – The sloping character of the site has still not been considered. The images and elevations are shown on a flat plain. The existing levels and contours are shown under the site layout, but no engineered banks are shown on the access road. The existing level on the west edge of plot 1 is 101.14 and to the east edge 100.25, this nearly 1m fall across the property is not accounted for in the design.*
- Landscape scheme – It is noted that internal hedgerows have been added to soften the fronts of the properties. There is still a lack of information regarding the condition of the existing trees and hedgerows. Also the suitability of planting a new tree line adjacent to a retaining wall needs further details as it may need considerable reinforcement to ensure structural stability as the tree grows.*

Overall the proposal does not take adequate account of the existing landscape and will be incongruous in views from the surrounding area.”

3rd consultation – 5th May 2020

“I have reviewed the submitted drainage details and also the covering email from the agent which addresses some landscape concerns. I am pleased to see the additional photographs that are provided and agree that the site is well concealed from the village. The main visual concern is that new roof tops would be visible from the road to the north and public footpath to the west. It is useful to have the levels confirmed and the gradients mentioned are certainly suitable to not involve any major earth works or retaining walls. The necessary retaining wall to the southern boundary will be softened by the proposed trees and is it agreed that the construction details

could be addressed by pre-commencement condition, however maybe additional shrubs and climbers would also help both visually and to increase biodiversity.

As it stands, however, the landscape objection remains at the moment. In order for the development to better reflect the policy intentions of LD1 – Landscape and Townscape, I suggest that the following is given further consideration:

- The density be reduced to better reflect the adjacent buildings of Monksbury Court. Reducing the height, size and / or number of dwellings and hard surfacing on the site would create more of a transition to the open countryside, rather than an abrupt introduction of a small suburb.
- Integrate the triangle of open space at the entrance of the site. The lack of a soft landscape scheme or tree survey means that the development appears isolated and not integrated appropriately into its surroundings. It is suggested that this triangle could be open space with some seating or set aside as a wildflower meadow for wildlife or used as part of a sustainable urban drainage system or wildlife pond. Without a tree survey to demonstrate the condition of the conifer trees, these may be better all removed and replaced with a native hedgerow with some large native trees. The addition of a tree survey and a more detailed landscape scheme would help the application to comply with Core Strategy Policies LD1, LD2 and LD3.

It is acknowledged that the site is within the settlement boundary set out within the Yarkhill NDP, however the overall vision for the Parish is that ‘New development respects and enhances the historical and rural character...and is designed to integrate successfully with the existing built form and the wider landscape’. It is felt that a few more amendments are required to the proposals in order to fully meet this vision”.

4th consultation – 30th June 2020:

“I have reviewed the visual description provided in the email dated 16 June 2020, together with the additional photographs. These do demonstrate that the visual impact would be limited due to intervening existing vegetation and gently falling land. I maintain my objection however, based on the proposed development type not being consistent with the landscape character or the transition to open countryside beyond.

If the application is to be approved then the addition of a water attenuation pond / wildlife pond and wildflower meadow is welcome. This will require considerable ground works and planting proposals. Conditions should be added to any approval to cover:

Landscape scheme

With the exception of site clearance and groundworks, no further development shall commence until a landscape scheme is submitted and approved in writing by the local planning authority. The scheme shall be in conjunction with the biodiversity enhancement proposals and include a scaled plan identifying:

1. Trees and hedgerow to be retained, setting out measure for their protection during construction, including the location of temporary fencing, in accordance with BS5837:2012.
2. Trees and hedgerow to be removed.
3. A plan showing existing and proposed finished levels or contours, particularly around the balancing / wildlife pond, including suitable gentle gradients into the pond.
4. All proposed planting and seeding, accompanied by a written specification setting out: species, size, quantity, density and cultivation details. This should include native trees.
5. All proposed hardstanding and boundary treatments.
6. Detailed construction drawings of the southern boundary retaining wall in conjunction with proposed tree pits and any other planting.

Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

Implementation

All planting, seeding or turf laying in the approved landscaping scheme 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

Management and Maintenance Plan

Before the development is first occupied a schedule of landscape management and maintenance for a period of 10 years shall be submitted to and approved in writing by the local planning authority. This should cover all communal areas, such as a courtyard, boundary planting and wildflower meadow / balancing pond. Maintenance shall be carried out in accordance with this approved schedule.

Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.”

4.8 Ecologist – No objection/conditions recommended following additional information:

1st consultation – 24th October 2019

“The site lies within the River Lugg SAC catchment area of the wider River Wye SAC. The River Lugg is currently failing its conservation status Phosphate Levels and so as identified in attached Position Statement applications can only be granted permission, at any stage of the planning process, if they can return a ‘no adverse effect on the integrity of the Lugg SAC’ result to the legally required HRA Appropriate assessment.

The information supplied is currently not sufficient for this LPA to be legally or scientifically certain that there are no pathways for phosphates created by this proposed development to enter the Lugg SAC catchment.

Additional professional reports confirming that all 5 of the criteria for soakaway discharge fields laid out in the Council’s Position Statement can be met should be supplied to this LPA.

Once professional confirmation that all 5 criteria can be met has been received the HRA process and required consultation with Natural England can be initiated.

No consent should be granted until such time as this HRA process has been fully and satisfactorily completed.

Any further ecology comments will be made at the time the HRA process is undertaken.”

2nd consultation – 28th May 2020

“The site is within the River Lugg SAC catchment and a relevant Habitat Regulations assessment process and all relevant consultations with Natural England is required prior to any grant of planning consent.

Foul Water:

The applicant has supplied information detailing that:

- *All foul water will be managed by a shared Package Treatment Plant.*
- *Outfall from the PTP will be securely pumped to a soakaway drainage field located on land under the applicant's control.*
- *The soakaway drainage field is 50m from any relevant nature conservation site or important habitat.*
- *The soakaway drainage field is at least 50m from any watercourse, ditch or other surface water feature.*
- *There is no groundwater within 2m of ground level.*
- *The drainage field is located in an area with a slope less than 15%*
- *There are no identified soil, subsoil or geological features that would create any immediate phosphate pathways or speed up movement of phosphates.*
- *Percolation tests have been undertaken to confirm a drainage field can be achieved and the appropriate size details supplied.*
- *The management of the shared foul water system for the lifetime of the development can be secured by relevant legal agreements.*

Surface Water:

The applicant has detailed that all surface water will be managed by relevant 'plot specific' infiltration and soakaway features

Construction Process:

With the immediate proximity to a tributary of the River Lugg SAC/SSSI there are potential effects identified associated with the actual construction process – eg accidental spills and contamination, material storage, use of machinery, associated noise, dust and light and potential for effects on species directly attributed to the SAC such as transitory otters from adjacent watercourses. To ensure these are fully considered and mitigated it is reasonable to require a detailed Construction Environmental management Plan (CEMP) including detailed ecological working methods and retained tree-hedgerow protection plan be secured in place prior to any works commencing onsite.

Subject to relevant consultation with Natural England the relevant mitigation can be secured by condition on any consent granted.

Habitat Regulations (River Lugg SAC) – Nature Conservation Protection -

Before any work, including any site clearance or demolition begin, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and retained tree and hedgerow protection plan, shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2019) and Herefordshire Council Core Strategy (2015) policy SS6, LD2 and LD3

Nature Conservation (River Lugg (Wye) SAC) – Foul Drainage Strategy

All foul water shall discharge through connection to new shared private foul water treatment system as detailed in the Foul Water Drainage Strategy and supporting plan by Berrys (dated 14th April 2020) 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

Nature Conservation (River Lugg (Wye) SAC) - Foul Water System Shared Management Arrangements

Prior to first occupation of any property approved under this permission the legally binding details of how all the shared aspects of the foul water 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

Nature Conservation (River Lugg (Wye) SAC) – Surface Water

All surface water shall be managed through plot specific soakaway-infiltration systems unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), and Herefordshire Core Strategy (2015) policies SS6, LD2 and SD3

Additional Ecology Comments.

It is noted that no works of any kind are proposed to the existing access road from the Highway (A417 near Filling Bridge) to Monksbury Court complex and the new dwellings. These comments are based on that statement within the application information and Transport Statement.

The supplied ecology report by Turnstone Ecology dated July 2019 is noted and appears relevant and appropriate. The CEMP requested as part of the required HRA process will ensure all relevant species, tree and hedgerow protection during construction is secured.

The report clearly states that due to the known adjacent presence and likely use of the development site and resulting development by nocturnal protected species such as by multiple bat species and Barn Owl that a detailed external lighting scheme and plan will be supplied in support of the application to enable the LPA to fully consider any effects on protected species (as the LPA has a duty to do). The detailed elevations and plans supplied for each plot do not detail any external lighting on any feature of the development. This provides the LPA with security that nocturnal species will not be affected by the development and this lack of external lighting should be secured by a relevant condition. This lighting restriction will also demonstrate compliance with NPPF para 180 by ensuring there are no increases in local illumination levels securing the local intrinsically dark landscape and ensuring no detrimental effect on the local amenity or nature conservation.

No specific or enforceable details of the proposed 'hard' biodiversity net gain enhancements such as bat roosting and bird nesting features, pollinating insect houses and Hedgehog homes have been supplied. These enhancements should be secured by a Condition on any consent granted.

It is noted that a new break in the existing roadside wildlife corridor is being created. To ensure the integrity of this corridor is retained any green infrastructure planting plan supplied as part of the proposed landscaping should clearly include the gapping up and strengthening of this feature and the planting of standard trees within the hedgerow or immediately adjacent to it – in particular either side of the new access such as to create 'guide posts' for all wildlife to follow (in particular nocturnal protected species). These measures should be secured through any condition suggested, or plans approved by my colleagues in Landscape.

Protected Species, Dark Skies and Intrinsically dark landscapes (external lighting)

- a) *At no time shall any external lighting except in relation to safe use of the approved buildings in an emergency situation 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 in anyway illuminate any biodiversity enhancement, boundary feature, highway corridors or adjacent habitats and open spaces.*
- 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 the 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)

Nature Conservation – Biodiversity and Habitat Enhancement

Prior to any construction above damp proof course levels, a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including as a minimum significant provision for Bat Roosting, Bird Nesting, pollinating insect ‘hotels’ and Hedgehog homes 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. No external lighting should illuminate habitats on or off the site, boundary features or biodiversity net gain features.

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.”

4.9 Tree Officer – No objection/conditions recommended:

“The supporting documents and drawings provide sufficient information to show the trees on site are only present on the field boundaries and in the main they are not considered to be of insignificant amenity value.

The loss of the Leylandii trees on the eastern boundary to facilitate the access is welcomed but replacement planting will be required with species that are appropriate to the setting and wider surroundings.

A soft landscape plan shall be submitted that will show that enhancement of the site will be achieved with new tree planting. The new plantings will soften the impact of the development in the setting and should be native species of medium to large ultimate size. I acknowledge that planting has been proposed and illustrated in the drawings but I would like to see details submitted as further information. The plan should show the species, their locations, nursery stock size and how they will be managed/maintained”.

4.10 Land Drainage – Qualified comments/conditions recommended if approved:

1st consultation – 29th November 2019

“We recommend that the following information is provided prior to the Council granting planning permission for this development:

- An illustration of the proposed surface water drainage strategy. This should include the location of proposed infiltration or storage features onsite and details of the potential discharge point to the adjacent watercourse in the event that infiltration proves to be unviable. The strategy should demonstrate sufficient room within the site boundary to accommodate the 1 in 100 year event with climate change allowance.
- An illustration of the proposed foul water drainage strategy. This should include the location of proposed infiltration features and demonstrate sufficient space within the site boundary.
- Confirmation of the authority responsible for the adoption and maintenance of the foul and surface water drainage systems.
- A completed Foul Drainage Assessment (FDA) Form. The FDA Form can be found on the GOV.UK website at this link: <https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>.

Should the Council be minded to grant planning permission, we recommend that the Applicant submits the information requested above along with the following information requested in suitably worded planning conditions:

- Detailed drawings of proposed features such as infiltration structures, attenuation features and outfall structures, and if off-site discharge is proposed demonstration that SuDS features have been maximised as far as practicable to minimise discharge rates and volumes.
- Results of surface water infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology;
- 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;
- Detailed calculations of discharge rates and storage requirements, using FEH 2013 rainfall data, to accommodate the 1 in 100 year event with 40% climate change allowance.
- Drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system.
- If offsite discharge is proposed, assessment of risks should discharge rates be affected by high water levels in the receiving watercourse.
- If infiltration of foul water effluent to ground is proposed, infiltration rates at the location(s) and proposed depth(s) of any proposed drainage fields, undertaken in accordance with BS6297 and Building Regulations Part H.
- If infiltration to ground is proposed, confirmation of groundwater levels to demonstrate that the invert level of any drainage fields can be located a minimum of 1m above groundwater levels.
- Detailed calculations of proposed infiltration features such as drainage fields informed by the results of infiltration testing;
- Operation and maintenance manual for all proposed drainage features that are to be adopted and maintained by a third party management company”.

2nd consultation – 26th May 2020

“I have reviewed the foul drainage strategy and hold no objections in principle.

To ensure that the pumping station is specified correctly the applicant will need to present details of a local contractor that can attend site within 24 hours of a high level alarm being raised. We have requested this for other similar planning applications”

3rd consultation - 26th June 2020

“I note that the most recent site plan dated 16th June 2020 shows a pond. The surface water drainage strategy does not indicate exactly how the SuDS will operate. We remain confused because the foul drainage strategy relies on infiltration, if there is adequate infiltration then there is no need for an attenuation pond and hydrobrake.

I have received a call from a local resident concerned regarding the impact of runoff, as this site is on raised ground. Further details of the surface water drainage strategy are needed to ensure that there is not a net increase in runoff to lower ground.

On further review of the foul drainage strategy I noted :-

- The foul infiltration tests were carried out by the applicant. For a planning application we would normally expect a third party to complete these and to issue a report for our review. Please request independent testing to support the application.*
- The PTP relies on a pump to deliver water to the raised soakage field. Whilst we hold no objection, there will be a need to design the pumps correctly to avoid the pump controls wearing out. I include some information regarding this below*

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

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

We would suggest that the applicant considers oversizing the perforated pipes in the drainage mound to create additional storage capacity in the drainage mound. A manifold / weir will also be required to spill flow equally. This would involve deviating from the standard detail in the building regulations.

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

4th consultation – 11th August 2020

“I have reviewed the email from Berrys dated 3rd August. I have also received information regarding existing flood defences from Mr Durnan including videos of the flooding. The proposed development should not worsen the existing scenario, if the SuDS are designed and assessed correctly then there should not be a net volumetric increase in floodwater that would otherwise have exacerbated flood risk to adjacent properties.

The access track is owned by Mr Durnan. There are no details in the submission detailing how flow from the balancing pond will be conveyed to the watercourse, i.e. below the access track.

We confirm that we await third party soakaway testing to BS 6297 to demonstrate that the foul drainage field can be designed to operate adequately, this is the practice that we normally follow. Soakaway testing to BRE 365 should also be completed (to demonstrate that surface water soakaways cannot be used). The soakaway tests completed by Berrys suggest that the ground is permeable. We note that the earlier test included reference to a test to identify the groundwater level and request further clarification of the depth of groundwater, or a new test hole.

If the SuDS feature a balancing pond then the overflow route will need to be considered and any potential impact on downstream features will need to be reviewed”.

“Surface Water Strategy

We have reviewed the ground investigation report which suggests that Surface Water soakaways could be used at the site. We also note that an objection has been raised via Hydrologic.

The Surface Water drainage strategy is not sufficiently robust to demonstrate that there will not be a net increase in runoff from the site.

The site plan shows a balancing pond. The calculations included in the ground investigation report include for conventional soakaways.

Deep trial pits have been excavated to demonstrate the depth of groundwater. The applicant will need to obtain topographical levels for the ground where these pits were dug. This can then be compared with the peak flood level downstream (100 year + CC) . Infiltration basin or pits are normally installed 1m above the groundwater level to allow water to be cleansed. There will need to be a separation between the peak flood level and the base of the infiltration feature, but in engineering terms this is not dimensionally defined. Any such infiltration features would need to be outside the 100 year + CC flood plain

We appreciate that the downstream resident is aware that there could be a net increase in runoff from the site, although we concur that the flooding experienced was fluvial flooding from a much larger catchment. Planning policy requires that the applicant will need to demonstrate that there is no risk of additional runoff from the site in an acute storm.

If an infiltration pond is utilised then it will need to be built with extra freeboard as defined in the SuDS Hanbook to prevent the risk of water spilling from the pond.

We note and agree with comments raised by Hydrologic in particular regarding the control of runoff and conveyance of water through the site

In conclusion the submitted surface water drainage strategy is not adequate owing to the potential risks associated with runoff

Foul Water Strategy

The report confirms that a foul drainage field will be acceptable.

We note the commitment to provide a package treatment plant as well as a pumping station with 6.6m³ of storage. The actual requirement is taken as 150 litres per head per day, we note that the system would be designed for 35 people. If a contractor could be found who could attend site within 24 hours then 5.2 m³ storage would be required above the pump stop level

As the exceedance route for the pumping station would not create a hazard then in principle a solution involving pumping and a soakaway field can be promoted.

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

We would suggest that the applicant considers oversizing the perforated pipes in the drainage mound to create additional storage capacity in the drainage mound. A manifold / weir will also be

required to spill flow equally. This would involve deviating from the standard detail in the building regulations.

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

Section 2.38 of the Building Regulations (Part H) requires that the pumping installation should comply with BS EN 752 as reiterated below

To comply with these stringent requirements, the Pumping Station would need to meet adoptable standards. Note the requirement for 2 pumps.

The main issue is that the wet well (i.e. the shaft that the pumps will pump treated effluent from) would need to be sized to allow for emergency storage of wastewater in the event of pump failure. The maintenance plan would need to include details of an organisation that could attend site with a tanker on any day in the year including Bank Holidays, to facilitate removal of the waste water from the Wet Well (before the wet well overflows causing pollution). This is necessary to provide the Council the assurance that the risk of foul flooding has been mitigated

The wet well will then be sized according to the equivalent population draining to the pumping station and the time allocated for a contractor to attend site and start tankering

We note that adequate space is available for a tanker.

Reference to a telemetry system means that a warning system will need to be designed so that the operatives are called to site when the water level in the wet well reaches a specified level

Attached is a check list. This highlights risks that the management plan would need to address. For installations such as this, a water industry contractor would need to be found that could manage the PTP and pumps in the event of pump failure

The detail above (promoted to reduce the likelihood of sewage pollution) could be requested via condition, i.e. provision of a foul drainage strategy”

4.11 PROW – No objection:

“The access road will run along a small section of public footpath YK2. The applicant must ensure they have lawful authority for vehicles to drive over the right of way.”

4.12 Building Conservation Officer – No objections/conditions recommended:

“Monksbury Court barns are largely brick buildings laid out around regular courtyards which form a group with aesthetic value as a good example of a model farm whose plan form has been unaltered over the centuries and whose materials have aged and weathered attractively. The buildings have historical value for demonstrating how people worked the land in times of pre-mechanised farming. The buildings will also hold archaeological value in their materials which will hold evidence of past craft and construction techniques, and structural timbers will be able to provide accurate dating through tree-ring analysis. It is not considered that the proposed development, taken as a whole, would adversely affect the character of the buildings at Monksbury Court. However, the quality of materials and details will be crucial to the success of the new work. The option of modern forms demands high production values. I therefore would recommended samples of the proposed materials to be provided prior to relevant works commencing”.

5. Representations

5.1 Yarkhill Parish Council – Objection:

The Parish Council have formally responded seven times during consideration of this application. They object to the application in its guise throughout. Rather than detail every single representation received, which can all be viewed on the Council's website, the concerns are dutifully summarised as follows:

- The site has previously been refused new residential development, with reference to mid-2000s decisions;
- The site was not assessed as part of the call for sites exercise with the NDP, although accept the site is within the settlement boundary for Monkhide, subject to broader criteria.
- Poor design; layout; scale and landscaping;
- Lack of connectivity/car dependency;
- Lack of ecological detail, particularly on the surrounding area;
- Lack of energy efficiency/sustainability proposed;
- Access track is in poor state of repair that needs significant upgrading;
- Lack of services in Monkhide/Yarkhill/Newtown;
- Over-development of site, considered that only a maximum of 6 dwellings on any site would be supported;
- Request for improved signage to site;
- Drainage issues;
- Surface Water Flooding;
- Lack of detail of how clean water will be received;
- Surface water run-off, is a attenuation pond needed;
- Adverse landscape harm, particularly from public rights of way;
- Permission should not be granted until Monksbury Court Barns development is complete; and
- Yarkhill Neighbourhood Area has exceeded its proportionate housing growth.

5.2 The remaining 26 representations from 14 residents/interested parties, all object to the application. The following material planning considerations have been raised:

- Contrary to NDP;
- Would appear to be a private development, with a lack of community;
- Disproportionate development;
- Over-development;
- Lack of housing mix;
- Inadequate drainage;
- Surface water flooding issues;
- Water supply issues;
- Poor design;
- Urbanised development;
- Lack of sustainability measures;
- Highway and pedestrian safety;
- Biodiversity harm;
- Noise and light pollution;
- Lack of self-build; and
- Issues with Monksbury Court Barns

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192765&search-term=192765

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 comprises the Herefordshire Local Plan – Core Strategy (CS) and Yarkhill Neighbourhood Development Plan (NDP), made on 25 September 2018. The National Planning Policy Framework ('NPPF' 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. The NPPF (as updated in February 2019) sets out the UK Government's planning policies and how these are expected to be implemented. Specifically paragraph 30 of the NPPF sets out that once a NDP has been made, the policies it contains takes precedence over existing non-strategic policies in the Core Strategy, where they are in conflict.
- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the NPPF 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 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 has yet to be made and is due early 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 Herefordshire Local Plan – Core Strategy

CS Policy SS1 – Presumption in favour of sustainable development - in line with the NPPF, has a positive approach to such development. Furthermore, planning permission should be granted unless the adverse impact of the permission would significantly and demonstrably outweigh the benefits of the proposal.

CS Policy SS2 – Delivering new homes - sets out Herefordshire is to deliver a minimum 16,500 dwellings during the plan period and that designated rural settlements play a key role in that delivery and support the rural economy, local services and facilities. Such settlements will deliver a minimum 5,600 dwellings.

CS Policy SS4 – Movement and transportation - states new developments should be designed and located to minimise the impacts on the transport network; ensuring that journey times and the efficient and safe operation of the network are not detrimentally impacted. Furthermore, where practicable, development proposals should be accessible by and facilitate a genuine choice of modes of travel including walking, cycling and public transport.

CS Policy SS6 – environmental quality and local distinctiveness - describes proposals should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.

CS Policy SS7 – Addressing climate change - states development proposals will be required to include measures which will mitigate their impact on climate change.

CS policy RA1 – Rural housing distribution - sets out the strategic way housing is to be provided within rural Herefordshire and to deliver a minimum 5,600 dwellings. Herefordshire is divided into seven Housing Market Areas (HMAs) in order to respond to the differing housing needs, requirements and spatial matters across the county. The site lies within the Ledbury HMA, which is earmarked for 14% indicative housing growth.

CS Policy RA2 – Housing outside Hereford and the market towns identifies the settlements in each HMA area where the main focus of proportionate housing development will be directed, along with other settlements where proportionate housing growth is appropriate. Monkhide is one of these settlements and is within the Ross on Wye HMA. Policy RA2 states housing proposals will be permitted in the identified settlements where the following criteria are 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;*
- 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.*

CS Policy MT1 – Traffic management, highway safety and promoting active travel states Development proposals should incorporate the following principle requirements covering movement and transportation:

- 1. demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development;*
- 2. promote and, where possible, incorporate integrated transport connections and supporting infrastructure (depending on the nature and location of the site), including access to services by means other than private motorised transport;*
- 3. encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities;*
- 4. ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services;*
- 5. protect existing local and long distance footways, cycleways and bridleways unless an alternative route of at least equal utility value can be used, and facilitate improvements to existing or provide new connections to these routes, especially where such schemes have been identified in the Local Transport Plan and/or Infrastructure Delivery Plan; and*
- 6. have regard to with both the council's Highways Development Design Guide and cycle and vehicle parking standards as prescribed in the Local Transport Plan - having regard to the location of the site and need to promote sustainable travel choices.*

CS policy LD1 – Landscape and townscape criteria requires new development must achieve the following:

- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;*

□ *conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management.*

CS Policy LD2 – Biodiversity and geodiversity states Development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire.

CS Policy LD3 – Green infrastructure, identifies that development proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructures including identification and retention of existing green infrastructure and linkages and provision of on-site green infrastructure

CS policy LD4 – Historic environment and heritage assets sets out as relevant to this application that development proposals affecting heritage assets and the wider historic environment should:

- 1. Protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible*
- 2. the conservation and enhancement of heritage assets and their settings through appropriate management, uses and sympathetic design. Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas.*

CS policy SD1 – Sustainable design and energy efficiency, requires that new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design and safeguard residential amenity for existing and proposed residents.

CS Policy SD3 – Sustainable water management and water resources states Measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk; to avoid an adverse impact on water quantity; to protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation.

CS Policy SD4 – Wastewater treatment and river water quality states Development should not undermine the achievement of water quality targets for rivers within the county, in particular through the treatment of wastewater.

6.5 National Planning Policy Framework (NPPF) – February 2019

The NPPF has 'sustainable development' central to planning's remit and objectives. The NPPF seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The NPPF has been considered in assessing this application.

Paragraphs 7 and 8 set out and define sustainable development and the three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, the social objective requires planning to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.

Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting

permission unless the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. Footnote 7 to Paragraph 11 states this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73). The local authority is currently failing to provide a 5 year Housing Land Supply, plus a buffer (3.69 years as of 1 April 2020 dated August 2020) and as such Paragraph 11 is triggered due to conflict with the relevant requirements of NPPF chapter 5: delivering a sufficient supply of homes

Where the existence of a five year land supply cannot be demonstrated, there is presumption in favour of granting planning permission for new housing unless the development can be shown to cause demonstrable harm to other factors that outweigh the need for new housing. In reaching a decision upon new housing the housing land supply position will need to be balanced against other factors in the development plan and/or NPPF which could result in the refusal of planning permission. This site is therefore assessed and considered on its suitability as being sustainable in regards its location and material constraints and considerations.

Accordingly, the Council's housing land supply position vis-à-vis the NPPF does not result in the proposal being acceptable when there are both material considerations demonstrating the development should be refused or where, locally, housing supply targets can be demonstrated.

With particular reference to the matter of access, the NPPF sets out how transportation, highways impact and non-vehicular movement should be considered, assessed and supported in paragraphs 108 – 111, stating In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Paragraph 109 explicitly states Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

NPPF Paragraph 124 states: The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 outlines Planning decisions should ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

□ create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 155 of the NPPF, identifies that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).

NPPF paragraph 180 states planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

NPPF section 16 sets out the position regarding conserving and enhancing the historic environment. Specific principles and policies relating to the historic environment and heritage assets and development are found in paragraphs 184 – 202.

Yarkhill Neighbourhood Development Plan – made 25 September 2018

6.6 The Yarkhill Neighbourhood Development Plan was made on 25 September 2018 and now forms part of the Development Plan, in which in accordance with paragraph 48 of the NPPF, can be afforded full weighting. Members will note paragraph 14 of the NPPF, in which,

“In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;*
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;*
- c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and*
- d) the local planning authority’s housing delivery was at least 45% of that required over the previous three years.”*

The Yarkhill NDP is now over two years old and paragraph 14 of the NPPF is not engaged. Members are referred to paragraph 11d of the NPPF. Notwithstanding this, Yarkhill NDP policies where are relevant to the application are as follows–

Policy Y2 (Settlement Boundaries) which identifies that proposals for new housing development within the identified settlement boundaries, including Monkhide, will be supported. This is provided that:

- New development is designed sensitively to respond to the setting of the site, and reflects the rural character of neighbouring buildings, using traditional materials such Herefordshire sandstone, timber frames, local red brick and slate roof materials where possible;
- Properties and extensions are restricted to two storeys in height and reflect the character of the village and its surroundings in terms of size, scale, density, layout and landscaping;
- Development is designed to be sensitive to any nearby built heritage assets such as Listed Buildings and Scheduled Monuments;

- New developments retain and incorporate natural features such as trees and hedgerows, and where appropriate ameliorate any loss of habitat for wildlife;
- New development should incorporate measures which support and enhance local wildlife such as swift bricks and bat boxes, and landscaping should include locally appropriate species in planting schemes.
- Renewable energy installations if proposed are integrated into the design;
- Sites have suitable access. The impacts of additional traffic from development proposals on existing rural roadworks should be carefully considered and suitable measures should be proposed to encourage appropriate traffic speeds and civilised driver behaviours;
- Sufficient provision should be made for adequate off street parking;
- Development is small in scale (preferably up to 3 dwellings), on small infill sites, and where possible on brownfield sites where the new housing development will not be adversely impacted by existing agricultural or commercial activities; and
- Schemes provide smaller and family accommodation (2 -3 bedrooms) to meet the needs of young families. Affordable housing is encouraged where viable and possible

Policy Y7 (Traffic and transport) identifies developer contributions and other sources of funding will be sought wherever possible to support and improve existing public transport links to local towns and facilities, and to improve local routes and networks for walking and cycling. Priorities for the expenditure to improve traffic management and safety in Yarkhill Parish include measures which achieve and maintain appropriate traffic speeds and civilised driver behaviours within the neighbourhood area, particularly on the A4103; and enhancements to the public realm to support walking and cycling as modes of choice, particularly for local trips.

Policy Y8 (Water supply and sewerage) identifies that new development will be required to provide adequate treatment of waste water discharge in line with Herefordshire Local Plan Core Strategy Policies SD3 – Sustainable water management and water resources and SD4 –Waste water treatment and river water quality. Development will only be permitted where the capacity of the public sewerage system or waste water treatment works (WwTW) allows, or a suitable private waste water treatment system is installed. Development should not cause an unacceptable risk to the availability or quality of water resources of neighbouring properties, particularly in areas where there is no mains supply and properties are dependent upon groundwater supplies. Development that may result in the capacity of the public sewerage system and / or the Monkhide waste water treatment works becoming overloaded will not be permitted.

