

Agenda

Planning and regulatory committee

Date: **Wednesday 4 November 2020**

Time: **10.30 am**

Place: **Online meeting**

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

For any further information please contact:

Tim Brown, Democratic Services Officer

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

Agenda for the meeting of the Planning and regulatory committee

Membership

Chairperson Councillor John Hardwick
Vice-Chairperson Councillor Alan Seldon

Councillor Graham Andrews
Councillor Paul Andrews
Councillor Polly Andrews
Councillor Toni Fagan
Councillor Elizabeth Foxton
Councillor Terry James
Councillor Tony Johnson
Councillor Graham Jones
Councillor Mark Millmore
Councillor Jeremy Milln
Councillor Paul Rone
Councillor John Stone
Councillor William Wilding

Agenda

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|-----------|---|-----------|
| 1. | APOLOGIES FOR ABSENCE | |
| | To receive apologies for absence. | |
| 2. | NAMED SUBSTITUTES (IF ANY) | |
| | To receive details of any Member nominated to attend the meeting in place of a Member of the Committee. | |
| 3. | DECLARATIONS OF INTEREST | |
| | To receive 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. | |
| 4. | MINUTES | 13 - 30 |
| | To approve the minutes of the meeting held on 13 October 2020. | |
| 5. | CHAIRPERSON'S ANNOUNCEMENTS | |
| | To receive any announcements from the Chairperson. | |
| 6. | 190316 - WATERS EDGE, SHARMAN PITCH, HOWLE HILL, ROSS-ON-WYE | 31 - 82 |
| | Erection of 8 dwellings and associated works. | |
| 7. | 192979 - LAND AT TUMP LANE, MUCH BIRCH, HEREFORD | 83 - 122 |
| | Application for approval of reserved matters following outline approval 130945 (app/w1850/w/17/3180227) for appearance, landscaping, layout and scale for the erection of 20 dwellings and associated community building and associated works. | |
| 8. | 201757 AND 201758 - LAND ADJACENT TO COACH HOUSE, LUMBER LANE, LUGWARDINE, HEREFORDSHIRE | 123 - 164 |
| | 201757 application for variation of condition 2 of planning permission 170440 (proposed amendments to extant consent ref 160398 re single storey, low impact dwelling house and repair of the curtilage listed glass house and garage). To incorporate design changes, including the addition of a plant room abutting the boundary wall and works to the glasshouse. | |
| | 201758 – proposed design alterations to previously approved application 170440, including the addition of a plant room abutting the boundary wall and works to the glasshouse. | |

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| <p>9. 201645 - 202284 3 HIGH STREET, WEOBLEY, HEREFORD, HR4 8SL</p> <p>201645 – provision of 2 no. Additional rooflights on north elevation of barn and;</p> <p>202284 - application for variation of condition 2 of planning permission 184664 - to accommodate 2 no. Additional roof windows on north elevation of barn</p> | <p>165 - 182</p> |
| <p>10. DATE OF NEXT MEETING</p> <p>Date of next meeting – Tuesday 10 November 2020.</p> | |

The Public's Rights to Information and Attendance at Meetings

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

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

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

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

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

YOU HAVE A RIGHT TO: -

- Observe all "virtual" Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting. (These will be published on the Planning and Regulatory Committee meeting page on the council's web-site. See link above).
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting. (These will be published on the Planning and Regulatory Committee meeting page on the council's web-site. See link above).
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Access to this summary of your rights as members of the public to observe "virtual" meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect documents.

Guide to Planning and Regulatory Committee

The Planning and Regulatory Committee consists of 15 Councillors. The membership reflects the balance of political groups on the council.

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

The Committee determines applications for planning permission and listed building consent in those cases where:

- (a) the application has been called in for committee determination by the relevant ward member in accordance with the redirection procedure
- (b) the application is submitted by the council, by others on council land or by or on behalf of an organisation or other partnership of which the council is a member or has a material interest, and where objections on material planning considerations have been received, or where the proposal is contrary to adopted planning policy
- (c) the application is submitted by a council member or a close family member such that a council member has a material interest in the application
- (d) the application is submitted by a council officer who is employed in the planning service or works closely with it, or is a senior manager as defined in the council's pay policy statement, or by a close family member such that the council officer has a material interest in the application
- (e) the application, in the view of the assistant director environment and place, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- (f) the application, in the reasonable opinion of the assistant director environment and place, raises issues of a significant and/or strategic nature that a planning committee determination of the matter would represent the most appropriate course of action, or
- (g) in any other circumstances where the assistant director environment and place believes the application is such that it requires a decision by the planning and regulatory committee.