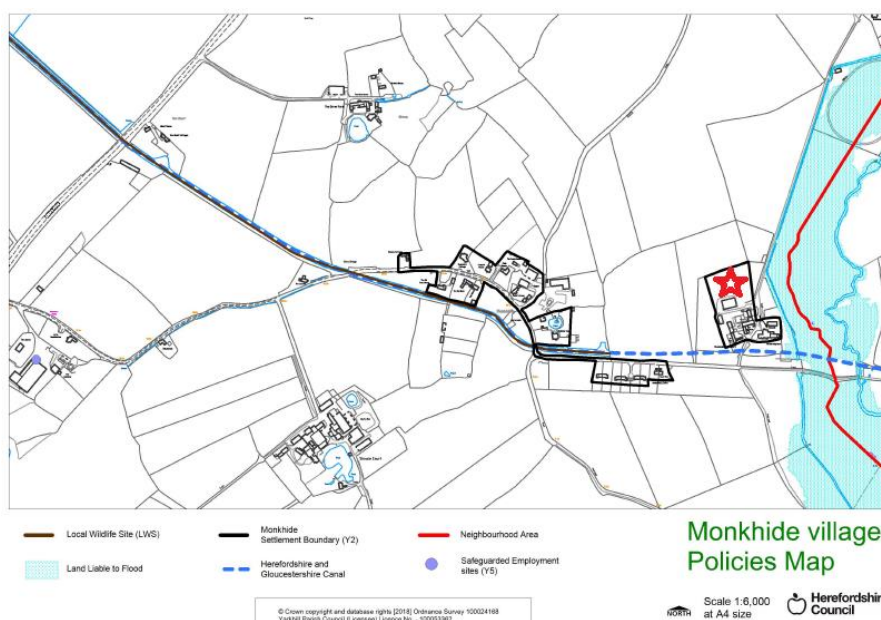
Policy Y9 (Reducing flood risk and supporting sustainability) identifies that proposals for new residential development should be in Flood Zone 1 low risk. Development proposals will be required to provide effective surface water drainage measures to protect existing and future residential areas from flooding. Opportunities will be sought to reduce the overall level of flood risk in the area through the layout and form of the development, and the appropriate application of sustainable drainage systems. New development must be designed to maximise the retention of surface water on the development site and to minimise runoff. In addition, development is encouraged to be energy efficient and to incorporate principles of sustainable design, although this is not a mandatory prerequisite.

Policy Y11 (Protecting Landscape Characters) clarifies new development should be sited and designed to protect and enhance features which contribute towards the landscape character of the Yarkhill Parish area. Landscaping schemes should protect existing hedgerows and use locally appropriate native species such as ash and field maple or oak in new planting schemes. Mature trees should be protected, and used positively to enhance landscaping schemes wherever possible. Tree planting along watercourses is encouraged.

Assessment

Principle of Development

- 6.7 The NPPF's presumption in favour of sustainable development does not change the statutory status of the Development Plan (Core Strategy and NDPs) as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including NDPs), permission should not normally be granted. In this instance, the Core Strategy was adopted in 2015 and is in the early stages of undergoing a review and update. The Yarkhill NDP is made and forms part of the 'development plan', although now being over two years old, the adverse impact of allowing development that conflicts with the development plan would no longer comply with paragraph 14a) of the NPPF.
- 6.8 Monkhide is identified as a settlement under Policy RA2 of the CS, where proportionate housing growth is appropriate (4.15 settlement). The adoption of the Yarkhill NDP represents a shift in how the principle is assessed. The site lies wholly within the settlement boundary for Monkhide under Policy Y2 of the Yarkhill NDP, shown below (application site denoted by red star):

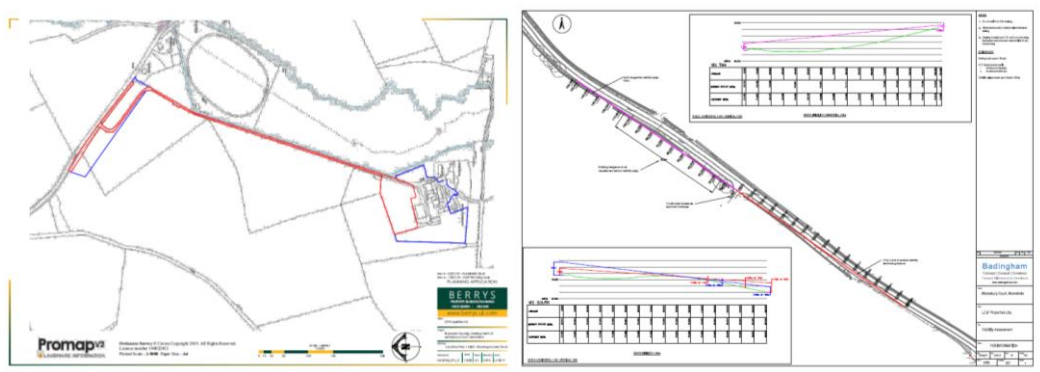


Map of Monkhide Village Settlement boundary, as identified under Policy Y2 of the Yarkhill Neighbourhood Development Plan (application site denoted by red star)

- 6.9 Whilst not an allocated site within the NDP (these being two sites at Lower Eggleton), the site lies within the settlement boundary for Monkhide, although not an in-fill site. However, the NDP is now more than two years old and the proposal is considered to be consistent with the housing policies of the Core Strategy and NPPF, which can be afforded significant weighting. Of course, material and technical considerations must be considered, before applying the tilted balance of paragraph 11d). This is considered below.

Highways

- 6.10 Access to site is to use the existing access track of some 0.4 miles, off the A417, between Lower Eggleton/Newtown and Stretton Grandison. The applicant owns the access track and has right of way over this. For avoidance of doubt, Monkhide Village Road (U66203) cannot be used as it is a no-through road which terminates just after the Council houses. Subsequently, the majority of traffic using Monksbury Court Barns use the access under consideration. This is mapped below by the red line, and visibility splays are also shown:



Location Plan and Proposed Visibility Splays

- 6.11 The junction with the A417 achieves visibility splays of 2.4m by 154m and 160m northbound and southbound, respectively. Visibility splays have been calculated through a topographical survey and speed survey to establish vehicle speeds, through a 7-day term-time ATC.
- 6.12 The site's layout demonstrates sufficient parking for all 7 dwellings can be provided in line with the council's guidance, as well as the introduction of a shared turning head, providing sufficient room for potential visitor parking, if reasonably necessary. The Highways Area Engineer has no objection to the access arrangements and impacts on the local network hereabouts and requested conditions to the recommendation. This notably includes upgrading of the access track to an acceptable standard, albeit it would remain unadopted/private. To secure this, a pre-commencement condition is identified. For avoidance of doubt, the existing access track is shown below, as well as visibility onto the A417:



Photo of access track taken just north-east of application site, looking north towards A417



Photos of visibility onto A417, northbound and southbound

- 6.13 To meet the requisite visibility of 154m northbound, a small section of hedgerow will need to be translocated. This section of hedgerow will be set 1.5 metres behind the visibility splays and translocation was previously approved in 2009 (DCN083258/F), as part of an application within Monksbury Court, which has been implemented.
- 6.14 Officers note the number of vehicle movements has been somewhat understated. However, this is an existing access used by residential dwellings. Traffic flow on the A417 is relatively modest for an A-class road and combined with existing flows on the existing access track, it is clear that whilst the proposal will result in an increase in trips generated to/from site, this will not lead to a capacity issue that could be classed as severe, as set out in the NPPF at paragraph 109. This has been assessed by the Transportation Manager and it is concluded the proposal is acceptable to the local highway authority, and as a result there are no highways objections to the proposal as proposed.
- 6.15 In terms of sustainable travel options, it is recognised these are limited to recreational travel around the rural roads in the vicinity of the development. Whilst not ideal, the provision of secure cycle parking is encouraged to allow occupiers wishing to access the local area via cycle, to securely store bicycles and charging points for electric vehicles are also provided. Of course, the NPPF requires decisions to recognise sites to meet community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations not well served by public transport (paragraph 84). In these circumstances, it will be important to ensure development is sensitive to surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).
- 6.16 It is also worth noting users also have ready access onto the PRoW network as public footpath YK2 lies adjacent to site and in turn links up with other routes and walks. Public bridleway YK18 within Monkhide village, also provides links to Lower Eggleton, which includes the petrol station/services at Newtown Crossroads. Members will note neither The Ramblers' Association or Council's PRoW Officer raises any objection.
- 6.17 Whilst the proposals offer limited sustainable modes of travel, suitable conditions can secure greater availability of options. In the view of officers, the proposals are considered to meet the objectives of Policy SS4 and MT1 of the CS and Yarkhill NDP policies Y2 and Y7 to a sufficient or appropriate level, where applicable. Furthermore, the requirements of NPPF paragraphs 108

– 111 are satisfied, as assessed above. The highways network can accommodate development without unacceptable impact on highway safety.

Design/Layout/Amenity/Scale

- 6.18 Amended plans, submitted in response to concerns by officers, have resulted in changes to the proposed built-form, reducing the size/scale of the dwellings and simplifying the detailing of the design also. As part of design review & comments received on the colour and architectural treatments of the dwellings.
- 6.19 The design rationale, as officers understand, is informed by two distinctive elements. It seeks firstly to consider the rural nature of Monkhide village and the diverse housing styles throughout the settlement and secondly, to reflect The Granary and detailing at Monksbury Court Barns.
- 6.20 The applicant has produced a contextual material study, setting out the range of materials which are used around Monkhide. This is a mixture of red brick, timber/timber-effect cladding and stonework. The design emulates these traditional materials in rural settings forming a contemporary design.
- 6.21 The site layout has also been amended to reflect the agrarian character of Monksbury Court, using a design which reflects the architectural detailing of the barns in relation to modern day living. It is largely why the dwellings are individually designed and a vast selection of materials, including wood cladding to detail of number of elevations, where appropriate are proposed.
- 6.22 Given Monkhide is a 4.15 settlement under Policy RA2, any new residential development should also give particular attention to the form, layout, character and setting of the site and its location in that settlement, which is also acknowledged under Policy Y2 of the Yarkhill NDP. The layout seeks to consider the evolution of Monkhide and particularly Monksbury Court, in terms of an agrarian, courtyard layout. The black/dark brown timber has been chosen to match the cladding used on the adjacent barn conversions, again reinforcing the sympathetic agricultural nature of the location and providing further interest into the design of the elevations. A centrally shared space within the site will look to form some element of community but in a wider sense, has been designed and laid out to reflect a courtyard feel, although accounting that each dwelling still needs private amenity space.
- 6.23 The orientation, layout and sufficient separation distance between each dwelling and neighbouring plots at Monksbury Court is not considered to give rise to issues of overlooking and overshadowing. Indeed, the application site lies to the north of Monksbury Court Barns, and the lack of guidance of technical standards, leaves it to the view of officers with regards to acceptability. The use for residential is not considered to give rise to issues in terms of aural and visual amenity and conditions can reduce working hours during construction.
- 6.24 The development will add value to the overall appeal of the Monkhide area in terms of providing suitable family accommodation, with a principal focus on delivering three-bedroomed accommodation. Whilst the introduction of 2 no. 4 bedroomed properties is not principally required by the Ledbury Rural HMA, the Yarkhill NDP does not specifically identify that 4+ bedroom accommodation would not be supported, identifying that 2 and 3 bedroomed accommodation is sought principally. It is noted that the main proportionate housing mix is the introduction of 5 no. 3 bedroomed dwellings.
- 6.25 On the basis of the above, and noting the functional requirements of site and amendments secured, CS policies RA2, LD1 and SD1, relevant policies of the Yarkhill NDP, namely Y2 and the design aims and objectives of the NPPF, are satisfied. This will also be subject to conditioning samples of materials prior to relevant works commencing, utilising sustainably sourced local materials where possible.

Landscape



West of site looking east



South of site looking north



Taken from north-east looking south, noting vegetated eastern boundary and east of site looking west



View from north elevation looking south and taken from PROW YK2 and intersects with PROW Bridleway YK3, looking north



Taken from end of Monkhide Village Road, looking north-east towards application site

- 6.26 The site has been assessed from numerous viewpoints to illustrate the extent of inter-visibility between site and the wider landscape. There are some areas of ‘visual shadow’ where there is no inter-visibility as a result of intervening landscape/built form and/or vegetation, although there are other areas where this is not the case. Indeed, the strong boundary vegetation and topography of site, does somewhat limit views from receptors to the immediate east of the site, as experienced from public vantage points. However, it is appreciated that this will be characteristic during winter months. The transition of this edge of settlement and open countryside location to the north, raises considerations as to the potential impact on landscape character. Pedestrians in the area will essentially use the local footpath network which runs adjacent to site. Residential receptors that may be affected are essentially barns to the south, albeit on lower ground looking north towards the site. There are a limited number of houses visible, nestled in existing groups.
- 6.27 Motorists using the A417 will have very limited views into the site as the road corridor is at a lower level and time experiences due to the speed limit. Travelling northbound, there are only views to the northern boundary available and these would be experienced obliquely at speed. Travelling southbound, there is more opportunity to take in the northern boundary, however this is again experienced at speed with intervening vegetation.
- 6.28 The landscape character type is Principal Timbered farmlands, with the Riverside Meadows of the River Lodon to the east and Principal Settled Farmlands to the south. There are several orchard fields around Monkhide, which are a key landscape feature. The 7 dwellings have their own separate private drives and individual front and back gardens and the retention of the existing northern and western boundary hedgerows and trees is welcome which will reduce the visual impact of the proposed development, however, it is accepted that the rooflines will be above hedge/tree height, which the landscape officer picks up on. Due to the density, it is appreciated that this will appear visually within the surrounding rural setting. Indeed, it is likely that the roofs and upper stories will also be visible by users of the nearby public bridleway YK18, 0.2 miles to the north west.
- 6.29 However, a particular consideration to factor in is whether it is possible to mitigate development to an acceptable degree. Moreover, it is important to point this is not a protected landscape, such as an AONB, and the Yarkhill NDP does not prescribe that this is a particularly valued landscape or protected view to account for within its policies.
- 6.30 The main visual impact is the new roof tops which would be visible from the road to the north and public footpath to the east of site. The necessary retaining wall to the southern boundary will be softened by the introduction of proposed landscaping, in which additional shrubs and climbers would also help both visually and increase biodiversity. The addition of a water attenuation pond

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

/ wildlife pond and wildflower meadow is also welcome to enhance the landscape hereabouts. This will require ground works and planting proposals but its integration can help such transition. Conditions would be added to any approval to cover a landscape scheme and subsequent implementation, as well as a management and maintenance plan for a considerable period of time.

- 6.31 Whilst the Council's landscape officer does object, on grounds that the proposed development type is not being consistent with the landscape character or the transition to open countryside beyond, they have advised conditions be appended to any recommendation, to ameliorate the development.
- 6.32 Officers view is that the landscape enhancement can be achieved, noting the proposed incorporation of a wildlife pond and wildflower meadow to the east/north-east of site. Furthermore, a detailed landscaping scheme can be secured through suitably worded conditions. This is also not a protected or valued landscape, notwithstanding public experiences via the PROWs adjoining and surrounding the site. Whilst appreciating that there will be a visual change to the area, officers would consider that in landscape terms, a neutral/nit impact on landscape character is achieved, namely a conserving of landscape character, which can be secured through conditions. It would therefore accord with Policy LD1 of the CS, Y11 of the Yarkhill NDP and is consistent with section 15 of the NPPF, in conserving and enhancing the landscape.

Ecology, Arboriculture and HRA

- 6.33 The application submission has been supported by a detailed Ecological Assessment in which surveying and assessment has been undertaken. The Council's ecologist has reviewed this and is content with its outcomes and has requested a number of suitably worded conditons.
- 6.34 The Council's tree officer notes the supporting documents and drawings provide sufficient information to show the trees on site are only present on the field boundaries and in the main they are considered to be of insignificant amenity value. The loss of the Leylandii trees on the eastern boundary to facilitate the access is welcomed but replacement planting will be required with species that are appropriate to the setting and wider surroundings. A soft landscape plan to show enhancement of the site will be achieved with new tree planting, and can be secured by condition. The new plantings will soften impact of the development in the setting and should be native species of medium to large ultimate size. Officers acknowledge planting has been proposed and illustrated in the drawings but additional details can be submitted as a condition. Namely, the plan should show the species, their locations, nursery stock size and how they will be managed/maintained, in line with Polies LD1 and LD3 of the CS and Policy Y11 of the NDP. Again, suitably worded conditions can help to secure implementation.
- 6.35 Members will also be aware that the site also falls within the Lugg catchment within the River Wye SAC. This application has been subject to a formal Habitat Regulations Assessment (HRA) process by the local planning authority (LPA) as the competent body in consultation with Natural England. The initial Habitat Regulations Screening Assessment identified foul water and surface water as 'likely significant adverse effects'. The applicant has indicated in their application that foul water will discharge to a new shared package treatment on site and surface water will outfall to be managed by relevant 'plot specific' infiltration and soakaway features and has provided additional drainage information to confirm that no likely significant effect through phosphates reaching the Lugg catchment will be evident, which complies with the Council's current position statement of March 2020. Subject to this mitigation being secured through a relevant condition, a conclusion of 'NO Likely Significant Effect' has been returned by this LPA and subsequently Natural England. As such, the proposal demonstrates compliance with CS policies SD4 and LD2 and Policies Y8 of the Yarkhill NDP. In light of a considerable number of applications across north Herefordshire which are currently held up, this is important to acknowledge. Percolation tests have been undertaken to confirm a drainage field can be achieved and the appropriate size details

supplied. The management of the shared foul water system for the lifetime of the development can be secured by relevant legal agreements.

Heritage

- 6.36 When considering the impact of a development proposal upon the setting of a Heritage Asset, there are several stages. Firstly, identifying those assets which may be affected and their significance. Then, those aspects of their setting which contribute to the significance are identified, and lastly, the impact of the development upon this significance. It should be noted that a view to or from a Heritage Asset does not necessarily mean that a site is within that asset's setting. This depends upon whether that view contributes to the significance of the asset. A site can be within the setting of a heritage asset without a direct view under certain circumstances. The fundamental principle is whether or not a development affects the significance of a heritage asset, including those aspects of setting which contribute.
- 6.37 Having regard to the above, it is considered the site can accommodate the density of development proposed and heritage matters and their policies don't prevent this. No harm is identified to the setting or experience of any (non) designated heritage assets, as identified by officers, who have consulted with the Building Conservation Officer.
- 6.38 Monksbury Court Barns are largely brick buildings laid out around regular courtyards which form a group with aesthetic value as a good example of a model farm whose plan form has been unaltered over the centuries and whose materials have aged and weathered attractively. The buildings have historical value for demonstrating how people worked the land in times of pre-mechanised farming. The buildings also hold archaeological value in their materials which will hold evidence of past craft and construction techniques, and structural timbers will be able to provide accurate dating through tree-ring analysis.
- 6.39 Members will note the comments of the Council's Building Conservation Officer who is of the view that the proposed development, taken as a whole, would not adversely affect the character of the buildings at Monksbury Court. However, the quality of materials and details will be crucial to the success of the new work. The option of modern forms demands high production values. As such, the proposals are considered to result in no impact on designated and non-designated heritage assets and accord with policies SS6 and LD4 of the Herefordshire Core Strategy or heritage aims and objectives of the NPPF and Policy Y2 of the Yarkhill NDP.

Drainage

- 6.40 The proposed drainage field sits within a reasonably flat paddock west of site where the land 'plateaus' above the development site. Whilst a topographic survey has not been carried out on this area at this point, a survey will be required to inform detailed design for the drainage field. Whilst due to the size of the drainage field and pumped inflows, an unconventional manifold or weir arrangement with oversize pipes may be required, these details can all be addressed at the detailed design stage once the full flow rates of the pumping station are known.
- 6.41 With respect to foul drainage, the Council's land drainage consultant identifies the submitted reports which confirm that a foul drainage field is acceptable. Additional technical details (promoted to reduce the likelihood of sewage pollution) in the view of the technical consultee can be secured by condition, i.e. provision of a foul drainage strategy. In the view of officers, this is acceptable and in line with Policies SD4 of the CS and Policy Y8 of the Yarkhill NDP.
- 6.42 In respect of surface water, local residents have raised concerns that there could be a net increase in runoff from the site, although land drainage and officers concur that the flooding experienced hereabouts in the past was a consequence of fluvial flooding from a much larger catchment. Policy SD3 of the CS, requires the need to demonstrate that there is no risk of additional runoff from the site in an acute storm. A number of the comments regarding the

drainage strategy, in the view of officers, appears to be assessing it as if it is the detailed design. The details submitted to date have been to provide assurance and moreover, confidence, that a foul and surface water drainage strategy is achievable and in the view of officers, can be resolved via pre-commencement conditions. Additionally, the information and details of the foul water strategy provided was also to demonstrate that the proposal complies with the criteria set out within the Council's River Lugg Position Statement, which of course has been demonstrated.

- 6.43 Notwithstanding the above, infiltration testing carried out at the site in accordance with BRE Digest 365, shows with suitably sized cellular or similar soakaway features, it is feasible that a soakaway system could be designed to accommodate inflows from a 1 in 100 year + 40% climate change event. Given the favourable ground conditions found at the site, the applicant also proposed that permeable paving and construction can be provided for all hard surfaces within the development. This would ensure that at the very least the development matches the existing pre-developed greenfield state, but more likely due to the additional storage capacity provided within the voids of permeable paving, this construction type would provide betterment over the existing site in terms of surface water run-off. This will also lessen or remove the requirement for surface water exceedance corridors, as all surface water would be intercepted at source. The requirement for exceedance flow features will be reviewed at the detailed design stage and incorporated within the site drainage design, if the application is approved.
- 6.44 For avoidance of doubt, if all surface water can be disposed of via soakaways for the 1 in 100 year + 40% climate change event, then the pond shown on the block plan will not be required as part of the site drainage infrastructure, although will still be retained for biodiversity benefit. These points will all be addressed in the site drainage detailed design and hydraulic modelling, which will be carried out in accordance with the requirements and guidance in Herefordshire SuDS Handbook and Ciria c753 The SuDS Manual.

Flood Risk

- 6.45 Notwithstanding this, officers note paragraph 163 of the NPPF, in that when determining planning applications, LPAs should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment, which the applicant has provided. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
 - b) the development is appropriately flood resistant and resilient;
 - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
 - d) any residual risk can be safely managed; and
 - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 6.46 Measures for sustainable water management are integral elements of new development in order to reduce flood risk, this is achieved by proposals being located in accordance with the Sequential Test & Exception Tests and having regard to the Strategic Flood Risk Assessment (SFRA) for Herefordshire, with the 2019 update now being public. The NPPF and PPG adds significantly to this, with the NPPF emphasising that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).
- 6.47 In this manner the NPPF employs what is considered to be a two-fold method for considering the acceptability of development in areas of flood risk, applying a 'Sequential Test' for the spatial

location of residential development, then (and only) if the sequential test is passed, applying a two part 'Exceptions Test' (where appropriate) which should be informed by a site specific flood risk assessment.

- 6.48 The Sequential test is intended to direct development to the areas with the lowest risk of flooding. For individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national planning guidance.
- 6.49 As stated above, the application site itself is located in Flood Zone 1, in line with Policy Y9 of the Yarkhill NDP, with a small part of the access in Flood Zone 2.

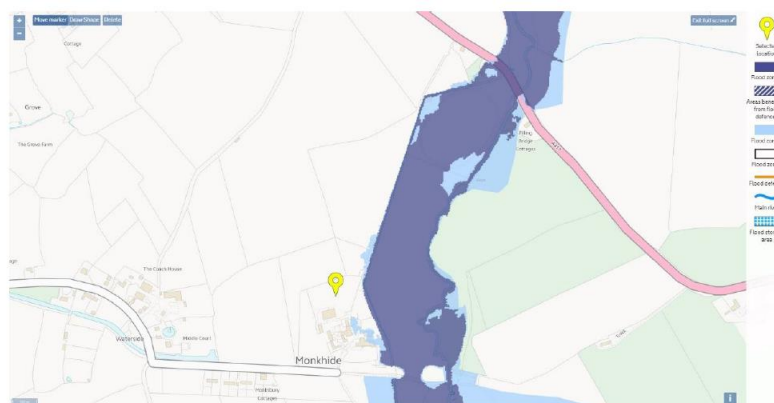


Figure 2 Environment Agency Flood map for planning

- 6.50 A qualitative approach has been taken in assessing the site flood risk. Reference has been made to the Environment Agency's Flood Risk Map for planning to identify the site's flood risk category. The residential area of the site is located within Flood Zone 1, and therefore has a very low risk (less than 1 in 1000 annual probability) of flooding from river or sea sources. A small length of the access road is located within Flood Zone 2, however the risk associated with this is considered acceptably low. Risk of fluvial flooding is considered low enough that mitigation is not required. Groundwater flooding is considered to be low risk. The site rises from the River Lodon floodplain, a Secondary A superficial aquifer, with the first dwelling located approximately 1.5 metres above the floodplain level. None of the proposed dwellings has a basement, and finished floor levels will be set a minimum of 150mm above the adjacent ground level. In order to reduce risk of overland sheet flows increasing flood risk within the site, cut-off ditches along the north and west boundaries of site are recommended.
- 6.51 Applying the sequential test to the proposed development, it is considered necessary to define the bounds of the test area; in this regard officers consider the Yarkhill Neighbourhood Development Plan area to be a reasonable catchment area in the local circumstances as the housing strategy for the area is based around NDPs & settlements, further it is also the lowest scale at which housing delivery is monitored in the county. The Local Planning Authority (LPA) has granted a number of planning permissions for residential development and the area, although it has delivered its proportionate growth for housing in this regard, these sites are noted to be on land which has a lower risk from flooding. The NDP also permits residential growth outside of the bounds of settlements, albeit in line with Policy RA3 of the CS and paragraph 79 of the NPPF.

This is a highly flexible approach to permitting residential development spatially and there is considered to be significant amounts of land that could support residential development in general terms. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. In this regard, new residential development is wholly within Flood Zone 1, bar the upgrading of the access track, which already exists, and of which a small section is in flood zone 2. The development proposed is located in a zone with a lower risk of flooding and is considered to pass the sequential test.

- 6.52 The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. For the exception test to be passed it should be demonstrated that:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
 - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 6.53 In this regard, the improved highways access and in the view of officers, confidence in the viability of a suitable foul and surface water drainage strategy will be safe for the lifetime of development.
- 6.54 Officers consider that sufficient information has been provided to demonstrate that the development will not increase the risk of downstream flood risk; the ability to construct the SuDS infrastructure above the maximum flood height from the nearby watercourse; compliance with the River Lugg catchment area 'Position Statement'; and finally the ability to pump and properly distribute treated effluent to the proposed drainage field laying above the site. The applicant has provided additional detail to clarify this understanding. The expectation is that the detailed design of a complete sustainable surface water (SuDS) and foul drainage scheme can be dealt with under pre-commencement conditions of any consent. The submitted information demonstrates a degree of confidence to the planning authority that the disposal of the development surface water and effluent can be dealt with sustainably without leading to on or off-site flood risk issues. Accordingly, officers consider the proposal to accord with Policy SD3 of the Core Strategy and Policy Y8 of the Yarkhill NDP.

Other Considerations

- 6.55 A number of representations have stated that the NDP will only support a maximum of 6 dwellings or in the case of infill plots, 3 dwellings. This is not considered to be a in-fill plot, in relation to Policy Y2. Indeed, the reference to a maximum of 6 dwellings is identified as Objective 3 of the Yarkhill NDP, and this is not a policy. Had that been within the policy itself, a revised application would have clearly have come forward to accord with the NDP. The drawing of officers attention to an allocated site at Rosedale, Lower Eggleton (194151) which was approved earlier this year, is indicated clearly within Policy Y1 of the Yarkhill NDP that 6 dwellings would be supported and hence why this was revised.
- 6.56 The application is considered on its merits as presented; with the site history considered to form a material consideration. I note that officers have previously identified harm when considering residential development on the site, thus I consider the local planning authority is considering the proposal with an element of consistency. The adoption of the Yarkhill NDP, Core Strategy and NPPF, represents a clear shift in planning policy and guidance and subsequent assessment.
- 6.57 Officers note paragraph 61 of the NPPF in respect of delivering a sufficient supply of homes. This is in that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Under section 1 of the Self Build and Custom Housebuilding Act 2015, the LPA keeps a register of those seeking to acquire serviced plots in the area for their own self-build and

custom house building. The LPA also has duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.

- 6.58 With respect to comments on lack of services, members will note that Monkhide has been identified under Policy RA2 of the CS, as a focus of proportionate housing development.
- 6.59 The Council acknowledges paragraphs 127 and 130, in respect to good design, and has afforded this in consideration of the planning balance, as well as matters of the appropriateness of the development and scale of it.
- 6.60 The apparent lack of signage to the site which has been raised as an objection has been addressed in recent months with signage for Monksbury Court Barns at the junction with the A417.
- 6.61 Welsh Water have confirmed that a water supply can be made available to serve this proposed development. The developer may be required to contribute, under Sections 40 - 41 of the Water Industry Act 1991, towards the provision of new off-site and/or on-site watermains and associated infrastructure.
- 6.62 It would be considered to be unreasonable, with regard to the tests of use of planning conditions under paragraph 003 of the PPG, to introduce a condition restricting the developer from commencing work on this site, if approved, until works were completed in respect of the barn conversions at Monksbury Court.
- 6.63 The most recent figures for Yarkhill Parish Area, shows that the neighbourhood has met its proportionate growth target and, in conjunction with commitments and completions, currently has exceeded its target by 7 dwellings, as of the Council's most recent available figures of April 2020, which includes the commitment of an allocated site at Land adjoining Rosedale, Lower Eggleton (194151), although this figure may drop due to the potential of the undeliverability of a site at Squirrels Nest, Lower Eggleton for 4 dwellings, due to a mixture of ownership and highway issues. However, proportional growth is not a ceiling to further development.
- 6.64 Matters in respect of enforcement issues with the wider Monksbury Court Barns site is not a material consideration under this application.

Planning Balance

- 6.65 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." The development plan is the Herefordshire Core Strategy and the Yarkhill NDP. The NPPF is a significant material consideration.
- 6.66 The Core Strategy constitutes a spatial strategy and policies designed to achieve sustainable development under the three objectives; social, economic and environmental. As concluded above the proposals are considered to accord with the development plan through meeting the criteria of policy RA2 and Yarkhill NDP policies which apply to the site as within the settlement for Monkhide.
- 6.67 The NPPF, a material consideration, also seeks sustainable development through the economic, social and environmental objectives for planning. To enable a conclusion to be reached on whether the application proposals are in accordance with the development plan and to take account of material considerations, officers now consider the benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn.

Turning to the three objectives of sustainable development at paragraph 8:

Economic Objective

6.68 A key aspect of the economic role played by the planning system is to ensure that sufficient land of the right type is available in the right places and at the right time to support growth. In this context, the proposals score, in economic terms at least, positively. The proposal could help to support economic growth arising from:

- employment and supply of associated materials, goods and services in the construction phase
- support to local services and facilities arising from the new resident population

The positive economic benefits arising from the scheme will include direct economic betterment for local shops and businesses. Of course, these are not unique to this proposal and apply to all such developments. On the basis of the scale and nature of the development I attach moderate weight to these benefits.

Social Objective

6.69 Planning's social role incorporates providing support to strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment.

The proposal delivers a modest mix of housing, which will help meet identified local need now and for the future. The delivery of these houses will also contribute to the social wellbeing of Monkhide through occupiers using and contributing to the settlement's existing society and life. Furthermore the development represents a planned response to growth of the settlement as set out within Core Strategy policy RA2 and the Yarkhill NDP as it is development within the settlement boundary. Furthermore, the proposal will make an important contribution to rectifying the Council's housing delivery and overall housing land supply position.

As such the social objective is considered to be satisfied and I attribute significant weight to the benefits in community terms, particularly to the delivery of housing, establishing sustainable communities, employment opportunities and a sense of place the development will secure and delivering the planned growth of the settlement. The weight I attach is further increased due to the Council's lack of an up to date 5 year housing land supply.

Environmental Objective

6.70 The environment objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy).

The proposal will be predominately car dependable although services and facilities are accessible by foot or bicycle. However, this would be the case for any new residential development in the neighbourhood area of Yarkhill, not least Monkhide. The Council has also granted permission for conversion of agricultural buildings to residential where future occupiers are in a similar situation. Notwithstanding this, modest weighting must be factored against the proposal.

Some landscape harm has been attributed by the Council's landscape officer, however, suitably worded conditions can mitigate this to an acceptable degree. Significant biodiversity enhancement through the wildlife/attention pond will offset such landscape harm, with some benefit in this sphere.

The Council's Building Conservation Officer has not identified any harm to heritage assets and therefore the proposal would comply with the requirements of policy LD4 of the Core Strategy.

The site has also been 'screened-out' positively under a Habitats Regulation Assessment within the River Wye SAC, clearly identifying no additional phosphates into the SAC. Given the number of applications across North Herefordshire which cannot currently positively be 'screened-out', and potential undeliverability of allocated sites within the Neighbourhood Area, including Squirrels Nest, Lower Eggleton. Officers consider that sufficient information has been provided to demonstrate that the development will not increase the risk of downstream flood risk; the ability to construct the SuDS infrastructure above the maximum flood height from the nearby watercourse; compliance with the River Lugg catchment area 'Position Statement'; and finally the ability to pump and properly distribute treated effluent to the proposed drainage field laying above the site.

Again, moderate weighting should be afforded in support of the scheme.

Conclusion

- 6.71 Taking the above into account, officers consider that the public benefits arising from the scheme, as outlined above are positive. It is not unquestionable to cede that some harm may be evident by the proposal, namely car dependent development and some harm to the landscape, although there is no evident harm arising in relation to other technical matters as discussed. In the view of officers, the proposal is considered to be compliant with the CS and with the policies of the Yarkhill NDP, notwithstanding that it is now over two years old, but moreover, the NPPF.
- 6.72 The application delivers a sustainable residential development at Monkhide as directed by CS policy RA2 and the Yarkhill NDP. As such I attach positive weight to the proposals as their delivery will also enable defence against unplanned speculative development in locations more harmful in environmental terms, potentially in locations which are not identified for new residential development.
- 6.73 Policy SS1 of the CS reflects the presumption in favour of sustainable development in national policy and provides that planning applications that accord with the policies in the Core Strategy will be approved unless material considerations indicate otherwise. Policy SS1 also aligns itself with NPPF paragraph 11 and as a matter of local plan policy states Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the council will grant permission unless material considerations indicate otherwise.
- 6.74 The NPPF paragraph 11 provides the mechanism for the determination of the application stating:
- For Decision Making
- c) Approving development proposals that accord with an up-to-date development plan without delay; or
- d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.75 As detailed above, officers consider there is conformity with the housing and sustainable development policies of the development plan which includes the Yarkhill Neighbourhood Plan. These policies are clearly consistent with the guidance contained within the NPPF. Further to the

local plan policy compliance described, it is also noted the Council does not have an up to date 5 year supply of housing land and on the basis of the clear direction from NPPF paragraph 11, the local plan policy and NPPF aims and objectives compliance, it is not considered that the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole.

6.76 Approval therefore is recommended, subject to the conditions as outlaid below.

RECOMMENDATION

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

Standard Conditions

1. C01 – Time limit for commencement (full permission)

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

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

2. C06 – Development in accordance with the approved plans

The development shall be carried out strictly in accordance with the approved plans [drawing nos], except where otherwise stipulated by conditions attached to this permission.

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy Y2 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

3. CBK – Restriction of hours during construction

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

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy; Policy Y2 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

Pre-Commencement Conditions

4. CAB – Visibility splays

Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles 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 154 metres northbound and 160 metres southbound 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; Policies Y2 and Y7 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy.

5. CAR – On-site Roads – phasing

No development shall commence until details of improvements to the access from the A417 to site have been submitted to and approved in writing by the local planning authority. The approved details shall be completed and implemented prior to first occupation of any dwelling approved under this permission and thereafter maintained to an acceptable standard.

Reason: To ensure an adequate and acceptable means of access is available before the dwellings are occupied and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy; Policies Y2 and Y7 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework

6. CBO – Surface Water Drainage Strategy

No development approved by this permission shall commence until a surface water drainage strategy has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of the development hereby approved.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy; Policies Y2; Y8 and Y9 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

7. CBM – Foul Water Drainage Strategy

Prior to the commencement of the development, details of the proposed foul drainage strategy shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of any of the dwellings hereby permitted.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policy SD4 of the Herefordshire Local Plan – Core Strategy; Policies Y2 and Y8 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

8. CCK – Details of slab levels

Prior to the commencement of development, a detailed plan, showing the levels of the existing site, the proposed slab levels of the dwellings approved and a datum point outside of the site, shall be submitted to and be approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the absence of sufficient detailed information, the clarification of slab levels is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to define the permission and ensure that the development is of a scale and height appropriate to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy Y2 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework

9. CKM – Construction Environmental Management Plan

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

Before any work; including site clearance or demolition begin or equipment and materials are moved on to site, a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and a specified 'responsible person', shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; 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, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework , NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3 and Policy Y2 of the Yarkhill Neighbourhood Development Plan.

Relevant Commencement Conditions

10. CK3 – Landscape Scheme

With the exception of site clearance and groundworks, no further development shall commence until a landscape scheme shall be submitted and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:

- 1. Trees and hedgerow to be retained, setting out measure for their protection during construction, including the location of temporary fencing, in accordance with BS5837:2012.**
- 2. Trees and hedgerow to be removed.**
- 3. A plan showing existing and proposed finished levels or contours, particularly around the balancing / wildlife pond, including suitable gentle gradients into the pond.**
- 4. All proposed planting and seeding, accompanied by a written specification setting out: species, size, quantity, density and cultivation details. This should include native trees.**
- 5. All proposed hardstanding and boundary treatments.**
- 6. Detailed construction drawings of the southern boundary retaining wall in conjunction with proposed tree pits and any other planting.**

Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy; Policies Y2 and Y11 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

11. CK4 – Landscape Implementation

All planting, seeding or turf laying in the approved landscaping scheme 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 10 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; Policies Y2 and Y11 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework

12. CK5 – Landscape Maintenance Plan (10 years)

Before the development is first occupied, a schedule of landscape maintenance for a period of 10 years shall be submitted to and approved in writing by the local planning authority. This

shall include and cover all communal areas, such as the courtyard, boundary planting and wildflower meadow / balancing pond. Maintenance shall be carried out in accordance with this approved schedule.

Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy; Policies Y2 and Y11 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

13. C13 – Details and Samples of external materials

With the exception of any site clearance and groundwork, no further development shall take place until details and samples of materials to be used externally on walls and roofs of both the dwellings and garages, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy Y2 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

14. 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. The approved details shall be implemented prior to first occupation of any dwelling approved under this decision.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy; Policies Y2 and Y7 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

15. CD2 – Habitat Enhancement Scheme

Prior to any construction above damp proof course levels, a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including as a minimum significant provision for Bat Roosting, Bird Nesting, pollinating insect ‘hotels’ and Hedgehog homes 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. No external lighting should illuminate habitats on or off the site, boundary features or biodiversity net gain features.

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 and Policy Y2 of the Yarkhill Neighbourhood Development Plan.

Pre-Occupancy Conditions

16. CB2 – Secure covered cycle parking provision and promotion of sustainable transport measures

Prior to the first occupation of the development hereby permitted, full details of a scheme for the provision of covered and secure cycle parking facilities and electric vehicle charging

points, within the curtilage of each dwelling, shall be submitted to the Local Planning Authority for their written approval.. The approved details shall be carried out in strict accordance and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative and sustainable modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy; Policies Y2, Y7 and Y9 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

17. CBP – Scheme of surface water regulation

Prior to first occupation of any dwelling approved under this decision, a scheme for the provision of a surface water attenuation system, shall be submitted to and approved in writing by the local planning authority. The approved details shall be subsequently implemented and maintained thereafter.

Reason: To prevent the increased risk of flooding and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy; Policies Y8 and Y9 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

18. CCB – Scheme of refuse storage (residential)

Prior to the first occupation of development a scheme for the provision of storage, prior to disposal, of refuse for each dwelling hereby permitted shall be submitted to and be approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.

Reason: In the interests of amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy Y2 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

19. CNS – Foul Water System – Shared Management Arrangements

Prior to first occupation of any property approved under this permission the legally binding details of how all the shared aspects of the foul water 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 and Policies Y2 and Y8 of the Yarkhill Neighbourhood Development Plan.

20. CNS – Details of Potable Water Supply

Prior to first occupation, details of a potable water scheme to demonstrate that the existing water supply network can suitably accommodate the proposed development site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a water storage facility in each property, details of how and when potable water will be drawn from the public watermain and demonstrate that sufficient capacity can be provided for use throughout the day without the need to draw again. Thereafter, the agreed scheme shall be constructed in full and remain in perpetuity prior to the occupation of any building.

Reason: To ensure the site is served by a suitable potable water supply to comply with Policy SD3 of Herefordshire Local Plan – Core Strategy; Policies Y2; Y8 and Y9 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework

Compliance Conditions

21. C58 – Domestic use only of garage

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

Reason: To ensure that the garage is used only for the purposes ancillary to the dwelling and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy Y2 of the Yarkhill Neighbourhood Development Plan and the National Planning Policy Framework.

22. CKK – HRA New Private Treatment Plant & Surface Water to Soakaway

All foul water shall discharge through connection to new shared private foul water treatment system as detailed in the Foul Water Drainage Strategy and supporting plan by Berrys (dated 14th April 2020) and all surface water shall be managed through plot specific soakaway-infiltration systems, 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), Herefordshire Core Strategy (2015) policies SS6, LD2 and SD4 and Policies Y2, Y8 and Y9 of the Yarkhill Neighbourhood Development Plan.

23. CNS – Protected Species, Dark Skies and Intrinsically dark landscapes (external lighting)

a) At no time shall any external lighting except in relation to safe use of the approved buildings in an emergency situation 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 in anyway illuminate any biodiversity enhancement, boundary feature, highway corridors or adjacent habitats and open spaces.

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 the 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; the Dark Skies initiative (DEFRA-NPPF 2013/19) and Policies Y2 and Y11 of the Yarkhill Neighbourhood Development Plan.

INFORMATIVES:

- 1. IP2 – Application approved following revisions**
- 2. I06 – Public rights of way affected**
- 3. I10 – Access via public right of way**
- 4. I11 – Mud on highway**
- 5. I33 – Ecology General**

- 6. I45 – Works within the highway
- 7. I50 – Vehicular use of public rights of way
- 8. I65 – Surface Water Drainage and Waste Disposal

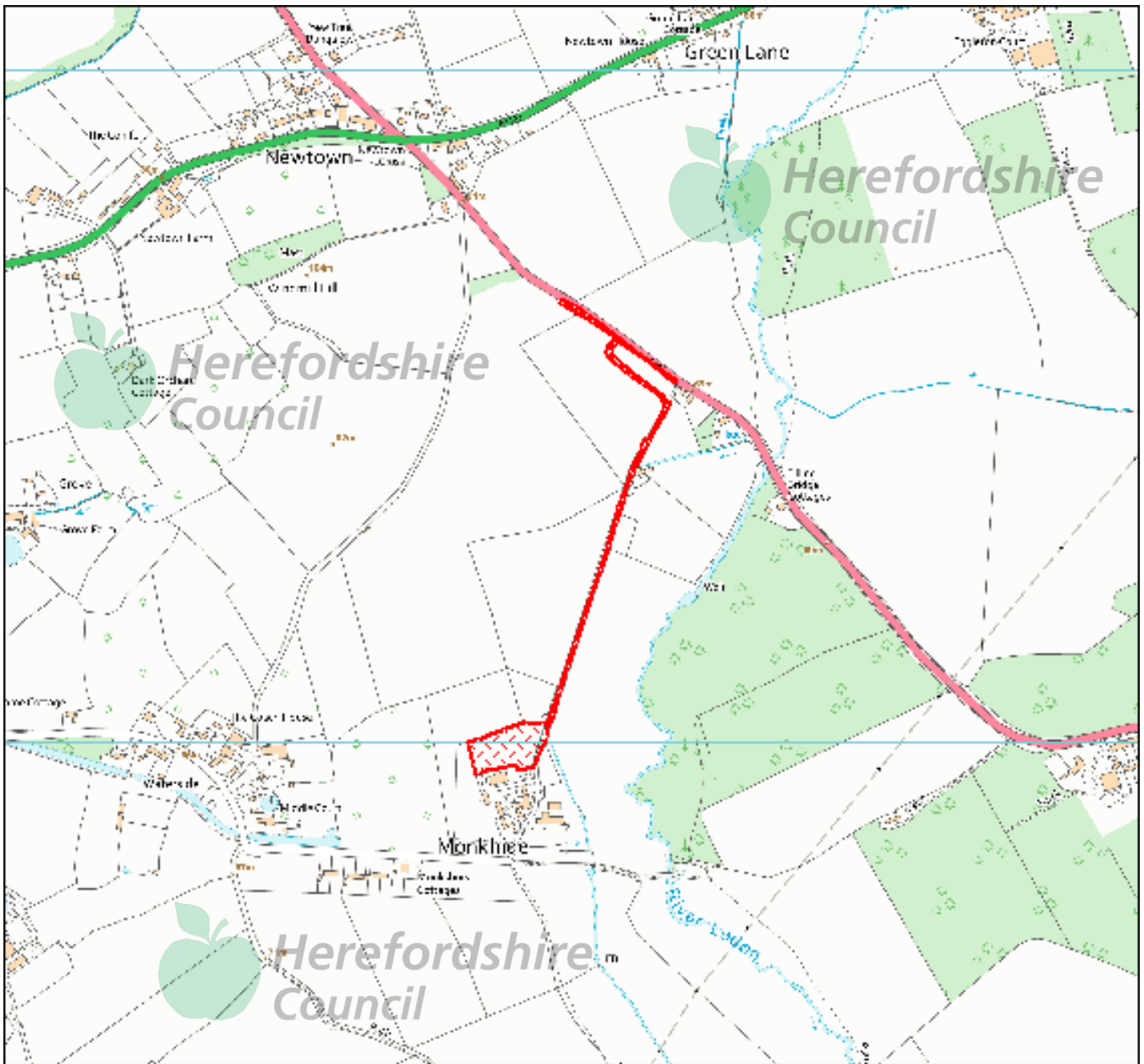
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 192765

SITE ADDRESS : MONKSBUURY COURT BARN, MONKHIDE VILLAGE ROAD, MONKHIDE, HEREFORDSHIRE, HR8 2TU

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	10 NOVEMBER 2020
TITLE OF REPORT:	<p>200500 - 1) CHANGE OF USE OF THE BARN FROM AGRICULTURAL TO OFFICE SPACE. WORKS UNDERTAKEN INCLUDE REPLACEMENT BEAMS AND GLAZING TO OPEN NORTH GABLE END OF BARN. 2) FORMALISE AN HISTORIC CHANGE OF USE FROM RIDING ARENA TO CAR PARK - WORKS INCLUDED TARMACKING THE ARENA. 3) ACCESS ROAD. (ALL WORKS RETROSPECTIVE) AT CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG</p> <p>For: Mr Edward Evans, Dial House, Whitbourne, Worcester, WR6 5SG</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200500&search-term=200500
Reason Application submitted to Committee – Re-direction	

Date Received: 14 February 2020

**Ward: Bromyard
Bringsty**

Grid Ref: 370072,256934

Expiry Date: 21 May 2020

Local Member: Councillor Nigel Shaw

1. Site Description and Proposal

- 1.1 Crumplebury Farm is a moderately sized complex of modern buildings with associated host farmhouse, located approximately 1.25 miles (as the crow flies) west of the settlement of Whitbourne. The ‘Green Cow Kitchens’ restaurant, which was granted planning permission (retrospectively) in 2013, sits at the heart of the site, with associated buildings in conjunction with the enterprise now surrounding the restaurant, following planning permission being granted in 2017.
- 1.2 The site is set within estate farmland, defined by predominately agricultural grazing fields and woodland beyond the northern boundary, which leads up to Badley Wood Common. Boundary treatments comprise a mixture of post-and-rail and wire fencing (which offers open views into and out of site) and recently planted hedgerow to the western boundary adjacent to the main tarmacked car parking area. The Landscape Character of the site and surrounding areas is that of Wooded Estate lands with large discrete blocks of woodland, mixed farming land use, hedgerows as field boundaries and large country houses set in parkland. It also redefines the settlement pattern hereabouts of wayside dwellings or estate villages, in which isolated farmsteads are also featured, like Crumplebury Farm was in the past.
- 1.3 The topography of the land is that the buildings themselves appear slightly elevated, viewed from the south of the site at the point of the private access road, looking west towards the main parking

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

area and site access (when viewed from the south elevation), before flattening off across the remainder of the application site. The topography to the south-east, gradually rises as you head towards Whitbourne Hall Unregistered Park and Garden. The site also has largely open views which can be clearly viewed at some distance from the north elevation into the site. South of the application site and heading back towards the A44, the site can also be viewed clearly within the landscape, although its palette of materials provides some assimilation, looking to the north, although it can be viewed from surrounding public receptors including public highways, largely as a result of a comprehensively glazed north elevation. The undulating and varying gradient of the land also promotes the tranquillity of the site location in the context of its surroundings, including north of the application site, heading towards Badley Wood Common and Tedstone Delamere, in which the gradient considerably increases.

- 1.4 The majority of the surrounding buildings are of agricultural form with a mixture of Victorian brick built vernacular buildings alongside contemporary steel and timber framed structures acknowledged, as well as the presence of stone and extensive glazing. Locally, there is a prolific use of brickwork, metal sheeting, timber and stone (rubble and dressed) in wall construction, whilst plain clay tiles, natural slate and metal sheeting are found commonly in the construction of roofs.
- 1.5 The closest residential properties, in identifying surrounding receptors are as follows. Firstly, there is the on-site farmhouse and 'The Helts', a pair of semi-detached dwellings, located approximately 100 metres south-west of the application site. These properties are tenant occupied. Approximately 415 metres south-east of the application site (as the crow flies), is the Grade II* Listed 'Whitbourne Hall', sub-divided into a number of residential apartments and which are independently owned residential units. There are also a small cluster of dispersed properties heading north towards Badley Wood Common and adjacent to the common itself, both to the north and north-east of the application site, respectively, albeit these dwellings are at varying orientations. The nearest approximately is 450 metres north as the crow files and 435 metres measuring north-east, as identified on the Council's Geographical Information System ('GIS'). PROW Footpath WH16 also runs to the east of the site, albeit almost equidistant between the application site and Whitbourne Hall. The map below identifies Crumplebury Farm and provides a portrayal of surrounding receptors:

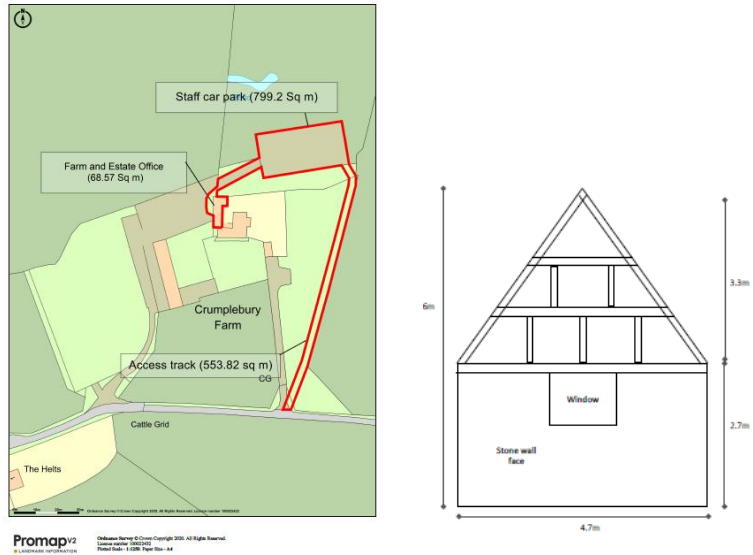


Map of Crumplebury Farm and surrounding area (site denoted by red star)

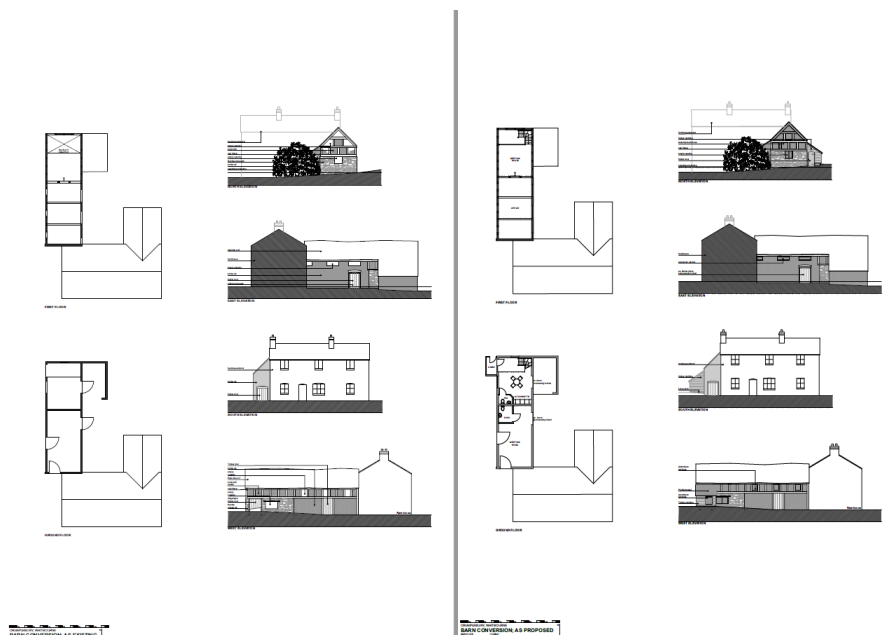
- 1.6 The site itself forms part of the Whitbourne Estate, a family trust, in which the applicant manages the Estate.

- 1.7 Planning permission is sought, retrospectively, for the change of use of a barn from agricultural to office space, including works comprising replacement beams and glazing to the open north gable end of barn; the formalisation of an historic change of use from riding arena to car park including tarmacking of the arena; and the formation of a new access road to this car park. Officers refer members to the proposed plans under consideration below:

Farm and Estate Office



Location Plan and existing cross-section drawing



Existing and proposed elevation and floor plans



Photographs of north elevation gable end prior to works commencing and during works

- 1.8 In relation to the change of use of the barn to office space, alterations have been undertaken to replace the timbers, some of which were rotten, as well as window frames and doors. It is also noted the northern gable end was previously leaning quite considerably and subsequently, a number of bricks had fallen out of the panels. As a result, members will note these sections have now subsequently been double glazed. The use of the building is to accommodate office space ancillary to Crumplebury Farm. Photographs of site, as present, are shown below (taken by case officer on 16 October 2020):



Taken from south-east of site, looking north



Taken east of site, looking south



Taken south-east of car park, looking north west and north respectively



Taken west of car park, looking east and west respectively



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

West and north elevations of barn



West and east elevations of barn



Ground floor of Barn





First floor of barn and looking north, respectively

2. Policies

- 2.1 The proposal is to be 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.
- 2.2 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 comprises the Herefordshire Local Plan – Core Strategy (CS) and the Whitbourne Neighbourhood Development Plan. the latter which was made in December 2016. The National Planning Policy Framework (NPPF) 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. The NPPF (as updated in 2019) sets out the Government’s planning policies for England and how these are expected to be implemented. Specifically paragraph 30 of the framework sets out that once a NDP has been brought into force/made, the policies it contains take precedence over existing non-strategic policies in the Core Strategy, where they may conflict.
- 2.3 Herefordshire Local Plan – Core Strategy 2011-2031 (adopted 15 October 2015)
Officers consider that the following policies are applicable to this application:

SS1	-	Presumption in favour of sustainable development
SS4	-	Movement and transportation
SS5	-	Employment provision
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
RA5	-	Re-use of rural buildings
RA6	-	Rural economy
MT1	-	Traffic management, highway safety and promoting active travel
E1	-	Employment provision
E4	-	Tourism
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
LD3	-	Green infrastructure
LD4	-	Historic environment and heritage assets
SD1	-	Sustainable design and energy efficiency

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

- SD2 - Renewable and low carbon energy
- SD3 - Sustainable water management and water resources
- SD4 - Waste water treatment and river water quality

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

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

2.4 Whitbourne Neighbourhood Development (Whitbourne NDP) made on 1 December 2016

The Whitbourne Neighbourhood Development Plan is made and as such, the Policies within the Plan are afforded full weighting. It is noted that the land use policies of the Whitbourne NDP are predominantly concerned with applications for housing development and as such it is only Policy LU9 (Environmental Considerations) that is directly relevant to this proposal. The Whitbourne NDP, 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/directory_record/3119/whitbourne_neighbourhood_development_plan_made_1_december_2016

2.5 National Planning Policy Framework (February 2019)

The revised National Planning Policy Framework of February 2019, sets out government's planning policies for England and how these are expected to be applied. Officers view that the following sections below are applicable to this application:

- 1 - Introduction
- 2 - Achieving sustainable development
- 4 - Decision-making
- 6 - Delivering a strong, competitive economy
- 8 - Promoting healthy and safe communities
- 9 - Promoting sustainable transport
- 12 - Achieving well-designed places
- 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>

2.6 Planning Practice Guidance

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

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

3. **Planning History**

3.1 Third party representations have raised a number of issues concerning the planning history and severity of breaches of planning on Crumplebury Farm, as a whole, although the Council is continuing to work with the applicant to bring the matter to a conclusion.

3.2 P194408/F - Removal of a condition 4 and a variation of Condition 16 Application No: 163902/F (Demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16no. Accommodation Suites) – UNDETERMINED (being presented to planning committee date TBC)

P200858/XA2 - Application for approval of details reserved by conditions 8 20 & 21 attached to planning permission 163902 – SPLIT DECISION issued on 3 April 2020 (Condition 8 is currently

being signed off with regards to technical aspects of S.278 agreement; Condition 20 discharged; Condition 21 cannot yet be discharged, although this is pre-occupancy).

P200335/F - Proposed variation of conditions 2 and 4 of planning permission 182223 (Proposed construction of new mono-pitch building) - To allow for 2nd biomass boiler – APPROVED WITH CONDITIONS on 6 April 2020.

P193647/F - Proposed variation of condition 16 of planning permission 163902 (Demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16no. Accommodation Suites) - No amplified music shall be played in the premises outside the following times 12.00hrs to 00.00hrs – WITHDRAWN on 9 December 2019.

P182223/F - Proposed construction of new mono-pitch building – APPROVED WITH CONDITIONS on 8 October 2018

P181441/XA2 - Application for approval of details reserved by conditions 9 & 18 attached to planning permission P163902/F – APPROVED on 26 July 2018

P181140/XA2 - Application for approval of details reserved by condition 3 attached to planning permission 163902 – APPROVED on 1 May 2018

P180280/XA2 - Application for approval of details reserved by conditions 8, 11, 14, 17, 22 attached to planning permission P163902/F – APPROVED on 27 July 2018 (Conditions 11, 14, 17 and 22 are fully discharged with condition 8 subject to a Section 278 agreement so condition not fully discharged)

P163902/F - Demolition of 5 no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16no. Accommodation Suites) – APPROVED WITH CONDITIONS on 3 August 2017

P131619/F - Retrospective change of use of existing outbuilding from B1 to A3 – APPROVED WITH CONDITIONS on 2 August 2013

4. Consultation Summary Statutory Consultations

- 4.1 **Severn Trent** – No objections:
“With Reference to the above planning application the company’s observations regarding sewerage are as follows. As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied”.
- 4.2 **Welsh Water** – Non-committed:
“We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development. The applicant is 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. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal we request the applicant contacts us on 0800 917 2652 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times”.
- 4.3 **Herefordshire Wildlife Trust** – No response

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

4.4 **Natural England** – No response

Internal Council Consultations

4.5 **Building Conservation Officer** – Support

“I am happy to support this retrospective application which is principally for conversion of an outbuilding for office use. The scheme is well considered, lightweight and proportionate to its historic significance. In these terms, it complies with relevant NPPF and Local Authority Plan Policies as follows: Para 184 – conserved in a manner appropriate to its significance so that it can be enjoyed for its contribution to the quality of life of existing and future generations. Para 192 – putting a redundant farm building back into viable use. LD4 - conservation of a heritage asset in a manner appropriate to its significance”

4.6 **Ecology** – No objections/conditions recommended:

“No Habitat Regulations Assessment is triggered by this application.

As a retrospective application on a site already known to support bat roosting (Bat survey report June 2017 - for Cow Green Kitchen Application 163902) the LPA can only hope that no breach of the Wildlife & Country Act occurred. The previous ecology report did not cover this additional development area and so there is no direct evidence to support a wildlife crime investigation by West Mercia Police.

The LPA cannot reasonably require any retrospective ecological surveys as these would serve no material purpose. It is however reasonable for the LPA to require the application to demonstrate a clear net gain in biodiversity and to ensure any additional external lighting is minimised and designed with ‘wildlife in mind’. Suggested conditions would be:

Nature Conservation – Biodiversity and Habitat Enhancement

Within 3 months of this planning consent, information such as an Ecological Clerk of Works report, demonstrating the installation of significant biodiversity net gain enhancements of appropriate habitat boxes for bat roosting, bird nesting and encouraging pollinating insects located within land under the applicant’s control should be supplied to and acknowledged in writing by the local authority. The approved scheme shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external or radiated lighting from the development should illuminate any biodiversity net gain features.

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.

Protected Species, Dark Skies and Intrinsically dark landscapes (external lighting)

a) At no time shall any external lighting except in relation to safe use of the approved or existing buildings within the application site be installed or operated; 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, boundary feature, highway corridors 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

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)".

4.7 Transportation – Objection:

"The local highway authority (LHA) has the following comments: Conversion of barn to office – the LHA has no objection to this element of the retrospective application.

Car parking and access road – the applicant has submitted no evidence that additional car parking is required. The original planning application (ref: 163902) including adequate parking for staff and visitors therefore evidence is required to show a need for the additional car parking. Until such evidence is provided the LHA object to this element of the application due to the additional car parking potentially increasing traffic to and from the development.

All applicants are reminded that attaining planning consent does not constitute permission to work in the highway. Any applicant wishing to carry out works in the highway should see the various guidance on Herefordshire Council's website:

www.herefordshire.gov.uk/directory_record/1992/street_works_licence
<https://www.herefordshire.gov.uk/info/200196/roads/707/highways>

4.8 Public Rights of Way (PROW) – No objection

"No objection"

5. Representations

5.1 Whitbourne Parish Council – Objection:

"This application seeks retrospective planning permission for "Change of use of the barn from agricultural to office space" and "a staff car park and delivery area, plus a new access road connected [sic] said car park to the existing private road."

The Parish Council objects to this application. It has in the past supported the development of an enlarged restaurant and conference facility adjacent to this location but only on the basis that restrictions were in place to protect the residential amenity of local residents and on the basis of the plans and assurances put forward by the applicants in the original application (No. 163902).

In order to put the following comments into their wider context, the objections raised by the Parish Council and local residents in relation to a related and linked application (No. 194408 - Removal of Condition 4 and a variation of Condition 16 re application No. 163902/F) should also be taken into account.

[Note: If the related/linked application is approved (to remove or amend usage restrictions imposed on the Crumplebury development in order to allow large parties and weddings of up to 250 people) it is likely to significantly increase the number of vehicle movements that might otherwise take place and thereby increase the impact of the development referred to in this application (a new office, staff car park, delivery area and access road) and further prejudice the residential amenity of local residents.

The Barn

No ecological or architectural assessment appears to have been undertaken prior to the work being undertaken. Although unknown, it is thought likely by local residents that bats would have inhabited the barn when it was in a dilapidated state. Further the brick infill sections in the gable end of the building have been removed by the applicant and replaced with glazing. As a consequence, during the hours of darkness, the glazed end of the building and other security

/pedestrian lighting apparently impacts and exacerbates the light pollution which is already very evident in the valley and which the applicant has confirmed must be mitigated.

The Car Park and Access Road

We understand that the car park can take up to 40 vehicles and it also serves as a delivery area for visiting delivery vehicles. This part of the application was considered in the light of the following points:

1. Another very large car park has already been constructed (which had permission) to serve the needs of the expanded Green Cow restaurant. It is unclear why further car parking or a delivery area is necessary – certainly if the existing planning conditions for the development remain unchanged. The new staff car park, delivery area and access road in question did not feature at all in the original application for the development. Given the strong local opposition to the further expansion of the development, this additional car parking and access road is not justified and represents an overdevelopment of the site in what should be a beautiful and tranquil country setting.

2. The main access (via the A44) is dangerous and HCC has already made it clear that increased use of this access should be discouraged as it “has severely substandard visibility.” Additional staff car parking and delivery facilities could only encourage an increase in use of this access;

3. Conversely if the A44 access is not used by staff and deliveries, it is said that the location of this new car park (which is towards Whitbourne Hall) will only serve to encourage local staff and deliveries to use the Whitbourne Hall access which is supposed to be private. Indeed, the applicant confirmed himself that he encourages staff employed by Crumplebury Ltd to use this private driveway;

4. Complaints about the increased use of the private drive adjacent to Whitbourne Hall also feature in the related/linked application e.g. “Although the Estate has a right of way over the Hall’s drive, this right of way does not extend to members of the public accessing Crumplebury, nor to delivery vehicles or staff members doing the same. Since Crumplebury has been open there has been a considerable increase in the traffic flow along the private drive belonging to Whitbourne Hall during the daytime and even more so at night when people are arriving and departing. This traffic flow will be increased enormously if this application is granted.”

5. When the Crumplebury development is in operation, there are apparently frequent, noisy and very late-night traffic movements (across a noisy cattle grid) to and from the car park across an acoustically sensitive valley. These movements are often accompanied by car doors slamming and shouting – often long after a function has finished – as the vehicles are usually driven by staff members;

6. Further, there are apparently early morning deliveries from commercial delivery vehicles which also cause a disturbance to local residents;

7. Bright and intrusive external lighting to illuminate the car park (and car headlights) cause further significant light pollution;

8. As the access road is on a gradient, headlights from vehicles apparently point directly into a local resident’s house”.

Planning Policies

The Parish Council consider that this application contravenes the following policies as set out in the Herefordshire Core Strategy:

Policy MT1 which states:

Development proposals should incorporate the following requirements covering movement and transportation and they should:

1. “demonstrate that the local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that

traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development;

4. ensure that developments are designed and laid out to achieve safe entrance and exit,..."

Policy SD1 states that development proposals should incorporate the following requirements:

- "safeguard residential amenity for existing and proposed residents;
- ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination..."

Policy RA6 confirms that:

"Planning applications which are submitted in order to diversify the rural economy will be permitted where they;

- ensure that the development is of a scale which would be commensurate with its location and setting;
- do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, noise and dust, lighting and smell;
- do not generate traffic movements that cannot safely be accommodated within the local road network."

5.2 Other interested parties

The remaining representations made to this application have subsequently been made by interested third parties. This comprises any interested party or individual, whom the Council does not formally consult with but have made their own representation, to this application. To date, nine letters of comments have been received from seven interested parties.

- Noise and light pollution;
- Landscape harm;
- Ecological harm; and
- Highway safety

5.3 Full consultation responses, as well as submitted documents, 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=200500&search-term=200500

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

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

6. Officer's Appraisal

Policy context

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

6.2 In this instance the adopted development plan comprises the Herefordshire Local Plan – Core Strategy (CS) and the Whitbourne Neighbourhood Development Plan (NDP) which was made on 1 December 2016. The National Planning Policy Framework ('NPPF' 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. The NPPF (as updated in February 2019) sets out the UK Government's planning policies and how these are expected to be implemented. Specifically paragraph 30 of the NPPF sets out that once a NDP has been made, the policies it contains take precedence over existing non-strategic policies in the Core Strategy, where they are in conflict.

- 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 has yet to be made and is due early 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.
- 6.4 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives), identified at paragraph 8:
- An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being, and
 - An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy
- 6.5 These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development.
- 6.6 The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted as set out at paragraph 11c) of the NPPF. At paragraph 11d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole
- 6.7 The NPPF seeks to promote strong rural economies through the sustainable growth and expansion of business in rural areas and the development and diversification of agricultural and other land based rural businesses. Paragraph 80 of the NPPF states planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt, with significant weight given to the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The NPPF at paragraph 83 seeks to ensure that planning policies and decisions enable the growth and expansion of all types of business in rural area to support a prosperous rural economy, including the diversification of agricultural and other land based rural businesses. Whilst Paragraph 84 recognises that to meet business needs in rural areas, sites may need to be found adjacent to or

beyond settlements, and in locations that are not well served by public transport. In these circumstances it is important to ensure development is sensitive to its surroundings and does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.

- 6.8 The Core Strategy supports rural enterprises with policy E1 setting out that the focus for new employment provision in Herefordshire is to provide a range of locations, types and sizes of employment buildings, land and offices to meet the needs of the local economy. Development proposals which enhance employment provision and help diversify the economy of Herefordshire will be encouraged where:
- the proposal is appropriate in terms of its connectivity, scale, design and size;
 - the proposal makes better use of previously developed land or buildings;
 - the proposal is an appropriate extension to strengthen or diversify an existing business operation; and
 - the proposal provides for opportunities for new office development in appropriate locations.
- 6.9 Specifically for the rural economy Policy RA6 of the Core Strategy, supports employment generating proposals which help diversify the rural economy. Specifically it sets out that planning application that diversify the rural economy will be permitted where they:
- Ensure that the development is of a scale which would be commensurate with its location and setting;
 - Do not cause unacceptable adverse impacts on the amenity of nearby residents by virtue of design and mass, noise, dust, lighting and smell;
 - Do not generate traffic movements that can't safely be accommodated within the local road network; and
 - Do not undermine the achievement of water quality targets in accordance with policies SD3 & SD4
- 6.10 The Whitbourne NDP does not identify any specific employment policies. However, Policy LU9 (Environmental Considerations), sets out that proposals for development should:
- Respect the landscape and built environment;
 - Respect relevant bio-diversity features and wildlife habitats of the area; and
 - Have regard to the aims of the Herefordshire Green Infrastructure Study (2010), which enjoins the protection and promotion of green infrastructure.
- 6.11 The NPPF at paragraph 180 sets out that decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
 - b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
 - c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 6.12 When considering the design and landscape impact of a proposed development, Policy SD1 of the Core Strategy is significant as it requires that development proposals create safe, sustainable, well integrated environments for all members of the community. In so doing, all proposals should take into account the local context and site characteristics. Where appropriate, proposals should also make a positive contribution to the architectural diversity and character of the area, including through innovative design. Policy LD1 Development proposals need to demonstrate that features including that of scale and site selection have been positively influenced by the character of the

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

landscape and townscape, and that regard has also been had to the protection and enhancement of the setting of settlements. Development proposals should also conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including locally designated parks and gardens; and should incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings.

6.13 Policy RA5 of the Core Strategy provides an appropriate level of assessment for any such proposal and includes several criteria that an application should meet in order to represent a sustainable re-use of a redundant or disused building. For ease, these are found below:

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

6.14 Members will also note Policy LD4 of the Core Strategy (historic environment and heritage assets) which strive to conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance, including appropriate uses and design, trying to emphasise the original form and function where possible. This also includes using the retention, repair and sustainable use of heritage assets to provide a focus for wider regeneration schemes.

Procedural Comment

6.15 Under Class B (means of access to a highway), Part 2 (minor operations), Schedule 2 (permitted development rights) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended, most recently updated 31 August 2020), the formation, laying out and construction of a means of access to a highway which is not a 'trunk' road or a 'classified' road, where that access is required in connection with development permitted by any Class in Schedule 2, would constitute permitted development. However, as the use of the barn as office space would not fall under Schedule 2, planning permission is required.

6.16 The following sections consider whether there are any material considerations of such weight and magnitude that might lead to a conclusion that the proposal represents an unsustainable form of development.

Design Impact

6.17 Located directly east of Crumplebury, the barn which is subject of this retrospective application has had a number of alterations undertaken, although the farmhouse outbuilding which is attached to the barn has been unaltered during the works. The works undertaken comprise as follows:

- The replacement of rotten timbers, window frames and doors internally;
- The addition of a lean-to porch at the west elevation;
- The northern gable end, which was previously leaning badly and resulted in a number of bricks had fallen out of the panels, has now been double glazed;

- The small section to the north-east of the building is an attached lean-to and is not part of the office development and is used by the estate tenants of the farmhouse; and
- At the eastern elevation, no changes other than the replacement of a number of old window frames have been done, and all openings remain as original.

No alterations or changes have been made to the southern elevation.

- 6.18 In regards to the design of the building, the Local Planning Authority has a statutory duty under Section 39 of the Planning and Compulsory Purchase Act 2004 to have regard to the desirability of achieving good design. Whilst not listed or considered to be a non-designated heritage asset, given the lack of reference to this by the Council's Building Conservation Officer, members will also note from the outset that the Council's Building Conservation Officer supports this application, taking the view that the scheme presented is well-considered, lightweight and proportionate to its significance.
- 6.19 In the view of officers, with regard to the barn, whilst a structural survey of the barn in its current condition has not been submitted, officers note the details provided by the applicant of the works that have already been undertaken and the necessity for those works. Having observed the barn on site and noting the alterations to this element of the building, it is reasonable to conclude that it is capable of conversion in the form proposed and that major or complete reconstruction was not required to achieve the use intended, particularly given the size of the footprint under consideration.
- 6.20 The barn is evidence of how this site has organically developed over time. There are some additional openings, as the applicant has confirmed, with regards to the double glazing introduced at the north elevations. However, the size and number of many of these is not considered to be extravagant or overly domesticated. Indeed, existing openings are utilised. As such, the alterations would not dominate the building or substantially alter its appearance with the scheme retaining many of the architectural features of the barn where possible. The lean-to porch is regarded to be a new feature, but in the view of officers, would not adversely affect the character or appearance of the building, citing the timber cladding walling which is typical of many agricultural or former agricultural buildings across Herefordshire. The design proposals would satisfy Policies SD1, LD4 and RA5 of the Core Strategy and Policy LU9 of the Whitbourne NDP.

Heritage Impact

- 6.21 The Council is required to give diligence to the Planning (Listed Buildings and Conservation Areas) Act 1990. In this instance Section 66, requires decision makers to *"have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*
- 6.22 Officers are also aware of the result of Court of Appeal - Catesby Estates Ltd v Steer Secretary of State for Communities and Local Government v Steer - [2018] EWCA Civ 1697; specifically in relation to the effect of the setting in that the judge in this case provided guidance in the interpretation of the concept of "setting", to include much more than visual impact. When considering the impact of a development proposal upon the setting of a Heritage Asset, there are several stages. Firstly identifying those assets which may be affected and their significance. Then those aspects of their setting which contribute to the significance are identified and lastly the impact of the development upon this significance. It should be noted that a view to or from a Heritage Asset does not necessarily mean that a site is within that asset's setting, this depends upon whether that view contributes to the significance of the asset. Also a site can be within the setting of a heritage asset without there being a direct view under certain circumstances. The fundamental principle is whether or not a development affects the significance of a heritage asset, including those aspects of its setting which contribute to its significance.

- 6.23 The site is not within a conservation area but a number of heritage assets are in the vicinity of the site including:
- Whitbourne Hall (Grade II* Listed);
 - Whitbourne Hall Unregistered Park & Garden;
 - The Sconce (Grade II Listed); and
 - Rose Cottage (Grade II Listed)
- 6.24 In terms of the impact on preservation of the impact on heritage assets, the key test is the degree of harm to the assets' significance, which epitomises section 16 of the NPPF. However, given the clear significant separation distances, in conjunction with the existing built forms and landscape features between the application site and any heritage asset, orientations and outlooks, officers do not consider that the proposals submitted would be deemed to cause harm to the 'significance'; experience or additionally setting of any listed building or heritage asset nearby. Additionally, the Council's Building Conservation Officer does not consider or identify any harm in this instance. The development undertaken would in the view of officers, not affect the setting or experience of the relevant designated heritage assets referred to above. They are not considered to result in any harm to the detriment of these assets.
- 6.25 Whilst noting the nature of the alterations undertaken and their subservient form compared to the surrounding built form especially given the distance between Whitbourne Hall and this site, as well as orientation, officers note the representations on this matter and the consultation responses from the Building Conservation Officer in this regard and have afforded significant weighting to this view.
- 6.26 Bringing the above assessments of heritage together, both individually and cumulatively, the development is not considered to adversely affect or give rise to harm to designated heritage assets nor their setting or experience, as they would be preserved. Having given this matter special regard, as is required, officers consider the scheme to accord with Policy LD4 of the Council's Core Strategy in conserving designated heritage assets and the wider historic environment; Section 16 of the NPPF and the Council has exercised its right in regards to section 66 of the Act. Under the NPPF, there is no need to undertake the test prescribed in paragraph 196 as no harm has been identified.

Landscape Impact

- 6.27 The application site lies in open countryside, the application site gently undulates further south with the surrounding topography rising considerably heading north towards Badley Wood Common. The application site, this being the application before members, can be viewed from the north of site:



Photograph taken on U65030 adjacent Redhill looking southbound towards Crumplebury

- 6.28 The site is clearly visible in views from the road, nearby car park and to a minor extent, also along nearby public rights of way (WR16) where passers-by would be likely to be travelling at low speeds. Moreover, any views from the PROWs would be long-range glimpses across a rural landscape which is already punctuated by occasional residential properties and agricultural style buildings.
- 6.29 It is important to acknowledge that the site does not lie within a designated landscape and is a largely well contained site, albeit adjacent to the unregistered park and garden of Whitbourne Hall. The proposal is clearly informed by the surrounding built form and landscape in terms of the proposed use and the depth and positioning of the building, contained by existing features and development which forms Crumplebury Farm. Furthermore, the external materials of the building, are not uncommon in the area. In any event, in light of the above, the building itself would not appear discordant with the surrounding landscape.
- 6.30 As the application has progressed, a number of objectors have raised issues concerning impacts on landscape grounds as a consequence of amenity, namely noise and light pollution, particularly associated with vehicles. As part of such discussions, landscaping can be provided at the north and east of the car park, facing Badley Wood Common and neighbouring properties. This would, include temporary boundary treatments to be agreed by way of condition, and in the next planting season, to introduce native species hedgerow which over time, will assimilate into the locality. Once at a mature stage, this would allow for the temporary boundary treatment to be removed, to prevent any prolonged and permanent landscape harm. As such, it is considered that subject to these conditions, namely in the way of a time-sensitive landscaping scheme, the development would not have a harmful effect on the character and appearance of the area. It would conserve the landscape and scenic beauty in accordance with Policy LD1 of the Core Strategy; LU9 of the Whitbourne NDP and Section 15 of the NPPF.

Residential Amenity

- 6.31 Policy SD1 of the core strategy states that development should safeguard amenity of existing and proposed residents and ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination and therefore scale, height and proportion needs consideration. This accords with the approach under Paragraph 180 of the NPPF and Policy LU9 of the Whitbourne NDP.

- 6.32 As officers understand, there is no intention to increase activity on the site. Indeed that will be subject to any separate planning application to be submitted to the local planning authority and that the office use being proposed under this retrospective application is to be ancillary to Crumplebury Farm and its associated operations.
- 6.33 The temporary construction effects whilst works were taking place are not considered to be material to determining this application as the work is now complete. The use of the site as an office and change of use of the land to car parking and the long term change is unlikely to cause adverse effects beyond that which is considered acceptable, subject to landscaping conditions which would significantly address aural and visual amenity concerns. Of course, officers have noted that concerns have been raised regarding noise and visual amenity which largely relates to the wider uses of Crumplebury, discussed under P194408/F. Notwithstanding this, members will appreciate that due to more than sufficient separation distances of circa 400 metres plus (approximately), and the orientation of these neighbouring properties, officers consider that in terms of neighbouring residential amenity, the works undertaken and subsequent uses of the site are not considered to be contrary to CS Policy SD1; Policy LU9 of the Whitbourne NDP or Paragraph 180 of the NPPF. The photo below illustrates separation distances:



Drainage

- 6.34 Foul drainage is to connect to the existing package treatment system that serves the Crumplebury Farm development, which there is sufficient capacity to serve and which has been previously approved. This is to accommodate two WC units, which will connect to the new sewage treatment plant. Surface water is to discharge to SuDS and soakaways on site, which were approved under the wider Crumplebury development in 2017.
- 6.35 The application site lies within Flood Zone 1 as defined by the Environment Agency and as such has a low probability of flooding. In accordance with Environment Agency standing advice, the planning application does not need to be supported by a Flood Risk Assessment (FRA). As such, officers consider the application to accord with the provisions of Policies SD3 and SD4 of the CS.

Ecology and Biodiversity

- 6.36 Policy LD2 of the CS seeks the conservation, restoration and enhancement of biodiversity and geodiversity assets. As such, development will not be permitted where it has the potential to harm these assets or reduce the effectiveness of the ecological network of sites. The introduction, restoration and enhancement of biodiversity and geodiversity features will be actively encouraged. This is directly supported by policy LD3 which ensures development proposals

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protect, manage and plan for the preservation of existing and delivery of new green infrastructure. This is achieved by identifying green corridors and linkages, provision of on-site infrastructure and integration into the wider network.

- 6.37 Members will note the comments of the Council's ecologist, who has no objection to this retrospective application subject to conditions, which would accord with Policies LD2 and LD3 of the CS and Policy LU9 of the Whitbourne NDP, and are included within the recommendation. This includes the securing of additional ecological and habitat enhancement within a time-sensitive period, given the retrospective nature of this application, and the submission of details of any external lighting to be installed to allow the safe use of the car park.

Highways and Transportation

- 6.38 Policy SS7 requires proposals to focus development to the most sustainable locations and reduce the need to travel by private car. This aim is reflected by policies SS4 and MT1, which stipulate that proposals should facilitate a genuine choice of travel modes such as a walking, cycling and public transport. These policies are reflective of the NPPF objectives to guide development to sustainable locations. With particular reference to the matter of access, the NPPF sets out how transportation, highways impact and non-vehicular movement should be considered, assessed and supported in paragraphs 108 – 111, stating – In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

- 6.39 Paragraph 109 explicitly states Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Furthermore policy MT1 of the CS seeks to ensure that developments, among other things, are sited, designed and laid out in a manner which ensures the safe and efficient flow of traffic, safe entrance and exit and have the appropriate operation manoeuvring space to accommodate all modes of transport.

- 6.40 The Local Highways Authority Area Engineer has reviewed the proposal. In terms of conversion of the barn to office use and has no objection to this element of the retrospective application but is concerned that the retention of the car park and associated access road has not been justified and that they may increase vehicle movements to and from the site. In terms of the car parking and access road, it is appreciated that the applicant has submitted no evidence that additional car parking is required, but Policy MT1 does not require such evidence to be submitted. The car park is intended to provide separate parking arrangements for staff for the Crumplebury Farm enterprise. There is nothing to suggest that it will give rise to an intensification in use. However, an intensification of use would require a planning application to be made. On this basis, and noting that there is still considerable operational and manoeuvring space with safe entrance and exit, officers view that the application accords with Policies RA6 & MT1 of the CS and does not contradict paragraph 109 of the NPPF.

Other considerations

- 6.41 For the avoidance of doubt, and in seeking to clarify third party representations, any statutory nuisance can be dealt by way of Environmental Health legislation, namely under the Environmental Protection Act 1990. It is advised that complaints submitted through this channel, allow for such matters to be investigated. Officers view residential amenity to be acceptable from a planning point of view. Further measures are available through the EPA 1990 regime however it is necessary to separate the planning and separate environmental health issues as the Council

cannot rely on another regime to regulate any unacceptable harm caused to amenity by the development. The majority of representations cite wider issues associated with the concurrent application on this site (194408/F), which are considered under that relevant application.

Conclusion

- 6.42 In accordance with the statutory requirement, a determination must be made in accordance with the Development Plan, unless material considerations indicate otherwise. The NPPF affirms at paragraph 12 that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making. As set out in the foregoing paragraphs, officers view is that the development undertaken is considered to accord with the development plan, taken as a whole. A key material consideration is the NPPF, to which officers consider, in light of the above, that the proposal constitutes sustainable development. In respect of highways, it is noted that the objection solely relates to additional car parking which they consider to not be justified. The Local Highways Authority Area Engineer has reviewed the proposal and is concerned that the retention of the car park and associated access road has not been justified and that they may increase vehicle movements to and from the site. Planning policy does not require such evidence to be submitted. The car park is intended to provide separate parking arrangements for staff for the Crumplebury Farm enterprise. There is nothing to suggest that it will give rise to an intensification in use. Any intensification of use would require a planning application to be made.
- 6.43 Of course, given this is a retrospective application, officers are recommending a number of time-sensitive conditions for the applicant to comply with. These are recommended in order to secure a well-rounded development, in the interests of all, particularly in light of the aural and visual amenity currently associated with the current absence of landscaping at this car park, although vast separation distance from neighbouring properties does somewhat alleviate these concerns. Notwithstanding this, landscaping to address these issues where possible is necessary and in the interests of all.
- 6.44 It is recommended that planning permission be granted, subject to the conditions below.

RECOMMENDATION

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

- 1. C07 - Development in accordance with the approved plans**
The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. Location Plan; Barn Conversion - As Existing dated March 2020 and Barn Conversion - As Proposed dated March 2020, and the schedule of materials indicated thereon.

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.
- 2. C95 – Details of temporary boundary treatments**
By 31 March 2021, temporary boundary treatments, shall be submitted to and approved in writing by the Local Planning Authority, comprising a plan indicating the position, type, design and materials of the boundary treatment to be erected. The boundary treatment shall be implemented within three months of the approved details and shall be retained for a period of 10 years following installation.

Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

3. C98 – Planting

By 31 March 2021, a plan detailing a scheme of planting shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall prescribe that at least 5 species of native woody shrubs shall be planted and it shall include details of the species, sizes, quantity, density of planting with cultivation details. All planting shall be carried out in accordance with those details and planted and implemented in the first planting season following approval of details by the Local Planning Authority.

The planting shall be maintained in perpetuity. During the first ten years of maintenance, any shrubs that are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of a 10-year maintenance period.

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

4. CK5 – Landscape Maintenance Plan

By 31 March 2021, a schedule of landscape maintenance for the lifetime of the development shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with this approved schedule.

Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

5. CAD – Access gates

By 31 March 2021, the access gates to the approved car park shall be removed from the site in perpetuity.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

6. CD2 - Habitat Enhancement Scheme

By 31 March 2021, information such as an Ecological Clerk of Works report, demonstrating the installation of significant biodiversity net gain enhancements of appropriate habitat boxes for bat roosting, bird nesting and encouraging pollinating insects located within land under the applicant’s control should be supplied to and acknowledged in writing by the local authority. The approved scheme shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external or radiated lighting from the development should illuminate any biodiversity net gain features.

Reason: The enhancement and potential to improve protected species and biodiversity assets is a necessary requirement to ensure that diversity is conserved and enhanced in accordance with the requirements of the NERC Act 2006 and Policy LD2 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

7. C57 - Restriction on Use

The building shall be used as an office only and for no other purpose (including any other purpose in Class B1a of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

8. C64 – Restriction on separate sale

The building; car park and access road and the site known as Crumplebury Ltd shall not be sold, leased or let separately from each other.

Reason: It would be contrary to the policy of the local planning authority to grant permission for a separate dwelling in this location having regard to Policy SD1 of the Herefordshire Local Plan - Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

9. CNS - Protected Species, Dark Skies and Intrinsically dark landscapes (external lighting)

a) At no time shall any external lighting except in relation to safe use of the approved or existing buildings within the application site be installed or operated; 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, boundary feature, highway corridors 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

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) and Policy LU9 of the Whitbourne Neighbourhood Development Plan.

INFORMATIVES:

1. IP1 – Application Approved Without Amendment
2. I18 – Rights of Way
3. I33 – General Ecology
4. The applicant’s attention is drawn to the changes to the Use Class Order 2020, in that this application was made to the Local Planning Authority before 1 September 2020.

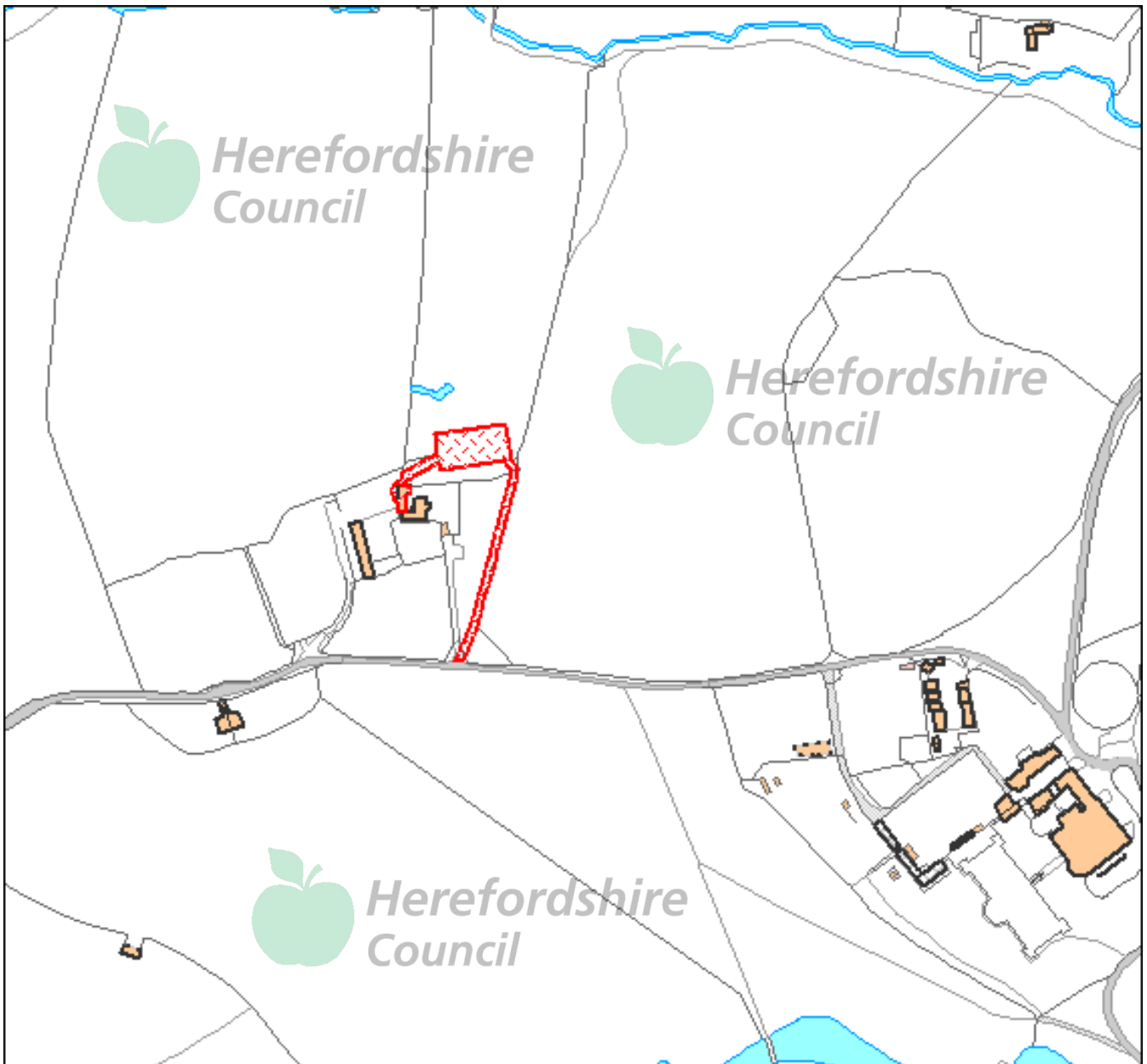
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 200500

SITE ADDRESS : CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, HEREFORDSHIRE, WR6 5SG

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	10 NOVEMBER 2020
TITLE OF REPORT:	<p>194408 - PROPOSED REMOVAL OF CONDITION 4 AND VARIATION OF CONDITION 16 OF PLANNING PERMISSION P163902/F (DEMOLITION OF 5NO. EXISTING REDUNDANT AGRICULTURAL OUTBUILDINGS TO FACILITATE EXPANSION OF EXISTING RESTAURANT AND FOLLOWING EVENTS FACILITIES: FUNCTION SUITE, FINE DINING RESTAURANT AND LOUNGE, CONFERENCE SPACE AND 16NO. ACCOMMODATION SUITES) AT CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG</p> <p>For: Mr Edward Evans per Mr Ben Greenaway, PO Box 937, Worcester, WR4 4GS</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=194408&search=194408
Reason Application submitted to Committee – Re-direction	

Date Received: 23 December 2019

Ward: Bromyard
Bringsty

Grid Ref: 369989,256913

Expiry Date: 9 April 2020

Local Member: Councillor Nigel Shaw

UPDATE/PROCEDURAL NOTE

Members will note this item was originally scheduled to be heard at the Planning & Regulatory Committee agenda on 12 May 2020. The item was subsequently withdrawn prior to that meeting following submissions from a third party who raised alleged errors in the officers' report. The report has been amended to address the comments made by the third party. Furthermore, the applicant has additionally provided officers with supporting information to accompany the application, which is intended to clarify matters regarding highways, residential amenity and clarification on the authorised uses and intended frequencies of activities on site. These details have been re-consulted on during September and early October 2020. This updated report includes further comments received as a result.

1. Site Description and Proposal

- 1.1 Crumplebury Farm is a moderately sized complex of modern buildings with associated host farmhouse, located approximately 1.25 miles (as the crow flies) west of the settlement of Whitbourne, a RA2 settlement identified as a main focus of proportionate housing development under the Herefordshire Core Strategy. The site also houses 'Green Cow Kitchens' restaurant, which was granted planning permission (retrospectively) in 2013, and sits at the heart of the site,

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with associated buildings in conjunction with the enterprise surrounding the restaurant, following planning permission being granted in 2017.

- 1.2 The site is set within estate farmland, defined by predominately agricultural grazing fields and woodland beyond the northern boundary, which leads up to Badley Wood Common. Boundary treatments comprise a mixture of post-and-rail and wire fencing (which offers open views into and out of site) and recently planted hedgerow to the western boundary adjacent to the main tarmacked car parking area. The Landscape Character of the site and surrounding areas is that of Wooded Estate lands with large discrete blocks of woodland, mixed farming land use, hedgerows as field boundaries and large country houses set in parkland. It also redefines the settlement pattern hereabouts of wayside dwellings or estate villages, in which isolated farmsteads are also featured, like Crumplebury Farm was in the past.
- 1.3 The topography of the land is that the buildings themselves appear slightly elevated, viewed from the south of site at the point of the private access road, looking west towards the main parking area and site access (when viewed from the south elevation), before flattening off across the remainder of the application site. The topography to the south-east, gradually rises as you head towards Whitbourne Hall Unregistered Park and Garden. The site also has largely open views which can be clearly viewed at some distance from the north elevation into the site. South of the application site and heading back towards the A44, the site can also be viewed clearly within the landscape, although its palette of materials provides some assimilation, looking to the north, although it can be viewed from surrounding public receptors including public highways, largely as a result of a comprehensively glazed north elevation. The undulating and varying gradient of the land also promotes the tranquillity of the site location in the context of its surroundings, including north of the application site, heading towards Badley Wood Common and Tedstone Delamere, in which the gradient considerably increases.
- 1.4 The majority of the surrounding buildings are of agricultural form with a mixture of Victorian brick built vernacular buildings alongside contemporary steel and timber framed structures, as well as the presence of stone and extensive glazing. Locally, there is a prolific use of brickwork, metal sheeting, timber and stone (rubble and dressed) in wall construction, whilst plain clay tiles, natural slate and metal sheeting are found commonly in the construction of roofs.
- 1.5 The closest residential properties, in identifying surrounding receptors are as follows. Firstly, there is the on-site farmhouse and 'The Helts', a pair of semi-detached dwellings, located approximately 100 metres south-west of the application site. These properties are tenant occupied. Approximately 415 metres south-east of the application site (as the crow flies), is the Grade II* Listed 'Whitbourne Hall', sub-divided into a number of residential apartments and which are independently owned residential units. There are also a small cluster of dispersed properties heading north towards Badley Wood Common and adjacent to the common itself, both to the north and north-east of the application site, respectively, albeit these dwellings are at varying orientations. The nearest is approximately 450 metres north as the crow flies and 435 metres measuring north-east, as identified on the Council's Geographical Information System ('GIS'). PROW Footpath WH16 also runs to the east of the site, albeit almost equidistant between the application site and Whitbourne Hall. The map below identifies Crumplebury Farm and provides a portrayal of surrounding receptors:



Map of Crumplebury Farm and surrounding area (site denoted by red star)

- 1.6 The site itself forms part of the Whitbourne Estate, a family trust, in which the applicant manages the Estate.
- 1.7 In 2017, planning permission was granted (reference: P163902/F) with the following proposal description: *“Demolition of 5 no. existing redundant agricultural outbuildings to facilitate the expansion of the existing restaurant and the following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16 no. Accommodation Suites”*.
- 1.8 The development is now complete, although a number of conditions are currently in the process of still being discharged. None of these are considered to run to the heart of the permission or constitute pre-commencement conditions, most notably conditions 8 (passing places on Norton Lane) and 21 (signage), which are either relevant commencement or first occupation, respectively.
- 1.9 The application proposes to remove and/or vary two conditions on the decision notice from the 2017 planning permission (reference P163902/F). Namely, these are conditions 4 and 16. Condition 4 states:
- 4. The premises shall be used for restaurant, guest accommodation and a conference centre and for no other purpose (including any other purpose in Classes A3, C1 and D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.*
- Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.*
- Condition 16 states:
- 16. No amplified or other music shall be played in the premises outside the following times: 12.00hrs to 23.00 hrs.*
- Reason: In order to protect the amenity of occupiers of nearby properties and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.*
- 1.10 This application proposes to remove condition 4 altogether and vary condition 16, the latter to read as follows:

16. No amplified music shall be played in the premises outside of the following times: 12:00pm hours to 00:00am.

- 1.11 Members will acknowledge the principle of development has already been established, through the granting of planning permission P163902/F in 2017. All pre-commencement conditions have been formally discharged and there are no outstanding conditions which run to the heart of the planning permission. Condition 8, which has been raised locally as running to the heart of the permission, has been partially discharged through an approval of detail reserved by condition application. Officers are formally awaiting the technical agreement on the S.278 works to be completed and carried out shortly. Your officers are of the view that the permission is lawfully implemented. In any event, the focus of this application is solely on what is before members, which is the proposed removal of condition 4 and proposed variation of condition 16. The principle of development does not need to be revisited here.
- 1.12 Section 73 of the Town and Country Planning Act 1990 (as amended) allows an application to be made to the local planning authority (LPA) to carry out development without compliance with a condition or condition subject to which a planning permission was previously granted. The LPA's consideration of the application is limited to consideration of the conditions to which the original permission was granted and consideration of different conditions. If it considers that the original conditions should not be changed, the LPA must refuse an application (TCPA 1990, s 73(2) (a) and (b)).
- 1.13 The application site area to be considered is the same as set out in the original planning permission P163902/F. Thus, being made as a Section 73 application, this also does not necessarily require plans to be submitted for consideration, including that of a location plan, unless alterations to design were proposed, although it is noted that the two conditions proposed to be altered under this application relate to intended uses of site. Therefore, there are no plans for consideration. Notwithstanding this, photos of site are shown below (taken by case officer on 16 October 2020):



Car park at west of site



Taken from South-west elevations



West elevation from entrance to Crumplebury



North-west elevation looking to accommodation



West elevation looking towards main buildings



South-west elevation looking at balcony



South elevation, towards main entrance



South elevation looking towards Great Hall and north-east elevation looking towards glazed north elevations



Taken from east elevation



South elevation looking north to Badley Wood Common and taken from PROW WR16 looking north-west (halfway between Crumplebury Farm and Whitbourne Hall)



Taken at north of site looking north towards Badley Wood Common



Taken at east of site, looking south-east towards Whitbourne Hall (Grade II Listed)*



Taken on U65030 adjacent Redhill looking south towards Crumplebury and surrounding area

2. Policies

- 2.1 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.
- 2.2 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.”*
- 2.3 In this instance, the adopted development plan comprises the Herefordshire Local Plan – Core Strategy (CS) and Whitbourne Neighbourhood Development Plan (Whitbourne NDP), the latter of which was made on 1 December 2016. The National Planning Policy Framework (NPPF) 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. The NPPF (as updated in 2019) sets out the Government’s planning policies for England and how these are expected to be implemented. Specifically paragraph 30 of the framework sets out that once a

NDP has been brought into force/made, the policies it contains take precedence over existing non-strategic policies in the Core Strategy, where they may conflict.

2.4 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 has yet to be made and is due early 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.

2.5 Herefordshire Local Plan – Core Strategy 2011-2031 (adopted 15 October 2015):

Officers consider the following policies of the Core Strategy are applicable to this application:

SS1	-	Presumption in favour of sustainable development
SS4	-	Movement and transportation
SS5	-	Employment provision
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
RA6	-	Rural economy
MT1	-	Traffic management, highway safety and promoting active travel
E1	-	Employment provision
E4	-	Tourism
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
LD3	-	Green infrastructure
LD4	-	Historic environment and heritage assets
SD1	-	Sustainable design and energy efficiency
SD2	-	Renewable and low carbon energy
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality

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

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

2.6 Whitbourne Neighbourhood Development (Whitbourne NDP) made on 1 December 2016

The Whitbourne Neighbourhood Development Plan is made and as such, the Policies within the NDP are afforded full weighting, in line with paragraph 48 of the NPPF. It is noted that the land use policies of the Whitbourne NDP are predominantly concerned with housing development and as such officers consider only Policy LU9 (Environmental Considerations) is relevant.

The Whitbourne NDP, together with any relevant supplementary planning documentation can be viewed on the Council's website through the following link:-

https://www.herefordshire.gov.uk/directory_record/3119/whitbourne_neighbourhood_development_plan_made_1_december_2016

2.7 National Planning Policy Framework (February 2019)

The revised National Planning Policy Framework of February 2019, sets out the government's planning policies for England and how these are expected to be applied. Officers view that the following sections below are applicable to this application:

- 1 - Introduction
- 2 - Achieving sustainable development
- 4 - Decision-making
- 6 - Delivering a strong, competitive economy
- 8 - Promoting healthy and safe communities
- 9 - Promoting sustainable transport
- 12 - Achieving well-designed places
- 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>

2.8 Planning Practice Guidance

Planning Practice Guidance categories have been revised and updated to make it accessible and should be clearly read in conjunction with the NPPF. The Planning Practice Guidance, can be accessed through the following link:

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

3. **Planning History**

3.1 Third party representations have cited a number of issues concerning the planning history and alleged severity of breaches on this site, including challenging the (un)lawfulness of certain aspects of the permission, which they consider runs to the heart of the permission. Officers do not consider this to be the case. All pre-commencement conditions have been formally discharged, or partially discharged albeit subject to technical agreements (i.e Section 278 agreement in respect of Condition 8 – passing places) and whilst there are still some pre-occupancy conditions to be discharged, the Council is continuing to work with the applicant, to bring the matter to a conclusion through discharge of condition applications.

3.2 P200500/F - 1) Change of use of the barn from agricultural to office space. Works undertaken include replacement beams and glazing to open north gable end of barn. 2) Formalise an historic change of use from riding arena to car park - works included tarmacking the arena. 3) Access road. (All works retrospective) – UNDETERMINED (being presented to planning committee date TBC).

P200858/XA2 - Application for approval of details reserved by conditions 8 20 & 21 attached to planning permission 163902 – SPLIT DECISION issued on 3 April 2020 (Condition 8 is currently being signed off with regards to technical aspects of S.278 agreement; Condition 20 discharged; Condition 21 cannot yet be discharged, although this is pre-occupancy).

P200335/F - Proposed variation of conditions 2 and 4 of planning permission 182223 (Proposed construction of new mono-pitch building) - To allow for 2nd biomass boiler – APPROVED WITH CONDITIONS on 6 April 2020.

P193647/F - Proposed variation of condition 16 of planning permission 163902 (Demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16no. Accommodation Suites) - No amplified music shall be played in the premises outside the following times 12.00hrs to 00.00hrs – WITHDRAWN on 9 December 2019.

P182223/F - Proposed construction of new mono-pitch building – APPROVED WITH CONDITIONS on 8 October 2018

P181441/XA2 - Application for approval of details reserved by conditions 9 & 18 attached to planning permission P163902/F – APPROVED on 26 July 2018

P181140/XA2 - Application for approval of details reserved by condition 3 attached to planning permission 163902 – APPROVED on 1 May 2018

P180280/XA2 - Application for approval of details reserved by conditions 8, 11, 14, 17, 22 attached to planning permission P163902/F – APPROVED on 27 July 2018 (Conditions 11, 14, 17 and 22 are fully discharged with condition 8 subject to a Section 278 agreement so condition not fully discharged)

P163902/F - Demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16no. Accommodation Suites) – APPROVED WITH CONDITIONS on 3 August 2017

P131619/F - Retrospective change of use of existing outbuilding from B1 to A3 – APPROVED WITH CONDITIONS on 2 August 2013

4. Consultation Summary

Statutory Consultations

4.1 Forestry Commission – No comments:

“Thank you for your email. I have reviewed the application can confirm the Forestry Commission has no comments. Further information on our position regarding development management and ancient woodland”.

4.2 Hereford and Worcester Gardens Trust – No response received

4.3 Herefordshire Wildlife Trust – No response received

Internal Council Consultations

4.4 Environmental Health (Noise and Nuisance) – No objections/conditions recommended:

1st consultation response – 19th February 2020

“My comments are from a noise and nuisance perspective.

Our department has been consulted with regard to the removal of condition 4 and a variation in condition 16 to allow for amplified music to be played indoors by a further hour from 23:00 to 0:00 at night time.

At the moment we are of the opinion that the applicant has supplied insufficient information with regard to what is proposed and that there is a need for a full technical assessment as to the potential noise impacts from both proposals.

The applicant is requested to supply a noise impact assessment which examines the impact of amplified noise from the function suite at the proposal. The noise impact assessment should measure and assess the impact of amplified music, including the noise impacts of the low frequency of the bass at sensitive receptors in the vicinity against background noise levels. The impact assessment should measure the impact of the noise at source (currently in the Noise Management Plan to be set at a maximum of 85dB), discuss and outline the noise attenuation provided by the fabric of the noise source in the grand hall.*

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

The sensitive receptors at which the noise is to be witnessed and measured to be agreed with the local authority in writing prior to the survey being undertaken and to assess the noise between the hours of 21:00 and 23:00 and 23:00 and 0:00 to take into account the impacts of the proposed increase in the use of amplified music indoors.

The noise impact assessment is also to include a review of the operations of the noise management plan and any noise readings taken as supplied in accordance with planning application 180280.

** The noise impact assessment is to be undertaken by a suitably qualified member of the Institute of Acoustics or Acoustics & Noise Consultants”.*

2nd consultation response – 11 March 2020

“I am in receipt of an amended noise report dated 4th March. As a result of the visit by the acoustic consultant to the site a heavy duty acoustic curtain has been installed to the north window of the dance room as well as the east fire exit doors. Noise readings have been taken to measure the impact of this immediately to the north of the dance studio and also at the boundary to the premises.

The noise assessment finds a 6dB reduction in noise at 1 m from the outside of the Grand Hall and concludes that the curtain should be used in all instances where a live band is playing at night.

The noise assessment uses the BS4142 methodology to assess the impact of noise 300m to the north. Whilst this methodology is designed for the assessment of industrial noise, (and not noise from the entertainment industry for which there is no technical assessment available), it has been used to as a tool to assess the impact of the attenuated noise at 300m. The calculation supplied in the assessment finds that the noise levels with the curtains in place, the noise levels emanating from the premises will be significantly below the background noise level.

The applicant has requested removal of condition 4 which restricts the use of the premises. Our department has no objections to the removal of this restriction providing that the conditions below are met.

The applicant has requested a variation of condition 16 to allow for amplified music hours to be extended from 23:00 to 24:00 hours. Our department has no objections on noise and nuisance grounds provided that the following conditions are met.

The applicant review the noise management plan supplied in response to condition 14 of 163902 and supply an updated noise management plan in writing to the local authority within four weeks of the date of this decision. This will include how the planned use of the acoustic curtains to the North Wall and fire exits will be used. To also include the use of the installed noise limiter and maximum noise limits set. To also include how the external doors will be kept closed during the playing of loud music, a noise monitoring proposal and a complaints procedure. Lastly the noise management plan will consider noise from voices outside the venue and in the car park. The noise management plan shall be reviewed at a minimum at least once a year and supplied to the local authority in writing on request.

There shall be no playing of amplified music outside the premises at any time.

There shall be no use of fireworks or Chinese lanterns at these premises.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31.

There are many function suites and wedding venues in remote locations in the county and our department has legal powers and duties to investigate Statutory Nuisance complaints regarding noise nuisance under the Environmental Protection Act 1990. Where a Statutory Nuisance is found to be established and is likely to occur or recur, our department has powers under the Act for the nuisance to be abated’.

3rd consultation response – 9th April 2020

“As you know, the applicant submitted a planning application to remove condition 4 and to vary condition 16 regarding operating hours of the original application 163902.

In our response we advised that we were not initially satisfied with the applicant’s (in-house) Noise Impact Assessment and requested a more detailed Noise Impact Assessment. It was requested that this be supplied by a member of the Institute of Acoustics or Acoustics & Noise Consultants and this followed concerns raised by local residents regarding the potential noise impacts.

The applicant instructed Audio Definition Ltd to visit the site, examine noise issues, propose mitigation and produce a noise impact report. The original ‘superseded’ is shown on the Council’s website. On receipt of this report I telephoned the author and queried and discussed some of the findings in the report which was subsequently amended shown as ‘amended noise report’ on the Council’s website.

Although the applicant chose not to instruct a member of the Institute of Acoustics but a professional from another body, I feel that I should point out that we do not always get exactly what we request by way of the appropriate documentation through the planning process. (This is not a legal notice process and even then the recipient in these circumstances would be entitled to propose suitable alternatives which could be found acceptable).

It is for Officers to decide whether the documentation supplied is sufficient to demonstrate the noise impacts. A colleague and myself scrutinised the technical findings of the report and did not find cause for concern.

You will see from my response from 11th March that I stated that there is no prescribed methodology for the assessment of noise from the entertainments industry and that Audio Definitions Ltd used the methodology set out in BS4142 to determine what the noise levels at 300m finding that the ‘rating level’ was 13dB quieter than the LA90 background noise level.

Subsequently the objectors have commissioned a review of the applicant’s noise assessment report supplied by Clear Acoustic Design which appears to be a non-site visiting nor measuring desk top review. The key criticism that is levelled is that there is an issue with the alleged lightweight construction of the roof and that windows and doors will need to be opened to ventilate the space.

This report has been supplied to the applicant’s noise consultant for their comments which have duly been supplied. I have sought confirmation also from Helen Rea the applicant’s architect for the proposal that has advised of the acoustic properties of the structure of the roof and walls of the Grand Hall which contradicts the assumptions made in the Clear Acoustic Design review and I have had sight of the air handling equipment installed at the site which is intended to supply fresh air to the Grand Hall.

Our department is not saying that absolutely no noise will be heard from this venue but we do not form the view that the noise levels based on the information supplied and with the appropriate controls in place are likely to be intrusive, disruptive or a nuisance.

We take the view that providing that the conditions specified in my response of 11th March are specified with regard to this proposal, our department has no objections on noise and nuisance grounds.”

4.5 Ecology – No objections:
“No ecology objection”

4.6 Highways – Objection:

1st consultation response: 11th February 2020

“The local highway authority object to the removal of condition 4 due to the potential to increase traffic along the narrow country lanes leading to the site. Removal of condition 4 would mean that use of the site would be unconstrained and could result in additional vehicles, including HGVs, travelling along lanes that are unsuitable for high volumes of traffic and increase the use of the junction with the A44 which has severely substandard visibility.

All applicants are reminded that attaining planning consent does not constitute permission to work in the highway. Any applicant wishing to carry out works in the highway should see the various guidance on Herefordshire Council’s website:

www.herefordshire.gov.uk/directory_record/1992/street_works_licence
<https://www.herefordshire.gov.uk/info/200196/roads/707/highways>”.

2nd consultation response: 7th October 2020

“The local highway authority (LHA) note that no further evidence has been submitted to change the original view of the LHA, therefore the LHA still object to the removal of condition 4 of the original planning permission (163902). The reasons for the objection are set out below:

Original Planning Application

The original application (163902) and the subsequent recommendation of conditional approval by the LHA was based on details contained within the Transport Statement (TS) submitted on behalf of the applicant and assurances made by the applicant regarding measures to be put in place to manage vehicle trips. The TS detailed the components of the application to be a doubling of the restaurant capacity from 100 covers per week to 200 covers per week and ‘in exceptional circumstances 160 guest events will be held. These will require 18 staff but will only occur approximately 12 times a year.’

Removal of Condition 4

The removal of condition 4 would allow for unconstrained use of the site, including that of a wedding venue. The site is already marketed as being able to provide space for weddings of up to 200 attendees which is above the 160 capacity for events detailed in the original application. Increasing the range of events by the removal of condition 4 increases the customer base and therefore could exponentially increase the number of vehicle trips to and from the site.

The removal of condition 4 would not allow the LHA to recommend conditions which would apply a level of constraint to the use of the site, for example, a limit to the number of large events or a limit on the number of delegates. Had the original application included all uses or a new application been submitted to cover all uses such conditions could potentially have been applied to any permission granted. The removal of condition 4 allows for an increase in the range of events that could be held at the site which by virtue increases the potential customer base and demand for the site’s facilities. The result of which is unconstrained use and increased demand.

Local Highway Network

The applicant is currently going through technical approval to discharge the conditions attached to the original permission (163902), which includes the introduction of two passing bays along Norton Lane. The conditions applied to the original planning consent and the level of highway improvements required were commensurate with the level of trips generated by the uses applied for and detailed within the application. Additional use of the site would require the level of highway improvements to be reassessed which this application does not allow for.

The original application stated that the gate on Norton Lane at the junction with the A44 would be removed but the gate remains in-situ and it is not within the control of the applicant, therefore it will remain. This could further exacerbate the highway safety issue that potentially exists at this junction due to poor visibility to the north for vehicles exiting Norton Lane onto the A44 and both poor visibility and poor geometry for eastbound vehicles turning left into Norton Lane and vehicles turning right out of Norton Lane.

The unconstrained use of the site would increase the number of vehicles using the Norton Lane/A44 junction. This would give rise to an increase in the number of conflicts that may occur (e.g. a conflict could occur every time a vehicle turns out of Norton Lane onto the A44) which in turn increases the risk to highway safety that the junction poses.

It is recognised that the applicant details directions to the site on the Crumplebury Farm website by guiding those approaching the site from the east to take the Norton Lane junction off the A44 and those approaching from the west/Bromyard direction to use the B4203. However, generally people would return the same way as they arrived, resulting in vehicles heading east using the A44 junction which has severely restricted visibility. In addition, an amount of drivers leaving the site will rely on satellite navigation in vehicles. Whilst the applicant can advise visitors not to use this junction it is not something that can be enforced and therefore will remain a risk to highway safety.

Policy

Considering the above it is the LHA's opinion that the following Policies are relevant:

Policy RA6 of the Core Strategy – this policy states that ‘planning applications.....will be permitted where they.....do not generate traffic movements that cannot safely be accommodated within the local road networks...’. The LHA's view is that any additional traffic generated as a result of the removal of condition 4 could not be safely accommodated, particularly at the Norton Lane/A44 junction.

Policy MT1 of the Core Strategy states that ‘development proposals should incorporate the following principle requirements.... 1. Demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development...’. The local highway network consists of single track country lanes and a junction with poor geometry and severely substandard visibility. It is the LHA's view that these features of the highway network make the absorption of any additional vehicular traffic very difficult and not without highway safety implications. In addition, the removal of condition 4 does not allow for any mitigation measures to be put in place.

Paragraph 109 of the NPPF – this states that ‘development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.’ The LHA consider there to be an unacceptable impact on highway safety as a result of the potential intensification of use of the Norton Lane/A44 junction.

It is for the above reasons that the LHA object to the application for removal of condition 4 and recommend refusal of the application on highway safety grounds”.

4.7 Landscape Officer – No objection:

“Condition 4 – Relates to the specific type of events held on site – This has no landscape impact.

Condition 16 – Relates to the hours of music played – This has no landscape impact”

4.8 Building Conservation Officer – Support:

“I am happy to support this application which I understand seeks to regularise the use of the site following planning permission being granted in 2017.

The application is proportionate to its historic significance. The principal approach to Whitbourne Hall from the south and adjacent heritage assets, to the north of site are the key features. Despite this, the proposal is in relation to use of the site and it is not considered to incur any additional harm to its experience or setting of these heritage assets, which would be considered under NPPF Section 16, and is viewed to be less than substantial. The application is considered to comply with relevant NPPF and Local Authority Plan Policies as follows:

Para 184 – conserved in a manner appropriate to its significance so that it can be enjoyed for its contribution to the quality of life of existing and future generations.

LD4 – conservation of adjoining heritage assets in a manner appropriate to its significance.

It would be for officers to ultimately consider the identified public benefits under paragraph 196 of the NPPF, however, the high quality contemporary approach to the design of the buildings and care taken over the landscaping is something which should be welcomed”

5. Representations

5.1 Whitbourne Parish Council – Objection:

1st consultation: 6th March 2020

“The Parish Council objects to the application to remove Condition 4 and amend Condition 16. It has in the past supported the development of an enlarged restaurant and conference facility in this location but only on the basis that restrictions were in place to protect the residential amenity of local residents.

The following matters have been taken into account in considering whether the conditions are necessary and/or reasonable:

1. On the matter of residential amenity the applicants' original Planning Statement explained:

“Residential Amenity

Although the proposal will increase the capacity of the restaurant this would be unlikely to result in any increase in noise, smell or light pollution. The proposed facilities buildings will benefit from modern sound proofing and insulation to ensure that no noise would emanate from the site. All external lighting would be low key and low level to reduce light pollution.

There would be no detrimental impact of the amenity of any nearby neighbour as a result of the proposed development.” [Emphasis added].

In what is a beautiful and tranquil valley and where noise travels large distances, the applicants accepted that noise and light pollution were serious concerns and sought to address the same. Conditions which attempt to protect residential amenity are necessary and reasonable particularly given the applicant's clear assurances.

- 2. If the applicants had considered that the conditions were unnecessary and unreasonable they could have appealed these conditions before any development took place. They did not appeal the conditions and implicitly accepted that the conditions were appropriate.*
- 3. Further, the applicants chose to adopt the 23.00 hours threshold [Condition 16] for the purposes of their Noise Management Plan - which HCC required. They explicitly accepted that this threshold was reasonable and necessary.*
- 4. Since the development has opened, we understand there have been at least four large events [including one wedding on 23 November last year] where loud amplified music was played. We understand all four functions resulted in residents calling the Environmental Health Department to register their distress at the loud noise nuisance and the fact that at least in the case of the wedding celebration it continued until midnight in breach of Condition 16.*
- 5. The issue of noise is not simply restricted to the playing of amplified music. Local residents are concerned that it may well take over an hour after the entertainment has finished before the party attendees have left the venue with all the attendant post party outside noise - laughing, shouting and car doors slamming. Further, given the volume of potential attendees for weddings and large parties [up to 250], it is likely that large numbers [the applicant has confirmed this could be up to 100] may be partying outside on the large patio adjacent to the Hall on warm summer evenings.*
- 6. The use of external areas during the summer months is likely [as is the unauthorized opening of fire doors] because the Grand Hall does not have any external opening doors [save for fire doors] or windows and it has no air conditioning or cooling system.*
- 7. The applicants are heavily advertising the facility as a wedding venue for up to 250 guests and they also encourage "raucous" celebrations on their web-site. This is wholly inconsistent with Condition 4 and the original assurances given by the applicants that "There would be no detrimental impact of the amenity of any nearby neighbour as a result of the proposed development".*
- 8. The applicants do not have planning permission for D2 events [live music and dancing] and are already been in breach of their existing permission in this respect.*
- 9. The applicants have already accepted that current levels of light pollution are unacceptable. Any relaxation of the conditions which control the usage of the facility or an extension of the condition which allows amplified music to be played is very likely to exacerbate the already unacceptable light pollution.*
- 10. There is considerable concern that the main access/exit via the A44 is a potential danger to public safety. It is not within the control of the applicant. It is gated [to prevent livestock escaping] and on a section of the A44 which is well known to be dangerous and where there have recently been two near misses. The local highway authority have objected to the removal of condition 4;*

"due to the potential to increase traffic along the narrow country lanes leading to the site. Removal of condition 4 would mean that use of the site would be unconstrained and could result in additional vehicles, including HGVs, travelling along lanes that are unsuitable for high volumes of traffic and increase the use of the junction with the A44 which has severely substandard visibility."

The applicant obtained permission to remove 50 metres of hedge to improve visibility but this work has not been carried out and we understand that the applicant has no plans to undertake the same.

11. Local residents are also concerned that the car parking is insufficient for parties of up to 250 guests, that the staff car park does not have planning permission and the passing places [which the applicants are obliged to build] have not been installed.

12. There have been over twenty-five objections from local residents, parishioners and other interested parties, many of them making strong, detailed and evidenced representations.

As a consequence of the significant adverse impact on residential amenity [following several large scale functions held at the site] and the current unsatisfactory condition of the facility and the associated access, it is clear that the original assurances provided by the applicants need to be supported by planning conditions. We understand the applicants have attempted to ameliorate levels of amplified noise by the installation of an acoustic curtain. This is a positive step which may well be helpful in reducing noise levels, but even if successful, it cannot justify the removal and amendment of the conditions in question given all the circumstances.

In the view of the Parish Council, the conditions are, therefore, both necessary and reasonable in order to protect the residential amenity of local residents in accordance with Core Policy SD1.

Further Policy RA6 confirms that:

- "Planning applications which are submitted in order to diversify the rural economy will be permitted where they;*
- ensure that the development is of a scale which would be commensurate with its location and setting;*
 - do not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, noise and dust, lighting and smell;*
 - do not generate traffic movements that cannot safely be accommodated within the local road network"*

For the reasons referred to above, the application is also not consistent with these objectives and should be refused".

2nd consultation response: 8 October 2020

"The Parish Council continues to object to the application to remove Condition 4 and amend Condition 16. In addition to the matters raised in the Parish Council's original objections the following matters have been taken into account in considering whether the conditions are reasonable and/or necessary:

1. Noise and Light Pollution

The applicant has apparently installed an acoustic curtain to cover a glazed area in the Grand Hall (in an attempt to dampen the noise) and has submitted further reports. These reports do not, however, comply with the testing requirements originally specified by the Environmental Health Officer. The Officer in question has, however, now decided that it is not necessary to comply with her requirements and has supported the application. Consultants instructed by the Objectors have considered the reports prepared by the applicant's consultant and concluded in March that:

"The issued noise impact assessment report cannot be considered a professional report, contains no information about the measurement equipment used, is lacking in technical detail, contains no measurement data of any kind, provides no objective assessment, and is not seen to be suitable to support a planning application of this nature."

“Based on the lightweight metal construction, it is deemed highly unlikely that loud events, such as a live band or professional disco, would be inaudible at the nearby receptors. It is deemed highly likely that these events would cause noise nuisance.”

In a subsequent report prepared in May they also confirmed: “This document has highlighted many areas which leave big questions unanswered with regard to the accuracy of the assessment”.

The Environmental Health Officer set out specific requirements that have been ignored. It is clear that the reports supplied by the applicant’s consultant cannot properly be relied upon such that the Officer can conclude with any confidence that noise pollution from the development would not result in potential adverse impacts to local residents. There is no reliable evidence to suggest that the acoustic curtain will make any significant difference. It seems likely that the Environmental Health department may have approached this matter from a statutory nuisance perspective.

In their comments dated 11th March they conclude that: “There are many function suites and wedding venues in remote locations in the county and our department has legal powers and duties to investigate Statutory Nuisance complaints...”

Significant loss of amenity will often occur at lower levels of emission than would constitute a statutory nuisance. Planning authorities (and Environmental Officers) should obviously consider noise and other emissions in the wider context of the planning process and not just from the narrow perspective of statutory nuisance (E.g. PPS 23 Annex 1).

Whether or not the acoustic curtain is sufficiently effective in mitigating the effects of noise remains to be properly determined. The curtain will not, however, have any bearing on noise generated outside the venue (by, for example, up to a 100 people partying on the terrace) and is highly dependent upon all the external doors remaining closed – something which seems unlikely in the Summer months without air cooling units being retrofitted (as originally proposed by the applicant - See the applicant’s First Noise Impact Assessment dated 17th October 2019).

It is also apparent that there continue to be complaints from residents about very significant light pollution. Although the applicants lighting plans have apparently been accepted by HCC, the proposed details are still not readily obvious from HCC’s web site nor is it clear whether the applicant is in compliance with the same.

Although no application is made in relation to lighting, both the removal of Condition 4 and the proposed amendment to Condition 16 are likely to result in increased light pollution as a result of greater and prolonged use of the facility.

The NPPF states as follows:

“180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- (a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- (b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- (c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”*

For the reasons set out above, and as further explained in our original objections, the removal of

condition 4 and amendment of condition 16 would not be in accordance with the guidance set out above.

2. Highway Safety

The original concerns which the Parish Council had about the access from the A44 are still very much an issue. The existence of a gated entrance and adjacent hedge make this a particularly dangerous junction. The applicant's agents continue to represent that this issue is not relevant to the application and that the amendment of condition 4 would not lead to a significant increase in traffic movements. In relation to weddings the applicant apparently anticipates only two or three weddings a month during the Summer months.

This seems very unlikely. Before the Coronavirus epidemic the applicant confirmed to the Parish Council that "Over 45 weddings are already booked in for 2020 and 2021." (Briefing Note to Parish Council for meeting held on 4th March 2020). We understand that there are now over 40 weddings planned for next year.

The Highways Department originally objected to the application given "the junction with the A44 ... has severely substandard visibility." but they had assumed that the gate had been removed in accordance with assurances from the applicant. The gate and hedge are, however, not in the control of the applicant and we understand the landowner has refused to remove the same.

On 23rd June 2017 Highways had emphasized that: "Gated access at the A44 is not acceptable." – in relation to the original planning application. It is clear that a removal of condition 4 will only serve to further intensify use of this access road and make this junction more dangerous.

The Highways Department recently issued a further report again objecting to the application. It confirms that: "The original application stated that the gate on Norton Lane at the junction with the A44 would be removed but the gate remains in-situ and it is not within the control of the applicant, therefore it will remain. This could further exacerbate the highway safety issue that potentially exists at this junction due to poor visibility to the north for vehicles exiting Norton Lane onto the A44 and both poor visibility and poor geometry for eastbound vehicles turning left into Norton Lane and vehicles turning right out of Norton Lane. The LHA's view is that any additional traffic generated as a result of the removal of condition 4 could not be safely accommodated, particularly at the Norton Lane/A44 junction."

The Parish Council concur with this view.

It is also evident that two important pre-conditions to the use of the venue (relating to access and highway safety) have not been implemented (8 and 21).

We have received representations from residents about this failure. We understand it is unlawful to carry out works in breach of a pre-commencement condition (Meisels and Anor v Secretary of State for Housing, Communities and Local Government [2019] EWHC 1987 (Admin) confirmed the well-established 'Whitley Principle') where the condition goes to the heart of the permission. The original planning officer in his 2017 report stated that "The main issue relates to access to the site..." which makes it clear that these conditions do not simply relate to peripheral concerns. We are concerned about the failure to comply with these conditions. The Objectors have called on HCC to investigate. It appears the failure to comply with one or both of these pre-conditions may have a significant bearing on the validity of this application.

3. Conservation – Setting of Whitbourne Hall

The Conservation Officer submitted a report (on 23rd September) which supports the application on the basis that the harm to the setting would be less than substantial.

On 31st March 2020, HCC's Conservation Officer provided a report in relation to a proposed annex development at a property known as Birchey Leasowe (planning consultation 200729). This small house is situated more than twice the distance away from Whitbourne Hall as Crumplebury Farm. The principal reason for the objection from the officer was the likely impact on the setting of Whitbourne Hall – an important listed building.

The Officer stated:

“As the proposed scheme would not result in the complete loss of significance to the heritage assets the level of harm would be classed as less than substantial; however, paragraph 193 of the NPPF advises great weight be given to an asset's conservation (including its setting) irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

“By definition, setting is the surroundings in which a listed building is experienced, and it is not purely confined to a defined curtilage;” “Although often described in purely visual terms setting will include experiential factors such as land use, noise and pollution; and an increase in movement through and around a site can result in harm to the tranquillity ordinarily associated with rural and secluded settings such as this.”

It is axiomatic that the proposed intensification of a development much closer to Whitbourne Hall that will inevitably increase movement, noise and light pollution significantly, will severely prejudice the tranquillity and setting associated with this important location and historic building. Indeed, complaints to this effect have been received from residents of Whitbourne Hall associated in particular with the unlawful increase in traffic immediately adjacent and around the Hall (See also the related application 200500 concerning the application for retrospective permission for a staff car park and access road which, if allowed, would encourage further intensification of the site and the immediate environs surrounding Whitbourne Hall).

The Officer's report does not address the inconsistency of his approach to that taken in March (relating to the Birchey Leasowe application) in relation to exactly the same issue – the impact on the setting of Whitbourne Hall.

The importance of consistency in decision-making in the planning field is a well-established principle of law and policy. It is apparent that the Officer's conclusion is misleading and should be reviewed.

4. Use of the Facility - the applicants primary argument is that there is no material difference between the use of the venue as a restaurant/conference facility or as a wedding venue and/or large party venue.

The argument is specious and defies common sense. There is clearly a significant potential difference in amenity impact between the two types of events in terms of noise and the likely timing of such events. If this was not the case why is it that:

- HCC consider D2 class use is now required for the venue;*
- the applicant now wishes to amend another condition to extend the time for playing music from 11 pm until midnight – seven days a week.*

5. Contribution to Local Economy

As previously mentioned, the Parish Council was originally happy to support the construction of this facility, in part because it was likely to make a contribution to the local economy. However, the unconstrained use of this venue is likely to cause substantial harm to the beautiful and tranquil nature of this important landscape and impact on other adjacent businesses that rely on these features to attract their own customers.

For the reasons referred to above, it is the unanimous view of the Parish Council that Conditions 4 and 16 are both necessary and reasonable and the application should be refused”.

- 5.2 The remaining representations made to this application have been made by interested third parties. This comprises any interested party or individual, whom the Council does not formally consult but have made representation. This totals 51 representations from 31 parties at the time of this report being written. Many of the representations raise markedly similar material planning issues and duplicate. Please note that copies of representations may be viewed in full on the Council’s Planning website at the following link:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=194408&search=194408

Officers summarise these as follows, to avoid repeated duplication:

47 letters of comment on behalf of 27 interested parties, object to this application, raising the following valid material planning themed considerations:

- Highway safety;
- Impact on residential amenity, including noise and light pollution;
- Impact on dark landscape and tranquillity;
- Site is being used as a wedding venue, retrospectively;
- Supporting documentation not truly reflective of circumstances;
- Impact on local business;
- Wildlife disturbance;
- Water supply issues; and
- Issues with other aspects on site, including repeated breaches of condition

1 letter of comment on behalf of 1 resident, provide the following general comments, raising the following valid material planning considerations:

- Condition 4 was drafted in a very imprecise way, leaving it open to interpretation as to exactly what sort of ‘events’ are permitted or (more important) could be excluded.
- Should re-assess condition 16 after summer of 2020 when events have taken place.

The remaining 3 letters of comment on behalf of 3 residents, support this application, raising the following summarised material planning considerations:

- Crumplebury offers employment locally;
- Provides community cohesion by retaining younger people; and
- Myths associated with objectors

The application is viewable online, which includes all documents and representations made to this application. 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 The proposal is to be considered in line with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which 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 comprises the Herefordshire Local Plan – Core Strategy (CS) and the Whitbourne Neighbourhood Development Plan (NDP) which was made on 1 December 2016. The National Planning Policy Framework (‘NPPF’ 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. The NPPF (as updated in February 2019) sets out the UK Government's planning policies and how these are expected to be implemented. Specifically paragraph 30 of the NPPF sets out that once a NDP has been made, the policies it contains take precedence over existing non-strategic policies in the Core Strategy, where they are in conflict.

- 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 has yet to be made and is due early 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.
- 6.4 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). These are identified at paragraph 8, replicated below:
- An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being, and
 - An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy
- 6.5 These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. However, so that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development.
- 6.6 The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted as set out at paragraph 11c) of the NPPF. At paragraph 11d) of the NPPF, for applications where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 6.7 The NPPF at section 6 seeks to promote strong rural economies through the sustainable growth and expansion of all businesses throughout rural areas and the development and diversification of agricultural and other land based rural businesses. Paragraph 80 of the NPPF states that planning policies and decisions should help create conditions in which businesses can invest, expand and adapt, with significant weight given to the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 6.8 Further, the NPPF at paragraph 83 seeks to ensure that planning policies and decisions enable the growth and expansion of all types of business in rural area to support a prosperous rural economy, including the diversification of agricultural and other land based rural businesses. Paragraph 84 recognises that to meet the need for business in rural areas sites may need to be found adjacent to or beyond settlements, and in locations that are not well served by public transport. In these circumstances, it is particularly important to ensure development is sensitive to its surroundings and does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
- 6.9 Notwithstanding the imminent review of the Core Strategy, the document identifies ‘in-principle’ support for rural enterprises, in line with the NPPF, with policy E1 setting out that the focus for new employment provision in Herefordshire is to provide a range of locations, types and sizes of employment buildings, land and offices to meet the needs of the local economy. Development proposals which enhance employment provision and help diversify the economy of Herefordshire will be encouraged where:
- the proposal is appropriate in terms of its connectivity, scale, design and size;
 - the proposal makes better use of previously developed land or buildings;
 - the proposal is an appropriate extension to strengthen or diversify an existing business operation; and
 - the proposal provides for opportunities for new office development in appropriate locations.
- 6.10 Specifically for the rural economy Policy RA6 of the Core Strategy, supports employment generating proposals which help diversify the rural economy. Specifically it sets out that planning applications that diversify the rural economy will be permitted where they:
- Ensure that the development is of a scale which would be commensurate with its location and setting;
 - Do not cause unacceptable adverse impacts on the amenity of nearby residents by virtue of design and mass, noise, dust, lighting and smell;
 - Do not generate traffic movements that can’t safely be accommodated within the local road network; and
 - Do not undermine the achievement of water quality targets in accordance with policies SD3 & SD4
- 6.11 Whilst it is noted that the made Whitbourne NDP does not identify any specific employment policies, Policy LU9 (Environmental Considerations) does set out that proposals for development should:
- Respect the landscape and built environment;
 - Respect relevant bio-diversity features and wildlife habitats of the area; and
 - Have regard to the aims of the Herefordshire Green Infrastructure Study (2010), which enjoins the protection and promotion of green infrastructure.
- 6.12 The NPPF at paragraph 180 also sets out that decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation

6.13 Paragraph 180 does specify that this refers to new development, but in the view of officers, taking into account of likely effects (including cumulative effects), it is still pertinent to consider the implications of a proposal, although clearly this is not an opportunity to revisit the permission, as a whole, but an assessment of what is being proposed here.

Introductory Comments

6.14 Considering the acceptability of the location of the site and the sustainability of such a location, officers note the development plan and NPPF seek to support rural enterprises, although this is subject to a number of criteria caveating such support. The site is some distance beyond any identified settlement and is viewed to be within an open countryside location. However, given the provisions of Policies RA6 of the Core Strategy and Policy LU9 of the NDP, the council previously granted planning permission P163902/F on the grounds that the location of the application site to be spatially acceptable for a rural business use. It is also noted this permission was granted prior to the revised NPPF (July 2018 and February 2019) coming into effect.

6.15 This application proposes to remove and/or vary two conditions imposed on the original decision notice, issued under P163902/F. Condition 4 is proposed to be removed in its entirety, and condition 16 is proposed to be varied. The use of the site is that authorised by the existing planning permission, which includes, necessarily, restrictions by way of planning condition. Being a Section 73 application, even if members come to a resolution of refusing the application, the applicant can still continue operation of the site as a restaurant, conference centre and guest accommodation, which can operate seven days a week and 365 days of the year.

6.16 It is important to state conditions imposed on a decision notice do not preclude further development or subsequent applications being submitted to the Council for determination. Consideration must be given as to whether the reasons for imposing such conditions are still applicable and/or whether different conditions could be imposed by way of appropriate alternative mitigation. If neither are viewed to be acceptable, the application should be refused.

6.17 There are a number of pertinent material planning considerations, which are discussed below. Firstly, the use of planning conditions is explained, before applying it to this proposal and subsequently taking each relevant element in turn and exploring the implications, ultimately forming a balance as to whether the proposal should attract a recommendation of approval.

Use of Planning Conditions

6.18 The NPPF (February 2019) advises on the use of planning conditions and where they should be appropriately implemented. Paragraphs 54 and 55 clarify that,

“54. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

55. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in

the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.” (NPPF, February 2019)

- 6.19 The NPPF overview is supplemented through Paragraph 003 (Reference ID: 21a-003-20190723) of Planning Practice Guidance (PPG), namely the use of planning conditions. In effect, the use of planning conditions should be used, where they satisfy the following six tests:

1. *necessary;*
2. *relevant to planning and;*
3. *to the development to be permitted;*
4. *enforceable;*
5. *precise and;*
6. *reasonable in all other respects.*

This is also reinforced through Paragraph 005 (Reference ID: 21a-005-20140306) of PPG, which states that: *‘Any proposed condition that fails to meet any of the 6 tests should not be used.’*

- 6.20 PPG advises that there are clear specific circumstances where conditions should not be used, which includes any condition which may,

“unreasonably impact on the deliverability of a development”.

Condition 4

- 6.21 Members will note the decision notice issued under P163902/F, had the following development description which the applicant applied for planning permission and which the Council had a statutory duty to determine the application. This was for,

‘Demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16no. Accommodation Suites’.

- 6.22 The Council granted planning permission for: a function suite, a fine dining restaurant, lounge, conference space and accommodation, totalling 16 no. suites. However, condition 4 is currently worded which only allows use of the site for solely a restaurant, guest accommodation and a conference centre.

- 6.23 This can be considered to potentially unreasonably impact on the full deliverability of the development, particularly if an applicant has applied for such development and the Council has granted planning permission for that development. Condition 4 currently restricts aspects of development which were applied for and granted planning permission but cannot be formally brought into use. Of course, an applicant has a right to appeal against a local planning authority’s decision to impose certain conditions attached to a planning permission which they may not agree with. However, no such appeal was lodged.

- 6.24 Subsequently, in the view of officers, this establishes some tension, and does call into question whether condition 4 on the permission impinges on the full deliverability of the development, which has been granted planning permission. The applicant’s agent is of the view that the proposed removal of condition 4 would allow those elements of the development expressly permitted, to be used for their lawful purpose and clearly, what planning permission was granted for in the first instance some three years ago.

- 6.25 Officers consider the inclusion of condition 4 would, as it currently reads, not meet the six tests identified under the use of conditions under PPG. The reason is that officers feel this would conflict with the reasonable in all aspects advice identified under Paragraph 003 of the PPG under use

of planning conditions. At the moment, the function suite, and its associated events cannot be implemented, notwithstanding the fact that the proposal description confirms that planning permission has been granted for this.

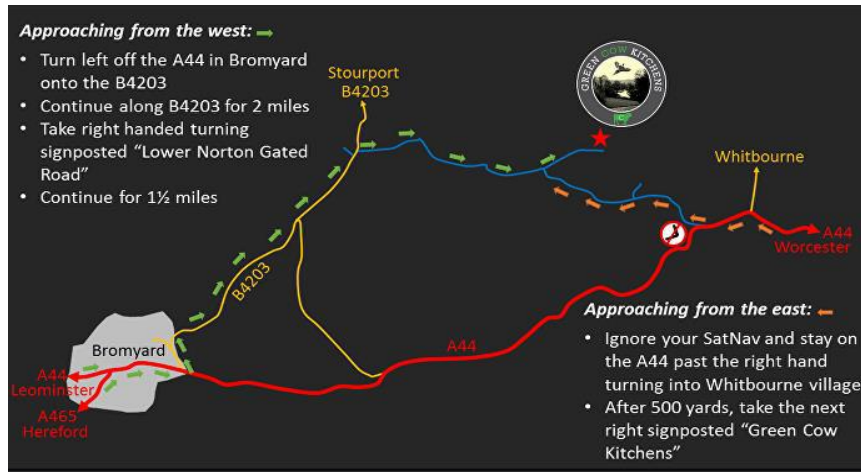
- 6.26 The view of the applicant's agent is that there is no material difference in planning terms between the use of an 'events facility' for holding a conference, a private function, a party or a wedding reception. For example, they consider that guests arrive at a similar time, and there would be some form of arrival reception which may include a drinks reception or an introductory talk or meeting. There would then be refreshments, a meal in the restaurant and some form of after dinner entertainment which may be a guest speaker, an awards ceremony/presentation and then music and dancing. At the end of the event, guests either retire to the on-site guest accommodation suites or leave the premises at approximately the same time.
- 6.27 Third party representations, including Whitbourne Parish Council and many local residents, believe this argument is specious and defies common sense. Third party representations have also cited the issue concerning marketing of Crumplebury, for the purpose of both conferences and weddings and have referred officer attention to Crumplebury's website.
- 6.28 Officers acknowledge that a reading of the previous application (P163902/F), does not make specific reference to the premises being intended to be used as a wedding venue and from reading background history, would concur that no mention of 'wedding venue' is evident. Although it is understood that the applicant does not wish Crumplebury to be labelled as a wedding venue, marketing clearly shows this is the case.
- 6.29 Paragraph 16 of PPG (use of planning conditions) states statutory consultees and other third parties can suggest conditions to mitigate potential impacts and make a development acceptable in planning terms. The decision as to whether it is appropriate to impose such conditions ultimately rests with the local planning authority (except for the circumstances set out in the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018). As with any condition, parties involved should consider whether the 6 tests are being met. It is therefore important to review the context of the relevant material planning considerations, before coming together to review in the balance, as to whether the lifting of this condition is suitable in this location and whether revised conditions could be imposed to mitigate material considerations.

Highways/Transportation

- 6.30 With reference to highways, the NPPF sets out how transportation, highways impact and non-vehicular movement should be considered, assessed and supported in paragraphs 108 – 111, stating: In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
 - b) safe and suitable access to the site can be achieved for all users; and*
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*
- 6.31 Paragraph 109 explicitly states "*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*".
- 6.32 The proposed removal of condition 4 to allow functions, and full deliverability of the proposal, as well as the proposed variation of condition 16, is certainly a material consideration on the basis in which the Highways Department considered the original application. The Transport Statement submitted with the original application (163902/F) states "*The proposed expanded provision at the restaurant is predicted to see a doubling in the average number of visitors each week, to 200.*"

In exceptional circumstances 160-guest events will be held. These will require 18 staff but will only occur approximately 12 times a year".

- 6.33 Indeed, for reference, planning permission was granted on the understanding that the site was to operate a highways arrangement of a one direction usage in and out of the junction for visitors from the east (coming via the A44) and west (coming via the B4203), along Norton Lane/Parish Road, an unclassified public highway (U65018), albeit with gated access at the A44 junction, which is in third party ownership. This is shown below:



Map of transport arrangements to Crumplebury Farm, when assessed under P163902/F





Photographs of Norton Lane/A44 junction



Photograph of gate at Norton Lane/A44 access



Norton Lane/B4203 junction



Photographs of visibility at Norton Lane/B4203 junction

- 6.34 The importance of promoting two separate routes to and from the site in route signage on the ground, verbal confirmation at booking and continued publication on the applicants' website and any other publications is important. Unfortunately, a condition to ensure access to site would only be served off the B4203 and not the A44, would not meet the six tests for conditions, as set out in the PPG. In particular, this would be difficult to enforce. The only way this could be done is for directions to be provided on the applicants website and signs to be put up, the latter of which has clearly been done, as seen on the photographs.
- 6.35 Indeed, this was the applicant's promotion of an alternative route so users of the A44 junction to head west are not turning across oncoming traffic and only coming from and heading out east. Whilst highways were comfortable at the time with the applicants transport statement regarding 100 covers per week, they still felt a suitable condition must be placed on this usage and additional events, although this is not apparent on the decision notice.
- 6.36 It is not disputed that the removal of condition 4 and variation of condition 16 certainly has implications on highways. Indeed, members will note the highways area engineer objects to the

application and does recommend refusal on highway safety grounds, citing conflict with Policies MT1 and RA6 of the Core Strategy and Paragraph 109 of the NPPF.

- 6.37 However, what must be acknowledged is the lawful use of the site is a material consideration in this regard. The lawful use of the site includes a restaurant, guest accommodation and a conference centre. Additionally, the premises and the land associated within the red line can be used for any purpose ancillary to the restaurant, guest accommodation, or conference centre permitted by the planning permission. Indeed, temporary use of land (under Class B, Part 4, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) can allow use of land for any purpose for not more than 28 days in total in any calendar year.
- 6.38 Even if members come to a resolution of refusing the application, the applicant can continue operation of the site as a restaurant, conference centre and guest accommodation, which can operate seven days a week and 365 days of the year. Subsequently, those associated issues raised by third parties, including the loss of tranquillity and increased light pollution (discussed later) will still remain, irrespective of the outcome of this application. Officers consider that significant weighting should be afforded to this fall-back position.
- 6.39 Officers note third party representations received and the highways objection, which is based on the potential to increase vehicular traffic along Norton Lane leading to site. The removal of condition 4 and variation of condition 16, in the view of the highways area engineer, would mean use of the site would be unconstrained and could result in additional vehicles, including HGVs, travelling along lanes that are unsuitable for high volumes of traffic and increase the use of the junction with the A44.
- 6.40 In considering the highways arrangements for this application, officers note the consultation responses from the Local Highway Authority (LHA) as well as the local representations received on this matter. The development plan, at policy RA6 of the Core Strategy, sets out that rural enterprises would be supported where they: do not generate traffic movements that can't safely be accommodated within the local road network; and are located close to existing highways and do not have an unacceptable impact on traffic, in addition to the highways safety requirements of Core Strategy policy MT1.
- 6.41 In considering highway safety, the fact remains that an extant permission exists for the site which permits daily use. Regard must also be given the nature of events which can take place as permitted, and might take place if the variation to condition 4 is permitted. Whilst weddings might attract higher numbers of guests than say a business conference, the likelihood is guests at a wedding are more likely to share transport. For example, the assumption of 200 guests attending does not automatically translate to 100 vehicles all arriving and departing the site at the same time. Some may well come in minibuses or share cars and guests will leave at different times. By comparison with a conference centre use; which the applicant can still do lawfully within the parameters of the permission, individuals may well all arrive in separate cars and leave in separate cars at the same time.
- 6.42 In the context of highway safety, the case officer takes a different view to that of Local Highway Authority Officer. The use of the site is unconstrained in terms of the number of guests able to attend an event at any one time, but rather that the type of event is currently constrained. Highways concern appears to be around the number of guests allowed to each event. The original application allowed for 100 whereas the applicant states that the site is now being marketed for groups of up to 200. It is worthwhile to address the point regarding the size of groups allowed in the venue. There is no limit set out in the original permission however capacity is realistically limited due to health and safety. Whilst this raises a point on the intensification of the use, in the view of officers, a judgement is being made specifically about vehicle movements likely to arise from weddings in comparison to conferences, but there is no clear evidence to support the conclusions that are being made as shown above.

- 6.43 The venue is entirely self-contained. It already provides on-site catering. Indeed, it is likely that only one type of event will be taking place at Crumplebury at any one time, i.e. a conference would not likely be taking place at the same time as a function/event. Accordingly, the associated vehicular movements are therefore going to be similarly in line with what is taking place at the time. Indeed, for events like weddings, where users of the site may arrive in mini-buses/taxis, compared to conferences where each user may well arrive in their own car, the latter might create considerably higher vehicular movements. The highway impacts of the site being used for weddings as opposed to conferences are being over-stated.
- 6.44 Imposition of condition 4 was unreasonable. Officers feel the opportunity to re-dress the matter can be done by way of granting permission in line with the description of development that was originally applied for. In officers' view, this does include the use of the site as a wedding venue, including holding of ceremonies. Officers propose to include a new condition (condition 25 of recommendation) which effectively limits the use of the site to what was originally applied for, namely a function suite, restaurant, accommodation suite and a conference centre. It would therefore mean the site can only operate in line with the proposal description.
- 6.45 In the view of officers, when considering the nature of events on site, the proposal would not amount to being unacceptable in highway terms or the residual cumulative impact being severe, as clearly outlined by the framework at paragraph 109 and Policies MT1 and RA6 of the Core Strategy. The highways impacts are clearly over-stated, particularly when you compare the nature of events and associated vehicle movements, as well as the lawful use of the site that the applicant can do without needing to apply under a Section 73 application. Namely, a restaurant, conference centre, and accommodation suites. Thus, conditioning in line with the proposal description reduces unsolicited vehicular movements.
- 6.46 For clarification, any deviation of other uses other than expressively written on the proposal description, would require a new planning application to be submitted to the LPA. This is in reference to a recent Court of Appeal decision by *Finney v Welsh Ministers [2019]* in which a Section 73 application can only alter the conditions on an approved development. It cannot alter the development description. Accordingly, this new condition proposed would be in line with the proposal description.
- 6.47 The significant consideration of the fall-back position of the site and assessment in terms vehicle movements as suggested by the applicant, should weigh in support of considerations to the highway acceptability of the proposal.

Residential Amenity and Condition 16

- 6.48 Core Strategy policy SD1 requires, amongst other things, that all development proposals safeguard the residential amenity and/or living conditions of existing residents and that they do not contribute to adverse impacts arising from noise and light pollution. Further, policy RA6 supports development so long as it does not cause unacceptable adverse impacts on the amenity of nearby residents by virtue of design and mass, noise, dust, lighting and smell; with Whitbourne NDP policy LU9 echoing this, supporting development that does not have a detrimental impact on surrounding living conditions.
- 6.49 Paragraph 127 of the NPPF recognises that planning policies and decisions should ensure development functions well within their surroundings. Paragraph 180 recognises that planning policies and decisions should ensure that new development is appropriate for its location by mitigating and reducing to a minimum potential adverse impacts resulting from noise, and avoid noise giving rise to significant adverse impact on health and the quality of life, this relates to new development. Further, paragraph 183 sets out that decisions should focus on whether development is an acceptable use of the land, rather than the control of process or emissions, with there being an assumption that these regimes operate effectively. Whilst paragraph 180

should only apply in terms of new development, given the reference to cumulative impact, officers feel it is right to still consider this.

- 6.50 At this juncture in the appraisal and before considering amenity impacts from noise (aural amenity) and light/visual amenity, the spatial layout of the site and its locale is significant to take into consideration, particularly that of nearby receptors. Crumplebury is circa 100 metres from 'The Helts' and 415 metres (as the crow flies) from Whitbourne Hall. The closest activity on the site is that of the biomass boilers, circa 30 metres from the curtilage of the neighbouring properties at The Helts. Indeed, the effect of the removal of condition 4 and variation of condition 16 is to be assessed against the residential amenity of dwellings as a whole and not in relation to specific elements of any nearby residential property.
- 6.51 Condition 16 currently restricts the times to which amplified or other music may be played inside the premises. Indeed, condition 16 was originally imposed in the interests of residential amenity.
- 6.52 The applicant also currently benefits from a premises license granted by this Council, permitting the playing of live music between the hours of 1900 – 0100 Monday – Saturday and 1900 – 2400 Sundays; recorded music 0700 – 0100 Mondays – Thursday, 0700 – 0200 Friday – Saturday and 0800 – 2400 Sundays.
- 6.53 The Council's licensing authority are responsible for ensuring that activities do not cause a statutory nuisance. There is of course, a distinct difference between amenity and nuisance and this is something that interested parties have commented upon and of which officers are aware. The Council's Environmental Health department clearly has powers to investigate and take action against any alleged statutory nuisance. Officers do acknowledge that there have been complaints raised by third parties on this site. However, the principal matters of residential amenity have already been considered under the original planning application P163902/F. The threshold is key in this instance between what is defined as a nuisance and what impinges on residential amenity.
- 6.54 It is therefore reasonable to consider that the use of suitably drafted planning conditions to secure control over the areas where noise producing activities take place and the implications this has, may be of long-term benefit.
- 6.55 Members will acknowledge the applicant can currently play amplified music until 23:00. Indeed, the applicant does not seek to extend the hours in line with the license. Instead, the application proposes to vary condition 16 to extend amplified music by one hour from 12:00 – 23:00, as currently conditioned, to 12:00 – 24:00. The assessment therefore to consider is what additional harm of extending the playing of amplified music by 1 hour would have on amenity, including aural and visual. To facilitate this, the noise management plan, which has previously been approved by Herefordshire Council, will again need to be reviewed, as recommended by the Council's Environmental Health Officer, should this application be approved, to provide additional mitigation for nearby residential receptors. A new time-restricted condition is proposed to be added to facilitate this in the interests of residents.
- 6.56 In supporting the application, an up-to-date noise survey has been commissioned and provided since the application was validated, although third party representations do dispute this and have sought to provide a counter report, although the latter counter report appears to be a desktop study and not based on an actual site visit.
- 6.57 Notwithstanding this, in assessing the impacts of the development on nearby residential properties and land uses, the application has been assessed by the Council's Environmental Health Officer, who has visited the site on multiple occasions. It is reasonable to consider that suitably drafted planning conditions to secure control over the areas where noise producing activities take place, including a Noise Management Plan, which will provide appropriate mitigation. This includes the use of an acoustic curtain which has already been installed by the

applicant earlier this year. Indeed, under the terms of the original permission, the applicant does not have to do this.

- 6.58 Members will acknowledge that the Environmental Health Officer for noise concludes the following:

“Our department is not saying that absolutely no noise will be heard from this venue but we do not form the view that the noise levels based on the information supplied and with the appropriate controls in place are likely to be intrusive, disruptive or a nuisance.

We take the view that providing that the conditions specified in my response of 11th March are specified with regard to this proposal, our department has no objections on noise and nuisance grounds.”

- 6.59 It is also relevant that the use of the site itself has generated levels of noise in relation to its operation and associated vehicle movements. Officers view that the conditions specified and recommended in a previous consultation response by Environmental Health of 11th March 2020 meet the six tests set out in PPG and can be implemented with regard to this proposal, namely to update the site’s noise management plan in a timely fashion, as well as the prohibiting of fireworks and Chinese lanterns, meaning that there would be no technical objection on residential amenity grounds. The applicant has also installed a retractable acoustic curtain to address concerns raised about the amount of associated internal noise impact, and additionally light impacts in respect of issues of light pollution, particularly at the north elevation, which looks towards Badley Wood Common.



Photograph taken within Great Hall, looking towards Badley Wood Common, noting fixings to accommodate acoustic curtain

- 6.60 In any event in respect of residential amenity, officers have afforded significant weighting to the views of the technical consultees to guide and offer their perspective on this matter and also accounting for cumulative impacts. Indeed, it is important to point out that that if there is a resolution to refuse this application, the applicant still has permission to use this site 7 days a week and 365 days a year as a conference centre, restaurant and accommodation suite, which are already approved uses. Furthermore, the extant permission allows the playing of music until 23:00 without the mitigation now proposed through the installation of an acoustic curtain, as well as prohibiting the use of fireworks and the letting of Chinese lanterns.
- 6.61 The applicant is willing to accept a condition, limiting the hours in which music may be played. The request is to extend the hours controlled by planning condition by 1 hour to allow music to be played until 24:00. In turn, the Council will be able to re-dress previous issues of residential amenity by ensuring the acoustic curtain is installed, as well as prohibiting any fireworks/Chinese lanterns being used altogether.

- 6.62 For avoidance of doubt, and seeking to clarify third party representations, any statutory noise nuisance can be dealt with through Environmental Health legislation, namely under the Environmental Protection Act 1990. Complaints which are submitted through this channel can be and are investigated.
- 6.63 Whilst officers acknowledge complaints have been made by a number of local residents concerning events taking place on the site since November 2019, in relation to noise (aural) and visual amenity, there are clear channels for complaints to be dealt with. Members will also acknowledge that the relevant technical consultee advises that impacts can be managed to acceptable levels to reduce and mitigate any adverse impact from the development. The mitigation proposed now is a considerable step forward from what was originally consented in the granting of planning permission in 2017. That, in terms of residential amenity, weighs significantly in favour of the development. Officers have also considered a combination of factors including: the implementation of the acoustic curtain within the Grand Hall, to attempt to mitigate issues of light pollution at the north elevation; the considerable appropriate separation distance between the site and nearby residential properties (given the lack of standards to reference against within the development plan) and additional restrictive conditions, is sufficient in officers opinion for the development to not result in additional harm to residential amenity, nor the amenity of users of the public right of way. Further it is presumed that the site would continue to operate efficiently and as designed in line with paragraph 180 of the NPPF, when permission was originally granted in 2017.
- 6.64 By mitigating and reducing to a minimum potential adverse impacts resulting from noise, and avoid giving rise to significant adverse impact on health and the quality of life, officers view that the proposal would not conflict with paragraph 180 of the NPPF, Policies SD1 and RA6 of the Core Strategy and Policy LU9 of the made Whitbourne NDP, although this is subject to the insertion of new conditions, as laid out in officer recommendation.

Heritage

- 6.65 Whitbourne Parish Council and third parties have also raised issues on heritage grounds. The local planning authority has a statutory duty to give due diligence to the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 requires decision makers to “*have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*”
- 6.66 Officers are aware of the result of the judgement of *Catesby Estates Ltd v Steer Secretary of State for Communities and Local Government v Steer* - [2018] EWCA Civ 1697; specifically in relation to the effect of setting in that the judge in this case provided guidance in the interpretation of the concept of “setting”, to include much more than visual impact. When considering the impact of a development proposal upon the setting of a Heritage Asset, there are several stages. Firstly, identifying those assets which may be affected and their significance. Secondly, those aspects of their setting which contribute to the significance are identified and finally, the impact of the development upon this significance.
- 6.67 It should be noted that a view to or from a Heritage Asset does not necessarily mean that a site is within that asset’s setting, this will depend upon whether that view contributes to the significance of that relevant asset, be that whether it may be designated or non-designated.
- 6.68 A site can be within the setting of a (non-) designated heritage asset without their being a direct view under certain circumstances. The fundamental principle is whether or not a development affects the significance of a heritage asset, including those aspects of its setting which contribute to its significance.
- 6.69 A number of heritage assets are in the vicinity of the site, including:

- Whitbourne Hall (Grade II* Listed);
- Whitbourne Hall Unregistered Park & Garden;
- The Sconce (Grade II Listed); and
- Rose Cottage (Grade II Listed)

6.70 Members will note CS policy LD4 (Historic environment and heritage assets) which sets out as relevant to this application, in that development proposals affecting heritage assets and the wider historic environment should:

- Protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible
- The conservation and enhancement of heritage assets and their settings through appropriate management, uses and sympathetic design. Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas.

6.71 In terms of impact on preservation upon the impact on heritage assets, the key test is the degree of harm to the assets' significance, which epitomises section 16 of the NPPF. However, given the clear significant separation distances, in conjunction with the existing built forms and landscape features between the application site and any heritage asset, the listed buildings' orientations and outlooks, officers do not consider that the proposals submitted would be deemed to cause harm to the 'significance'; experience or additionally setting of any listed building or heritage asset nearby.

6.72 Additionally, the Council's Building Conservation Officer supports this application, and significant weighting has been afforded to this view. Accordingly, officers consider the scheme to accord with Policy LD4 of the Council's Core Strategy in conserving designated heritage assets and the wider historic environment; Section 16 of the NPPF and that the Council has exercised its right in regards to section 66 of the Act.

6.73 Bringing the above assessments of the heritage aspects together, individually and cumulatively, the proposed alterations to the approved development, which incidentally relate to the uses of the site and not physical alterations, are not considered to adversely affect or give rise to harm to the designated heritage assets nor their setting, as they would be preserved, having given this matter special regards as is required. Accordingly, officers consider there is no need to undertake the test prescribed in paragraph 196 of the NPPF as no harm has been identified.

Landscape

6.74 Landscape is assessed in the context of Policies LD1 and RA6 of the Core Strategy; Policy LU9 of the Whitbourne NDP and Section 15 of the NPPF. Development proposals need to demonstrate that features including that of scale and site selection have been positively influenced by the character of the landscape and townscape, and that regard has also been had to the protection and enhancement of the setting of settlements. Development proposals should also conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including locally designated parks and gardens; and should incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings. Members will note that the Council's landscape officer has no objections to this application, primarily on the grounds that there are no landscape implications and given the application relates to the uses of site. Accordingly, the proposal is considered to conserve the landscape character and locality, in line with Policy LD1 of the Core Strategy and Policy LU9 of the Whitbourne NDP.

Ecology/Biodiversity

- 6.75 Policy LD2 of the Herefordshire Local Plan – Core Strategy requires development proposals to conserve, restore and enhance biodiversity through the retention and enhancement of nature conservation site and habitats and important species. This reinforced by Policy LU9 of the Whitbourne NDP. Members will note a small number of third party representations have raised issues upon wildlife disturbance. However, this would have been considered during the original granting of planning permission and does not need to be revisited here.
- 6.76 Members will also note the lack of objection from the Council’s ecologist, as the relevant technical consultee in this regard, to which officers would afford significant weighting to this view. In terms of biodiversity, the application is considered to accord with Policy LD2 of the Core Strategy and Policy LU9 of the Whitbourne NDP.

Other considerations

- 6.77 The site has now evolved to provide employment for 24 people, with additional part-time employment in conjunction with the on-site facilities available. Members will acknowledge the Core Strategy and NPPF identify economic and social objectives, not only to help build a strong, responsive and competitive economy, particularly a prosperous rural economy, and to support strong, vibrant and healthy communities. The impact upon surrounding business competition is not a material planning consideration and should not form part of any decision taken.
- 6.78 A function suite, if part of a planning unit, has a sui generis use and thus, use class D2 would not apply in this instance.
- 6.79 Whilst officers appreciate the tranquillity and dark skies of the area has been raised as an issue by third parties, as members will have seen in the third party representations submitted, that this will still potentially be apparent regardless of the resolution taken by committee, given planning permission has already been granted. Notwithstanding this, it is certainly a matter which must be acknowledged. The applicant has been made aware of this and has indicated to replace the existing lighting system with more subdued lighting, as requested by Council and the retractable acoustic curtain in respect of residential amenity.
- 6.80 A large number of third party representations have raised matters concerning alleged breaches of condition and other issues on this site. Members should be made aware that these aspects are continuing to be dealt with through the Council’s Enforcement team, namely by way of providing an opportunity for the applicant to regularise development. This includes the Council’s consideration of P200500/F.
- 6.81 Conditions relating to a planning permission and the historic issues of the site, have no bearing on one another, and are a planning judgement based on the specific application being considered and the material planning considerations which have been raised. It is the view of officers that the permission has not lapsed and all pre-commencement conditions have at least been partly discharged. This is perhaps most notably in relation to condition 8, which was partly discharged in 2018 and which is currently going through formal Section 278 technical approval. The remaining conditions which have yet to have been formally discharged are all pre-occupancy conditions which the council is continuing to work with the applicant to look to resolve amicably.
- 6.82 Whitbourne Hall is in the Welsh Water Whitbourne Water Mains Supply Zone.
- 6.83 The loss of property values and surrounding incomes is not considered to be a material planning consideration.

Planning Balance

- 6.84 The NPPF states the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being, and
 - An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 6.85 These objectives should be delivered through preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Sustainable development is pursued in a positive way, so at the heart of the NPPF is a presumption in favour of sustainable development. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted as set out at paragraph 11c of the NPPF.
- 6.86 The NPPF at section 6 seeks to promote strong rural economies through the sustainable growth and expansion of business in rural areas and the development and diversification of agricultural and other land based rural businesses. Paragraph 80 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt, with significant weight given to the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The NPPF at paragraph 83 seeks to ensure that planning policies and decisions enable the growth and expansion of all types of business in rural area to support a prosperous rural economy, including the diversification of agricultural and other land based rural businesses. Paragraph 84 recognises that to meet the need for business in rural areas sites may need to be found adjacent to or beyond settlements, and in locations that are not well served by public transport. In these circumstances, it is important to ensure development is sensitive to its surroundings and does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable.
- 6.87 The NPPF sets out at paragraph twelve, that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. In this instance, both the Core Strategy and the NDP are considered to contain important policies for the determination of the application and they both reflect the

provisions of the framework and are relatively recently adopted. The decision to review the Core Strategy has yet to be made, due early November 2020. The level of consistency of the policies in the local plan with the NPPF have been taken into account by officers in coming to a recommendation. The development has been assessed against the expectations and provisions of the development plan, having had regard to material considerations including the National Policy Framework; as well as having considered all representations and the consultation responses received.

- 6.88 Officers are aware that paragraph 180 of the NPPF indicates that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions. In this case, while officers understand the wide ranging concerns about the site to residential properties, and as discussed at length above; they have found that the combination of sufficient technical details being supplied, and the separation distance from the nearest residential receptors, to sufficiently mitigate any potential adverse impacts to an acceptable level. Indeed, additional conditions and measures are being recommended and the mitigation now put forward by the applicant goes well beyond that required of the extant permission.
- 6.89 On the basis of the evidence before officers, the scheme would not adversely affect the living conditions of nearby residents, particularly in aural and visual terms. Due regard has been afforded to the views of the Council's environmental health officer. Although the tests applied of nuisance and residential amenity have different thresholds in the context of EHO and planning, the fall back is the extant permission, and this current application offers considerably more by way of mitigation. Indeed, the addition of an acoustic curtain; the opportunity to review the noise management plan; and restriction on aural and visual generating issues e.g. fireworks and amplified music outside, goes beyond the extent of the original permission, in terms of securing some benefits, which officers afford considerable weighting to. The impacts of the proposed S.73 application are considered to be acceptable with the imposition of conditions, thus paragraph 154 of the NPPF (as a significant material consideration) indicates Local Planning Authorities should approve such applications.
- 6.90 It is appreciated that there is a highways objection, particularly given the access onto the A44. However, as explained extensively throughout, the lawful use of the site is a material consideration and should be afforded significant weighting. The lawful use of the site is considered to be the use of Crumplebury as a restaurant, guest accommodation and a conference centre which can operate 7 days a week, 365 days a year and regardless of resolution, this site can continue to operate in such a manner, with such uses already authorised with the associated vehicular movements, and subsequent amenity implications this brings. Norton Lane is also an unclassified public highway and not a private road.
- 6.91 Officers fully note third party representations received and the highways objection, although there is a significant fall-back position for the application, which is an important material consideration. If this application were to be refused, the uses approved and which are currently restricted by condition 4 and 16, can still take place.
- 6.92 It is accepted that the gate at the junction to the A44 is across an adopted public highway (Norton Lane/Parish Road – U65018) but is positioned on land outside of the control of the applicant, which is not disputed and is common knowledge. Indeed, this similar situation was raised in 2017, although circumstances have changed since then. Notwithstanding this, planning permission was granted without any formal control over the future removal of the gate which the Highway Authority at the time were clearly aware of.
- 6.93 Regard must also be given the nature of events which are taking place here. Whilst weddings might attract higher numbers of guests than say a business conference, the likelihood is guests at a wedding are potentially more likely to share transport, and so the assumption of 200 guests attending does not automatically translate to 100 vehicles all arriving and departing the site at the

same time. Some might come in minibuses or share cars. Compare this to a conference centre use, which the applicant can still do at the moment, when individuals will all arrive in separate cars and leave in separate cars at the same time. Given the extant permission, your officers are of the view that it would be unreasonable to withhold planning permission on highway safety grounds.

6.94 If the LPA is able to condition the uses of the site, in line with the proposal description and condition the types of events which can be held, it would be view of the case officer that it would not be to the extent that highway safety is unacceptable, as clearly outlined by the framework at paragraph 109 and Policies MT1 and RA6 of the Core Strategy.

6.95 As it stands, officers are of the view that Condition 4 does not meet the six tests of necessity as set out in the PPG. Whilst clearly an oversight of the applicant to not appeal the Council's decision when planning permission was granted in 2017, officers view the condition does not accord with guidance contained within PPG. In respect of condition 16, members will acknowledge that there is no technical objection from Environmental Health and officers do not consider that the addition of 1 hour for amplified music would incur any additional demonstrable harm to residential amenity, particularly in terms of the mitigation which can be achieved to secure this. Even with music being played until 00:00 this would still be acceptable to residential amenity. The Council has considered the additional impact from increasing the hours from 11 -12 but it is still acceptable in accordance with the Council's policies and the mitigation proposed to play music until 00:00.

6.96 Therefore, turning to the three objectives of sustainable development:

Economic Objective

6.97 The rural economy helps to support and strengthen local food and drink production, support and/or protect the vitality and viability of commercial facilities of an appropriate type and scale in rural areas, and promote sustainable tourism proposals of an appropriate scale. The operation of a successful events business that; judging by the development of the applicants other business interests including Green Cow Kitchens at Crumplebury, places a heavy focus on local produce. In turn this will be beneficial to the local economy as the full operation of the business in accordance with its original description will still draw upon local suppliers. The business will also provide economic benefits as a local employer.

6.98 With the increase in visitors, there is already associated increased in the level of disposable income in the local area with some commensurate growth in the demand for goods and services. The development has resulted in the production of at least 24 jobs, building upon the existing equivalent of 2.5 full time jobs prior to the original planning application, which represents a significant benefit to the local rural economy. Approval of this application would allow the business to continue to prosper and deliver the development it was originally granted permission for.

6.99 On the basis of the scale and nature of the development, I attach significant weight to these benefits noting the limited opportunities there are in such an area for such substantial inward investment.

Social Objective

6.100 There are clear social benefits associated with the provision of such facilities which will act as a meeting place expediting social interactions and social cohesion, including locally. The NPPF highlights that accessible local services play an important role in supporting strong, vibrant and healthy communities. Again, subject to conditions, impact on the amenity of nearby residential receptors can be mitigated to an acceptable degree, with additional mitigation measures which go beyond the extent of the original permission.

6.101 The social objective is considered to be satisfied and I attribute significant weight to the benefits in community terms, particularly to the support of sustainable communities, employment

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

opportunities and a sense of place the development will secure and delivering the planned economic growth of the area.

Environmental Objective

- 6.102 The environmental objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy).
- 6.103 The proposal will continue to promote sustainable patterns of activity through providing facilities that enable use and enjoyment of the countryside as a resource, with no impact on heritage assets. The lack of additional incurred landscape harm and biodiversity harm, which is neutral compared the existing situation, is also acknowledged. The site is also run on biomass from sustainable woodchip on site.
- 6.104 Whilst it is appreciated that this is a car-dependent development, planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).
- 6.105 It is also important to take into consideration that the proposal description does actually consent the description of the development but is currently conditioned to limit the extent of what permission was actually granted for.

Conclusion

- 6.106 Taking the above into account, officers consider the benefits arising from the scheme, as outlined above are positive and outweigh the harms identified. Indeed, additional intended future uses, which go beyond the proposal description, would require a new planning application. It is considered this scheme delivers significant economic and social benefits to the immediate local area. Dis-benefits in the environmental sphere are acknowledged, but officers are mindful of the extant permission for the site, which is a significant consideration. In this respect, and with regard to amenity issues, the further mitigation proposed is also viewed as a positive, namely in reducing existing concerns in respect of aural and visual amenity and pollution, which is a vast improvement on the extent of mitigation originally secured when permission was granted in 2017. This should weigh further in favour of the scheme.
- 6.107 This includes proposing a new condition which comprises the authorised uses in which planning permission was expressively granted for in 2017. The temporary use of the land (under Class B, Part 4, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) can allow for the use of land for any purpose for not more than 28 days in total in any calendar year. In the view of officers, it would not be reasonable to condition restricting the frequency of events per calendar year as the number of events outside the uses permitted by the planning permission are controlled by the provisions in the GPDO.
- 6.108 It is recommended that condition 4 be removed entirely and condition 16 varied to extend the hours amplified music may be played within the venue to 00:00. In addition to this, as advised by officers and technical consultees, a number of additional conditions are recommended to ensure an appropriate form of development, namely a new condition which restricts the use of Crumplebury to that approved and what was granted planning permission for in 2017.

- 6.109 For avoidance of doubt, officer recommendation is outlaid in accordance with the full decision notice, given the application is made as Section 73 (s73) application under the Town and Country Planning Act 1990. It is therefore appropriate to issue a decision notice with all conditions in full, rather than simply identify those conditions which have been applied for. This also includes details under discharge of condition applications that the Council has already approved prior to considering this application, in conjunction with recommended conditions by technical consultees and officers, to achieve an appropriate form of development.
- 6.110 In closing, given condition 4 is recommended to be removed, conditions 5 onwards would therefore move up one, as shown on the recommendation. Subsequently, condition 16, which is under consideration to be varied, will now appear as condition 15.
- 6.111 This application is therefore recommended to members for approval as laid out below.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1. The development hereby permitted shall be begun before 3 August 2020.**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
- 2. The development shall be carried out strictly in accordance with the approved plans (Drawing nos.1821/1000 Rev A, 1821/1100, 1821/3000 Rev A, 1821/3100 Rev A, 1821/3601, 1821/3602 and 1821/9001), except where otherwise stipulated by conditions attached to this permission.**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.
- 3. With respect to details of materials, the development shall be carried out in accordance with the approved details, confirmed under discharge of condition letter P181140/XA2 dated 30 April 2018.**

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.
- 4. This permission shall enure for the benefit of Mr J & Mrs K Evans only and not for the benefit of the land or any other persons interested in the land.**

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances having regard to Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.
- 5. The accommodation block building which is the subject of this application shall be used for holiday accommodation only and for no other purpose including any other purpose within Class C of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.**

Reason: Having regard to Policy RA3 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework, the local planning authority are not prepared to allow the introduction of a separate units of residential accommodation, in this rural location.

- 6. None of the existing trees and or hedgerows on the site (other than those specifically shown to be removed on the approved drawings) shall be removed, destroyed or felled without the prior approval in writing of the Local Planning Authority.**

Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

- 7. Development shall not be occupied until the passing bays on Norton Lane have been constructed in accordance with the approved details, namely under discharge of condition letter P180280/XA2 dated 27 July 2018 and subject to a Section 278 agreement.**

Reason: To ensure the safe and free flow of traffic on the highway and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework.

- 8. With respect to details of landscape design, this shall be carried out in accordance with decision notice P181441/XA2 dated 26 July 2018.**

Reason: Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

- 9. The soft landscaping scheme approved under condition 8 shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 10- year maintenance period. The hard landscaping shall be completed prior to the first use of the development hereby permitted.**

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

- 10. With reference to details of Arboricultural Impact Assessment and arboricultural working method statement, this shall be implemented in accordance with details confirmed under discharge of condition letter P180280/XA2 dated 27 July 2018.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne

Neighbourhood Development Plan and the National Planning Policy Framework, NERC 2006.

- 11. The ecological protection, mitigation, working methods and biodiversity enhancements as recommended in the Preliminary Ecological Report by Focus Ecology dated October 2016 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework, NERC 2006.

- 12. The Protected Species (Bats) protection, mitigation and working methods and compensation scheme with required European Protected Species Licence, as recommended in the detailed bat report by Focus Ecology dated June 2017 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework, NERC 2006.

- 13. With reference to details of noise emanating from site, the development shall be carried out in accordance with the approved details, as confirmed under discharge of condition letter P180280/XA2 dated 27 July 2018.**

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework

- 14. The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays nor at any time on Sundays, Bank or Public Holidays.**

Reason: To safeguard the amenities of the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

- 15. No amplified music shall be played in the premises outside of the following times: 12.00hrs to 00.00hrs.**

Reason: In order to protect the amenity of occupiers of nearby properties and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

16. With reference to details of foul and surface water drainage arrangements, this shall be implemented in accordance with details approved under discharge of condition letter P180280/XA2 dated 27 July 2018.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy; Habitat Regulations and NERC Act and Policy LU9 of the Whitbourne Neighbourhood Development Plan.

17. With reference to floodlighting and external lighting, details shall be carried out in accordance with the approved details, as confirmed under discharge of condition letter P181441/XA2 dated 26 July 2018.

Reason: To safeguard local amenities and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

18. The development hereby permitted shall not be brought into use until an area has been properly laid out, consolidated, surfaced, drained and the spaces demarked on the ground within the application site in accordance with the approved plans for the parking of vehicles. These shall thereafter be retained and kept available for those uses at all times thereafter.

Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

19. With reference to details of improving visibility for traffic joining Parish Lane after leaving the site, in an easterly direction, this shall be implemented in accordance with details approved under discharge of condition letter P200858/XA2 dated 3 April 2020.

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

20. Prior to use of the development hereby approved, details for new signage along the A44 and B4203 shall be submitted for approval in writing of the local planning authority. The signs shall be installed in accordance with the approved details prior to the use of the development hereby approved.

Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan- Core Strategy together with requirements as set out in the Transport Statement dated 15 June 2017.

21. With reference to the Construction Management Plan (CMP), the agreed details shall be implemented throughout the construction period, in accordance with the approved details under discharge of condition letter P180280/XA2 dated 27 July 2018.

Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

22. By 31 March 2021, an updated noise management plan, shall be submitted to and approved in writing by the local planning authority. The relevant details shall include, as a minimum:

a. How the planned use of the acoustic curtains to the North Wall and fire exits will be used;

- b. The use of the installed noise limiter and maximum noise limits set;
- c. How the external doors will be kept closed during the playing of loud music;
- d. A noise monitoring proposal;
- e. A complaints procedure; and
- f. Consider noise from voices outside the venue and in the car park(s).

Following approval, the noise management plan shall be implemented as approved, reviewed at a minimum of at least once annually and shall at any time, upon reasonable request in writing, be submitted to the Local Planning Authority.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

23. There shall be no use of fireworks or Chinese lanterns on the premises at any time.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

24. No amplified music shall be played outside of the buildings on the premises at any time.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

25. The premises shall be solely used as a Function Suite, Restaurant, Conference Centre and Guest Accommodation and strictly for no other purpose (including any other purpose in Classes A3, C1 and D1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and highway safety and to comply with Policies SD1, MT1 and RA6 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan 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. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the

applicant can be provided with an approved specification, and supervision arranged for the works.

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

3. Informative in respect of foul drainage: (Condition 17) - Discharge of final outfall through a soakaway-spreader field is recommended. No direct discharge of any final outfall from the proposed treatment system to any swale, watercourse, stream or culvert is acceptable unless it can be clearly demonstrated that residual Phosphorous (phosphates) have been removed from the discharge water.
4. This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

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5. No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.
6. The developer is required to submit details of the layout and alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations. It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Adequate storm water disposal arrangements must be provided to enable Herefordshire Council, as Highway Authority, to adopt the proposed roadworks as public highways. The applicant is, therefore, advised to submit the engineering and drainage details referred to in this conditional approval at an early date to the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ for assessment and technical approval. No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.

7. **Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.**
8. **There is increasing concern over the problem of 'sky glow' caused by artificial lighting in towns and cities. Astronomical observations have been severely affected in recent years and there is a growing lobby to curtail lighting which emits light above the horizontal. Highway Authorities pay due regard to this problem when specifying new highway lighting and recommend that all proposals for exterior lighting should also comply with this requirement. Guidance can be found in 'Guidance Notes for the Reduction of Light Pollution', published by The Institution of Lighting Engineers (ILE).**
9. **The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways and to any requirement of the Disability Discrimination Act.**
10. **The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.**
11. **The applicant shall be made aware that Herefordshire Council's Environment Health department has legal powers and duties to investigate Statutory Nuisance complaints regarding noise nuisance under the Environmental Protection Act 1990. Where a Statutory Nuisance is found to be established and is likely to occur or recur, our department has powers under the Act for the nuisance to be abated.**
12. **The permission hereby granted is an amendment to planning permission P163902/F dated 3 August 2017 and, otherwise than is altered by this permission, the development shall be carried out in accordance with that planning permission and the conditions attached thereto.**

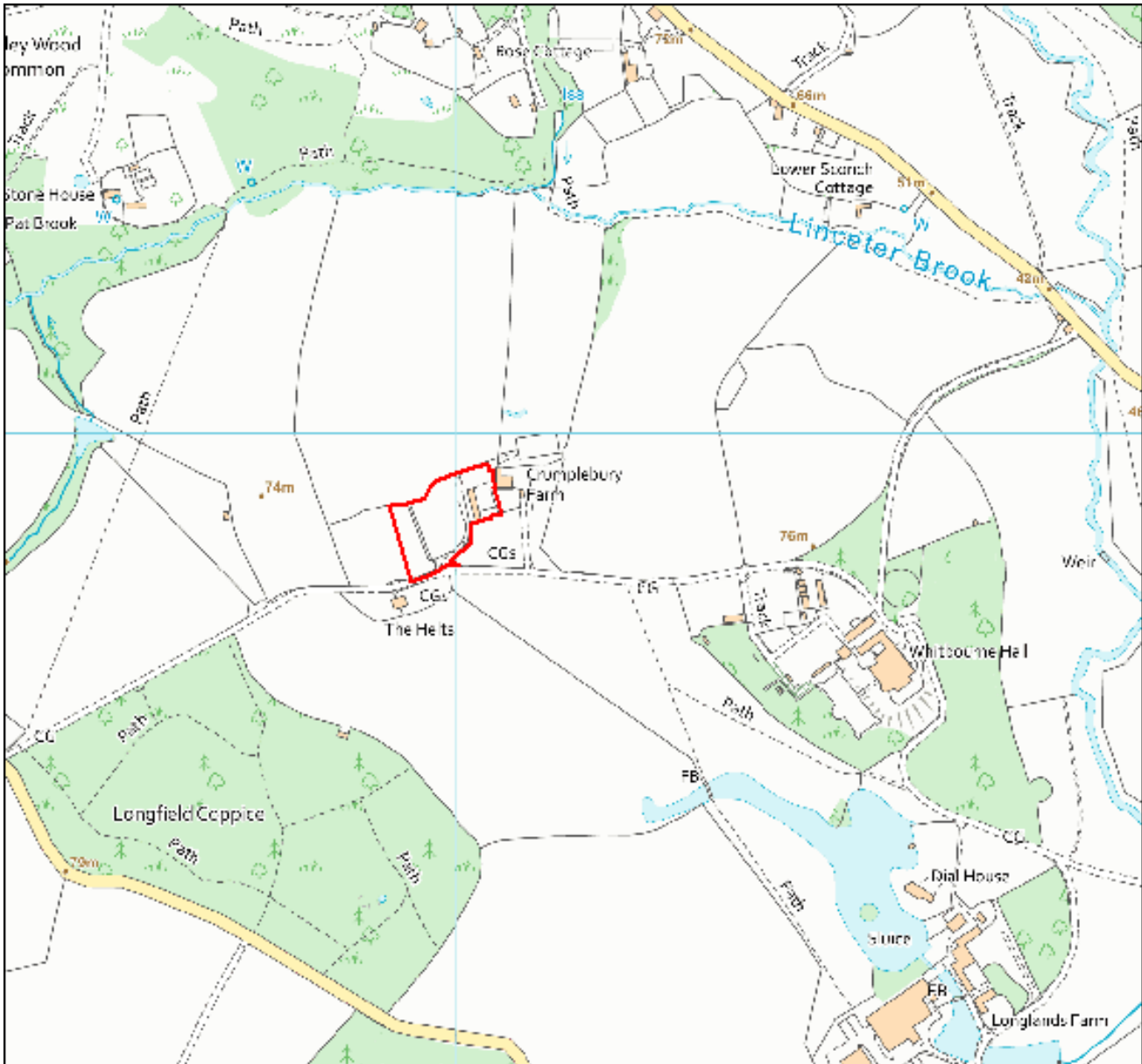
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 194408

SITE ADDRESS : CRUMBLEBURY FARM, WHITBOURNE, WORCESTER, HEREFORDSHIRE, WR6 5SG

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	10 NOVEMBER 2020
TITLE OF REPORT:	201254 - THE ERECTION OF TWO DWELLINGS AND ASSOCIATED WORKS INCLUDING THE DEMOLITION OF THE PIGGERY BUILDING AT THE PIGGERIES, LLANGARRON, HEREFORDSHIRE For: Mr & Mrs Farr per Mr Matt Tompkins, 10 Grenfell Road, Hereford, HR1 2QR
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201254&search-term=201254
Reason Application submitted to Committee – Public Interest	

Date Received: 23 April 2020

Ward: Llangarron

Grid Ref: 352972,221358

Expiry Date: 31 August 2020

Local Member: Councillor Elissa Swinglehurst

1. Site Description and Proposal

- 1.1 The site is a 0.15 hectare parcel of land within the village of Llangarron. The site currently hosts an agricultural building which was used as a piggery that will be demolished as part of the scheme. The site is located to the north of the village with residential properties located to the south. There is a mature hedgerow along the boundary to the east.
- 1.2 The proposed access road is to the south and serves a number of other properties. The access road is tarmacked and well maintained.
- 1.3 There has been an approval for four dwellings in 2019 (P191288/F), on the land to the east of the site and an approval for three dwelling on land to the south west in 2019 (P191276/F).
- 1.4 To the south east and adjacent to the cross roads at the centre of Llangarron is the Grade I Listed Church of St Deinst within which are numerous Grade II listed memorials
- 1.5 The application is made in outline, with all matters reserved except for access for the demolition of the piggery building and erection of two dwellings.
- 1.6 The application is accompanied by a Design and Access/Planning Statement, a Transport Technical Note and an Ecological assessment. A surface and foul water drainage strategy was received by the Local Authority on 1 July 2020.

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

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 has yet to be made and is due early 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.

2.2 **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

2.3 **Llangarron Neighbourhood Development Plan**

A Neighbourhood Area was designated on 6 December 2012 and a Regulation 14 draft plan was submitted on 6 February 2017. However this version of the Plan has not progressed and a Regulation 14 draft plan was resubmitted on 29 August 2020.

At this stage only limited weight can be afforded to the Plan.

3. Planning History

- 3.1 SE2000/2138/F – Change of use of redundant buildings into two units of holiday accommodation - approved

4. Consultation Summary

Statutory Consultations

4.1 Historic England – No comment

We do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

4.2 Welsh Water – No objections

We note from the application that the proposed development does not intend to connect to the public sewer network. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

Internal Council Consultations

4.3 Area Engineer – No Objection

No objections to the principle of development as the proposed increase in the level of vehicles movements would not be classed as severe, therefore would not impact the free flowing movements of the highway.

As site to the north west has already been permitted and if that site comes forward before this site then the widening of the access road and provision of the turning head to meet the adoptable standard will have been agree and constructed, however as the proposed site will increase the number of dwelling greater than 5 using the same access road, without the other site provision it will therefore be required to be built to adoptable standard with widened of the access road and a turning head still required to be provided. Please can the layout reflect this?

Cycle storage should be provided, therefore garages should meet the Manual for Streets guidance of 6 x3 dimensions.

Recommended conditions:

CAE – Vehicular Access Construction

CAH - Driveway gradient

CAI - Parking – single/shared private drives

CAP -Highways Improvement/off site works

CAT - Construction Management Plan

CB2 - Secure covered cycle parking provision

I11 – Mud on highway

I45 – Works within the highway

I07 – Section 38 Agreement & Drainage details

I05 – No drainage to discharge to highway

I47 – Drainage other than via highway system

I35 – Highways Design Guide and Specification

4.4 Conservation Manager (Building Conservation)

Having visited the site it is my view that there is scope for some development on the site of the redundant piggery shed. However the site is prominently positioned overlooking the centre of the village and I consider that two detached dwellings would be out of character to this part of the village. A single dwelling of single storey height and referencing the form of a detached farm building such as one would find on the outskirts of a village would sit much better here. As presented therefore it is not an application that I feel able to support.

4.5 Conservation Manager (Ecology)

30th June 2020

Habitat Regulations Assessment

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

The initial Habitat Regulations Screening Assessment identifies foul water and surface water as ‘likely significant adverse effects’. The applicant has indicated in their application that foul water will discharge to individual private package treatment plant and soakaway fields per individual property within the site boundary and surface water will outfall to on site SuDs.

Please provide a full detailed Drainage Strategy including location of proposed treatment plants and associated soakaway fields, and details of soil percolation tests to confirm that proposed package treatment plants and soakaways are achievable and compliant with Herefordshire Council SD3 & SD4 at this location.

Once this information has been supplied, a relevant condition can be included, and the Habitat Regs. Appropriate Assessment can be carried out to confirm a conclusion of ‘NO Likely Significant Effect’ on the River Wye SAC.

Site ecology

The ecology report (Ecology Solutions, dated May 2020), whilst providing information relevant to the red line boundary, does appear to omit the presence of a mature tree in the northern boundary of the existing shed, and the presence of a scrub bank immediately flanking the western edge, both visible from aerial photography of the site and with potential to support wildlife, including nesting birds, bats and cover for reptiles and amphibians, respectively.

With the exception of 5 apple trees on the eastern boundary and some improved grassland, there are limited other ecological habitats on site. The piggery building itself is assessed as not having potential to support bats or other wildlife, although it does appear that it may have been suitable for barn owl.

The ecology report and planning statement indicate that the apple trees are to be retained within the proposed scheme. As described in the ecology report, a Tree Root Protection Zone should be established to protect these trees during construction; the following Condition is recommended:

Eco-Condition – Ecology- Tree and Hedgerow protection

Prior to commencement of any site preparation or construction a retained tree and hedgerow protection scheme, based on BS5837:2012 shall be erected and hereafter maintained until all works have finished and spare materials and all equipment have been removed from site.

Reason: To ensure that all trees, hedgerows and biodiversity features are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3.

Informative: For hedgerows the protection buffer should not be less than 2m from the woody stem of any hedgerow shrub or tree.

The ecological assessment report (Ecology Solutions, dated April 2020) provides recommendations for habitat enhancement, including planting of trees and hedgerows, wild flower grassland areas and attenuation features and these should be followed:

Condition Eco-04 – Nature Conservation – Ecology Protection and Mitigation

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the report by Ecology Solutions dated April 2020 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire Core Strategy (2015) policies LD2, SD3 and SD4

Prior to commencement, an Ecological Working Method Statement should be provided, to advice how works should proceed without any harm to wildlife that may be present on site, including nesting birds, amphibians and reptiles.

Condition Eco 12 – Nature Conservation Ecological Working Methods

Prior to commencement of any site clearance, preparation or development a fully detailed and specified Ecological Working Method Statement (EWMS) including details of appointed Ecological Clerk of Works shall be provided to the planning authority. The EWMS should consider all relevant species but in particular consideration for nesting birds, amphibians and reptiles. The approved EWMS shall be implemented in full unless otherwise agreed in writing by the planning authority.

To ensure that all species and habitats are protected and conserved having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18)

Biodiversity net gain

As per NPPF Guidance, NERC Act and Core Strategy LD2 all developments should show how they are going to enhance the local biodiversity potential. Enhancements should include consideration for bat roosting, bird nesting, pollinating insect-solitary bee homes built in to or attached to all the new building and consideration for hedgehog homes within any boundary features and soft landscaping.

Condition Eco 06 – Prove Biodiversity Enhancement (Net Gain)

Prior to first occupation evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least FOUR bird nesting boxes for a site appropriate range of bird species, FOUR Bat roosting features; ONE Hedgehog home; FOUR Insect hotels; Reptile Refugia; Amphibian Refugia should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any enhancement or boundary feature.

To ensure Biodiversity 'Net Gain' and species and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18)

The boundary trees and hedgerows will form important bat foraging and commuting habitat. No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative (DEFRA/NPPF Guidance 2013).

Condition Eco 09 – Nature Conservation protection – Lighting

No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.

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 (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18)

Further comments dated 22 October 2020

Habitat Regulations Assessment

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

The initial Habitat Regulations Screening Assessment identifies foul water and surface water as ‘likely significant adverse effects’. The applicant has indicated in their application that foul water will discharge to individual private package treatment plant and soakaway fields per dwelling within the site boundary and surface water will outfall to on site SuDs/soakaway.

The supplied percolation tests (H + H drainage, dated June 2020), indicate that demonstrate that drainage measures are achievable at this location. Land drainage have approved the drainage report, and requested that each dwelling should be served by separate package treatment plants and associated drainage fields (J.Hockenull, dated August 2020).

The indicated drainage layout as shown in Drawing 1654201, KODA architects, dated September 2020, should be implemented by condition. Subject to this mitigation being secured through a relevant condition, a conclusion of ‘NO Likely Significant Effect’ on the River Wye SAC has been returned by this LPA.

Condition Eco HRA 02 – New Private Treatment Plant per dwelling & Surface Water to SuDS

All foul water shall discharge through connection to individual private package treatment plant with outfall to soakaway drainage fields on land under the applicant’s control, per dwelling as indicated in Drawing 1654201, KODA architects, dated September 2020; and all surface water shall discharge to appropriate SuDS or soakaway system; unless otherwise agreed in writing by the Local Planning Authority

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire Core Strategy (2015) policies LD2, SD3 and SD4.

The previous conditions remain as per ecology comments dated 30/06/2020.

4.6 Land drainage – No Objection

Comments received 24 August 2020

We have reviewed the proposals. We request a drainage plan showing the layout of the proposed drainage fields and surface water soakaways. We consider that individual drainage fields and PTPs should be installed.

Drainage fields should be constructed using perforated pipe, laid in trenches of uniform gradient which should not be steeper than 1:200. The distribution pipes should have a minimum 2m separation. The drainage field and PTP should be at least 7m from property.

There is a ditch shown on the attached landscape plan (site 191288). The drainage fields should be built at least 10m away from ditches as outlined in BS 6297. We request clarity on the purpose of the ditch.

Latest comments received 16 October 2020

The drainage fields are outside the red lined boundary. (*officer note: the drainage fields are located within the Blue boundary and therefore within the applicants ownership.*)

The land on which the drainage fields are built will need to be owned by the home owner

The Package Treatment Plants will need to be at least 7m from the dwellings, as defined in BS 6297, Table 2. (*officer note: the proposed PTP are located in excess of 7 metres from the dwellings*)

5. Representations

5.1 Llangarron Parish Council – object

The Parish Council objected to the proposals set out in the planning application for the following principal reasons:

The Parish Council was concerned that this is the third application for planning consent submitted by the same developer for three separate developments on adjoining and connected pieces of land. So far consent for four houses has been granted on one site and three on another. A further two houses would mean 9 houses being built in this location with the possibility of further development to infill the sites thus leading to overdevelopment out of character with a very small village.

The Parish Council noted the comments of local residents who are concerned about the felling of a mature oak tree on this site in recent weeks, together with the felling of a line of mature cedar trees on the adjoining site in May. This leaves one site with planning permission together with this proposed site very exposed with no landscape screening.

This is an outline planning application; no details are given of access to the site and drainage / water management which were both issues with the adjoining sites. There is also no information on the appearance of the proposed dwellings in a sensitive location on a hill near the centre of the village.

5.2 To date a total of twelve objecting responses have been received. The comments are summarised below:

Objecting comments:

- No confidence in the Ecological report as no mention of the Oak tree nor of barn owls and other animals;
- Further development in Llangarron is not sustainable as there are no facilities nor mains drainage;
- Significant ecological impact from the development;
- Increase of run-off will increase flood risk for the village;
- The adjoining site that has been approved utilising the same access will create a severe impact upon highway safety;
- Approval of this application will result in detriment of highways safety along the narrow lanes and blind bends;
- Further applications could be submitted between the Piggeries and Old Trecilla buildings as a form of 'infill';
- Large oak tree adjacent to the site was recently felled;
- The Parish has already exceeded its target for new houses;
- Further concentration of development in the heart of the village would alter the character;
- Concerns over land drainage for the number of houses being developed locally.

5.3 A total of two supporting responses were received. The comments are summarised below:

- More houses are required to meet housing need;
- Brownfield site for 2 modest dwellings;
- Development in the village should not be stifled;
- The site is proposed within all of the draft NDP settlement boundary options;
- Should be no adverse flood risk as the site is already covered in a hard surface;
- Would be a case of betterment as the existing building is more of an eye sore than new dwellings with landscaping;
- No TPO's on site and the oak was deemed dangerous so no planning law or criminal offence committed;
- Number of comments from objectors do not relate to matters on site or relate to the application.

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=201254&search-term=201254

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 Llangarron Neighbourhood Area, which published a

draft Neighbourhood Development Plan (NDP) for Regulation 14 consultation on 1st September until 26th October 2020.

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 has yet to be made and is due early 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 of the Herefordshire Local Plan Core Strategy (CS) sets out that proposals will be considered in the context of the 'presumption in favour of sustainable development' which is at the heart of national guidance contained within the NPPF. The policy states:

'When considering development proposals Herefordshire Council will take a positive approach that reflects the presumption in favour of sustainable development contained within national policy. It will always work proactively to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the social, economic and environmental conditions in Herefordshire.'

Planning applications that accord with the policies in this Core Strategy (and, where relevant, with policies in other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or the relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking account whether:

*a) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in national policy taken as a whole; or
b) specific elements of national policy indicate that development should be restricted.'*

6.5 It is a matter of fact that currently the Council is unable to demonstrate a 5-year housing land supply, with the latest published Position Statement identifying a housing land supply equating to 3.69 years (April 2020). This leads to the policies for housing supply being considered out of date. As set out in paragraph 11 of the NPPF, in such circumstances where the policies most important for determining an application are considered to be out of date, permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole. As such this tilted balance in favour of development is adopted as directed by paragraph 11(d)(ii) of the NPPF. Paragraph 11d effectively echoes the approach set out in CS Policy SS1.

6.6 It is of note that the spatial strategy for the location of housing contained within the CS is considered to be sound and consistent with the framework; which itself seeks to avoid the development of isolated homes in the countryside through paragraph 79. It is therefore considered that Policies RA1 and RA2 of the CS continue to attract significant weight in the decision making process despite being considered out of date.

6.7 The spatial strategy relating to housing distribution within the county is set out in the CS at Policy SS2. Hereford, as the largest settlement and service centre is the recipient of up to 6,500 of the required 16,500 homes, with the market towns identified in the second tier as recipients of

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

approximately 4,700 dwellings. Housing in the rural parts of the County is delivered across the settlements identified at figures 4.14 and 4.15 of the Core Strategy. 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. There are 119 'main' villages (figure 4.14) and 98 'other settlements' (figure 4.15), giving 217 rural settlements where proportionate growth will be acceptable in principle. Llangarron is a settlement so defined by figure 4.14.

- 6.8 In terms of the Llangarron Neighbourhood Area it must be acknowledged that it has performed well in relation to its proportionate target of 64 dwellings during the Plan period. Indeed based upon the latest published figure from April 2019 there have been 27 new dwellings built and there are 51 Commitments, an exceedance of 14 dwellings. However it must also be acknowledged that the target represents a minimum growth expectation and that presently, proposals must be considered in light of the inclusion of Llangarron as a settlement where proportionate growth is appropriate and the tilted balance in favour of sustainable development as directed by the NPPF. Indeed, in a recent appeal decision within Llangarron the Planning Inspector stated, 'I have nothing before me to suggest that this figure is a ceiling or limit to the number of dwellings that can be permitted. As such, I find that there would be no harm in this regard from a further two dwellings, should the principle of development have been acceptable.' (APP/W1850/W/20/3250543).
- 6.9 As set out in the preamble to Policy RA2, at paragraph 4.8.23, until such time as the NDP defines settlement boundaries (or a reasonable alternative) any proposal has to be assessed against its relationship to the main built up form of the settlement. The draft regulation 14 Neighbourhood Development Plan has identified a settlement boundary, with four potential options currently being consulted on, but at this stage it has not been established what its final extent will be. However, it is considered relevant to note that this site is located within the drafted settlement boundary for all four options.
- 6.10 With the foregoing paragraph in mind and considering the limited weight of the NDP, it is the relationship between the proposal site and the main built up part of the settlement which is to be assessed. The application site is located at the north western edge of the village, positioned to the north of Box Bush Cottage, Owls Nest, Barn House and Wagoners Cottage, with the residential cluster at Herberts Hill being in a more elevated position further to the west. There are further approvals for three dwellings on land to the south west and for four dwellings on land to the east. In locational terms, it is considered that the application site is well related to the existing built form.

Landscape and townscape

- 6.11 CS policy LD1 requires new development to achieve the following:
- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
 - Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management.
- 6.12 CS policy SD1, amongst other criteria, requires development proposals to incorporate the following requirements:

- Ensure that proposals make efficient use of land – taking into account the local context and site characteristics;
 - New buildings should be designed to maintain local distinctiveness.
- 6.13 Officers have reviewed the content of the draft LNDP Policies SUS1, ENV1 and ENV2 and consider them to be broadly consistent with the objectives of the CS policies and as such limited weight is attached to these policies.
- 6.14 The application site extends to some 0.15 hectares and forms part of a field owned by the applicant. The parcel of land is set back behind existing residential properties and to the west and north east are two parcels of land that have approved planning permission for 4 dwellings and 3 dwellings respectively. There is no road frontage but the access is off an existing private road to the south of the site. Within the indicative site layout plan a new hedgerow is proposed to the east to make a positive contribution in maintaining the rural character of this edge of village site, this is also in accordance with the emerging LNDP which states that *'new development should include suitable boundary proposals including reinstating hedging'*.
- 6.15 The site is located in a relatively elevated position, however it is not detailed within the LNDP Map 3 as an important view, which appears to be focusing on the long distance views towards the Church. In addition, the existing agricultural building already provides built form within the landscape. With the removal of the barn and provision of two well designed and suitably scaled dwellings (subject to separate Reserved Matters approval) and associated hedgerow screening and landscaping it is considered that this would be a visual betterment for the landscape.
- 6.16 Despite this relatively elevated position, it is considered that in the wider landscape, the impacts will not be significant since the combination of the proposed hedgerow, the context of rising land towards Herberts Hill to the west, and the setback nature of the site behind existing and proposed residential would largely mitigate the visual impact when viewed from further afield.
- 6.17 It is considered that the proposal demonstrates that the landscape and townscape context of the site with full layout and landscaping details to be agreed through reserve matters, is in a manner consistent with the aims of CS policies LD1 and SD1.

Heritage Impacts

- 6.18 There is no Conservation Area designation within Llangarron but there are a number of designated and undesignated heritage assets within the locality. The Grade I listed Church of St Deinst and the Grade II listed Box Bush Cottage are worthy of note as designated assets whilst Trecilla House and its associated outbuildings as well as the other converted buildings to the south of the site can also reasonably be regarded as undesignated heritage assets. 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.
- 6.19 I note the concerns identified by the Building Conservation Officer, but in the context of this site and the understanding of extant planning permissions in the immediate vicinity of the site, I am satisfied that an appropriately designed scheme for two dwellings can be accommodated which would at the very least preserve the setting of the identified assets in accordance with the statutory duty and policy requirements.
- 6.20 In my view given the relative distances, topography, and intervening vegetation and built form, the proposed development will have no harm to the setting of heritage assets and would therefore accord with National policy and the CS policy LD4.

Access and parking

- 6.21 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.
- 6.22 The proposed development would be accessed via an existing private road to the south of the site with established use by existing dwellings and agricultural traffic. The Area Engineer has no objections to the principle of development as the increase in movement from the proposed two dwellings would not be classed as severe and would not impact upon the free flow of the traffic. However, due to the increased use of the private road to more than five dwellings, the layout of the site (as part of any future Reserved Matters application, would need to reflect adoptable standards in terms of the increase width of access and a turning head. The Area Engineer acknowledges that this was a requirement for the adjacent site to the south west (for three dwellings), however it may be that work on this site could commence before the adjacent site is implemented and therefore the highway standards would need to be in place for any additional dwellings.
- 6.23 It is recognised that one of the main concerns raised in local responses to the application relates to the suitability of the local road network in terms of its narrowness; the speed and volume of vehicles using the C1250; its use by school children, pedestrians, cyclists and horse riders and a pinch point at the bend in the road near to the church. However, with regard to the cumulative highways impacts as a result of the proposed development, the Area Engineer has concluded that the cumulative addition of two new dwellings would not result in highways impacts that would be classed as severe.
- 6.24 Whilst acknowledging the many concerns expressed in relation to the suitability of the road network, in light of the above, and the lack of objection to the scheme from the Area Engineer, the proposal is found to be compliant with the aims of policy MT1.

Ecology

- 6.25 CS Policies LD2 and LD3 are applicable (as is LNDP policy ENV1 to a limited extent) in relation to ecology and the impact on existing hedgerow and identified biodiversity value. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity asset of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.26 The application has been supported by an Ecological Report which has been viewed by the Council's Ecologist. The range of protective measures proposed and the mitigation measures proposed to minimise the risks associated with the proposed development are considered appropriate and subject to conditions recommended by the Council's Ecologist being attached to any approval, the scheme would accord with policies LD2 and LD3.

Drainage

- 6.27 CS Policy SD3 (and LNDP policy ENV3 albeit limited in weight at this stage) states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk and avoid an adverse impact on water quality. 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).

- 6.28 The application site lies within Flood Zone 1 as defined by the Environment Agency and as such has a low probability of flooding. In accordance with Environment Agency standing advice, the planning application does not need to be supported by a Flood Risk Assessment (FRA).
- 6.29 A Foul and Surface water Drainage Statement has been provided, detailing percolation testing and infiltration testing. This proposes that surface water for each proposed dwelling should be drained to a specific soakaways location where the drainage was on sandy soil (location IFT2 within the drainage report). The Drainage report also details the existing roof area of the agricultural will be more than the proposed roof area of the dwellings, and all associated hardstanding around the site will be of a permeable material. The report and testing has been scrutinised by the Council's drainage consultant who has raised no objection.
- 6.30 The drainage report also details that there is space available within each plot for individual Package Treatment Plants with sufficient space and percolation test calculations for drainage fields within the applicant's ownership. Similarly the views of the Council's drainage consultant have been considered and there is no technical objection to this proposal on flooding or drainage grounds.
- 6.31 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's response is awaited at the time of writing the report and the recommendation below reflects this outstanding requirement.
- 6.32 The strategy conforms to CS policies SD3 and SD4 and subject to 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.

Planning balance and conclusions

- 6.33 Both 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.
- 6.34 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.
- 6.35 In assessing the three elements of sustainability:

Economic

- 6.36 Economic benefits would be derived from the construction of two 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 two new dwellings as proposed would result in modest benefits and this is considered to outweigh any limited economic losses in terms of agricultural production on the land.

Social

- 6.37 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, Church and Garron Centre, as well as potentially supporting other facilities in other villages in the locality (the primary school and public house at Llangrove for example). It is recognised that this could help to provide towards the population to help sustain them and two new dwellings would make a modest contribution in this regard.

Environmental

- 6.38 The site is immediately adjacent to the main built up area of the settlement identified as being suitable for proportionate growth, the site is also within all four options of the draft NDP settlement boundary 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 significant opposition to the impact of the proposed development upon the character of the village, the set back 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.
- 6.39 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 subject to receipt of comments from Natural England confirming agreement to the Council's Appropriate Assessment 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**

Drawing No: 1654 201 Rev C

5. **Prior to commencement of any site preparation or construction a retained tree and hedgerow protection scheme, based on BS5837:2012 shall be erected and hereafter maintained until all works have finished and spare materials and all equipment have been removed from site.**

Reason: To ensure that all trees, hedgerows and biodiversity features are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1-3.

6. **The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the report by Ecology Solutions dated April 2020 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.**

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), and Herefordshire Local Plan - Core Strategy policies LD2, SD3 and SD4.

7. **Prior to commencement of any site clearance, preparation or development a fully detailed and specified Ecological Working Method Statement (EWMS) including details of appointed Ecological Clerk of Works shall be provided to the planning authority. The EWMS should consider all relevant species but in particular consideration for nesting birds, amphibians and reptiles. The approved EWMS shall be implemented in full unless otherwise agreed in writing by the planning authority.**

Reason: To ensure that all species and habitats are protected and conserved having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

8. **Prior to first occupation evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least FOUR bird nesting boxes for a site appropriate range of bird species, FOUR Bat roosting features; ONE Hedgehog home; FOUR Insect hotels; Reptile Refugia; Amphibian Refugia should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any enhancement or boundary feature.**

Reason: To ensure Biodiversity 'Net Gain' and species and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

9. **No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.**

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, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

10. **CBK - Restriction of hours during construction**

11. **CE6 - Efficient use of water**

12. **All planting, seeding or turf laying in the approved landscaping scheme (required by 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.

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

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.

- 13. CAE - Vehicular access construction
- 14. CAT - Construction Management Plan
- 15. CAH - Driveway gradient
- 16. CAI - Parking – single/shared private drives
- 17. CB2 - Secure covered cycle parking provision
- 18. CAP – Highways Improvements / Offsite works
- 19. All foul water shall discharge through connection to individual private package treatment plant with outfall to soakaway drainage fields on land under the applicant’s control, per dwelling as indicated in Drawing 1654201, KODA architects, dated September 2020; and all surface water shall discharge to appropriate SuDS or soakaway system; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework , NERC Act (2006), and Herefordshire Local Plan - Core Strategy policies LD2, SD3 and SD4.

- 20. CBO – Scheme of surface water drainage
- 21. C98 – Hedgerow Planting

INFORMATIVES:

- 1. IP1 Application Approved Without Amendment
- 2. For hedgerows the protection buffer should not be less than 2m from the woody stem of any hedgerow shrub or tree.
- 3. I11 – Mud on highway
- 4. I45 – Works within the highway
- 5. I05 – No drainage to discharge to highway
- 6. I47 – Drainage other than via highway system
- 7. I35 – Highways Design Guide and Specification
- 8. I07 – Section 38 Agreement & Drainage details

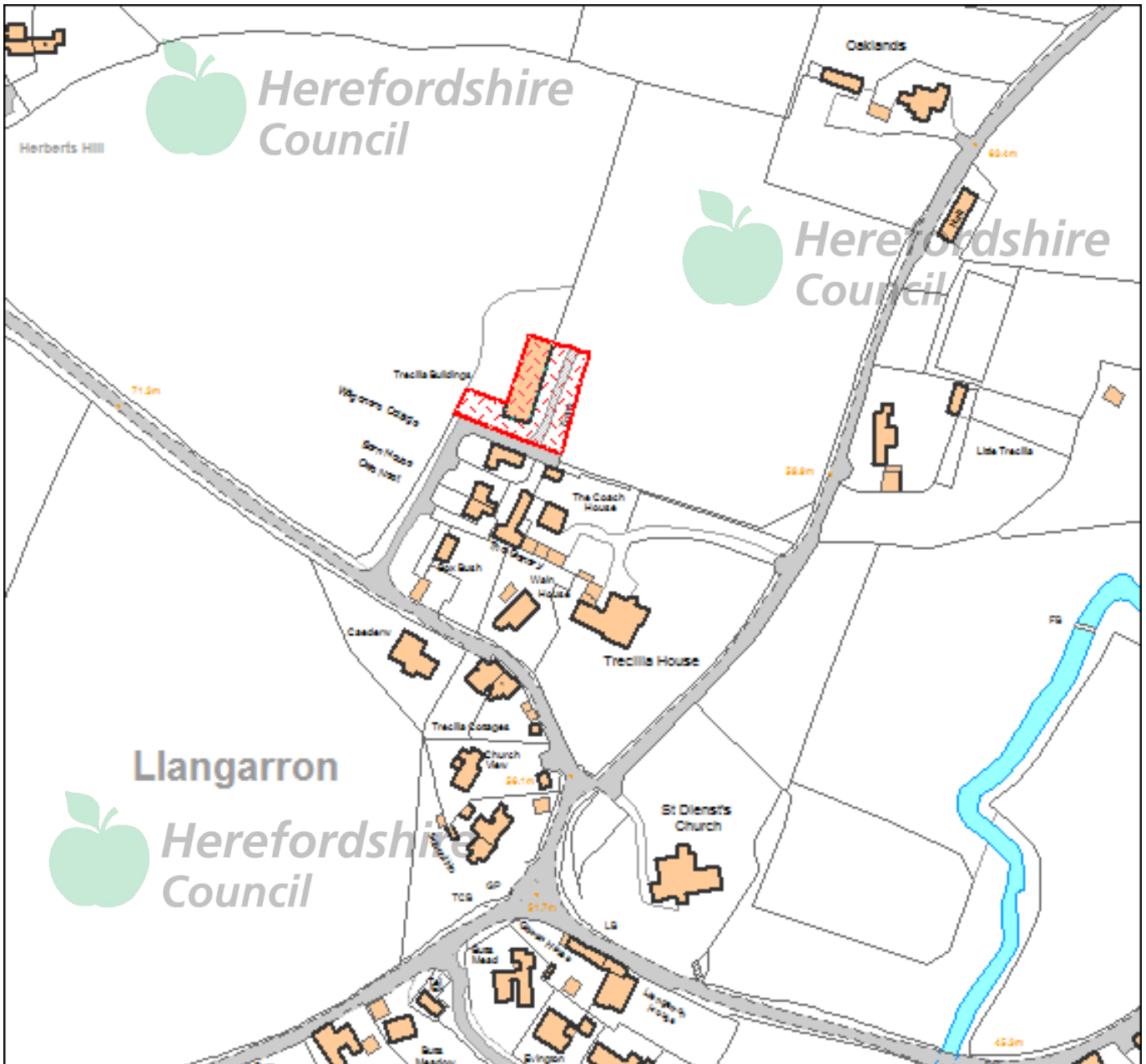
Decision:

Notes:

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

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 201254

SITE ADDRESS : THE PIGGERIES, LLANGARRON, HEREFORDSHIRE

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