The regulatory functions of the authority as a licensing authority are undertaken by the Committee's licensing sub-committee.

Who attends planning and regulatory committee meetings?

The following attend the committee:

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

(Other councillors - may attend as observers but are only entitled to speak at the discretion of the chairman.)

How an application is considered by the Committee

The Chairperson will announce the agenda item/application to be considered. The case officer will then give a presentation on the report.

The registered public speakers will then be invited to speak in turn (Parish Council, objector, supporter). (see further information on public speaking below.)

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

The Committee will then debate the matter.

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

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

The Committee then votes on whatever recommendations are proposed.

Public Speaking

The Council's Constitution provides that the public will be permitted to speak at meetings of the Committee when the following criteria are met:

- a) the application on which they wish to speak is for decision at the planning and regulatory committee
- b) the person wishing to speak has already submitted written representations within the time allowed for comment
- c) once an item is on an agenda for planning and regulatory committee all those who have submitted representations will be notified and any person wishing to speak must then register that intention with the monitoring officer at least 48 hours before the meeting of the planning and regulatory committee
- d) if consideration of the application is deferred at the meeting, only those who registered to speak at the meeting will be permitted to do so when the deferred item is considered at a subsequent or later meeting
- e) at the meeting a maximum of three minutes (at the chairman's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes will be allowed for public speaking
- f) speakers may not distribute any written or other material of any kind at the meeting (see note below)

- g) speakers' comments must be restricted to the application under consideration and must relate to planning issues
- h) on completion of public speaking, councillors will proceed to determine the application
- i) the chairman will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.

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

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

Role of the local ward member

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

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

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

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

1. Selflessness

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

2. Integrity

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

3. Objectivity

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

4. Accountability

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

5. Openness

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

6. Honesty

Holders of public office should be truthful.

7. Leadership

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

Minutes of the meeting of Planning and regulatory committee held as an Online meeting only on Tuesday 13 October 2020 at 10.30 am

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

Councillors: Paul Andrews, Polly Andrews, Toni Fagan, Elizabeth Foxton, Terry James, Tony Johnson, Mark Millmore, Jeremy Milln, Paul Rone, John Stone and William Wilding

In attendance: Councillor Paul Symonds

DEATH OF COUNCILLOR BERNARD HUNT

The Committee observed a silence in memory of Councillor Bernard Hunt.

11. APOLOGIES FOR ABSENCE

None.

12. NAMED SUBSTITUTES

None.

13. DECLARATIONS OF INTEREST

None.

14. MINUTES

RESOLVED: That the minutes of the meeting held on 30 September 2020 be approved as a correct record.

15. CHAIRPERSON'S ANNOUNCEMENTS

None.

16. 201134 - LAND AT MERRIVALE LANE, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5JL

(Outline planning permission for 16 dwellings with all matters reserved except access.)

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking for virtual meetings, Mr J Daniels, a local resident, submitted a written submission in objection to the scheme. This was read

to the meeting. Mr N Beddoe, the applicant's agent spoke in support of the application as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Symonds, spoke on the application. In summary, he expressed particular concern about a number of highway issues. The proposed highway access was not the best solution. He requested the Committee to defer the application and require the applicant to resubmit the application with the access onto Merrivale Lane to be located at the southern end of the development. If the application were to be approved he requested a number of conditions.

The Lead Development Manager cautioned against deferring the application.

The Committee discussed the application.

The local ward member was given the opportunity to close the debate. He reiterated his requests for consideration to be deferred with a request for an alternative access to be provided and for additional conditions if the application were to be approved.

The Lead Development Manager commented that consideration could be given to the proposed additional condition together with the addition of Ross Rowing Club to the s106 agreement.

RESOLVED: That subject to the completion of a Section 106 Planning Obligation under the Town & Country Planning Act 1990 in accordance with the Heads of Terms stated in the report, officers named in the Scheme of Delegation to Officers are authorised to grant outline planning permission, subject to the conditions below and any further conditions considered necessary by officers.

Regulatory Conditions

- 1. An application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.**

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

- 2. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.**

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

- 3. Approval of the details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.**

Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Ross on Wye Neighbourhood Development Plan and the National Planning Policy Framework.

4. The development shall be carried out strictly in accordance with the approved plans and supporting details:
- Application Form for Outline Planning Permission With Some Matters Reserved
 - Planning Statement dated March 2020 by Savills
 - Drawing titled 'Site Location Plan', Drg No. 1761 0100 Rev. C
 - Preliminary Ecological Appraisal and separate Bat Roost Inspection Survey, both dated April 2018 by Keystone
 - Flood Risk Assessment and Drainage Strategy by RMA Environmental dated 13 March 2020

All Received 7 March 2020, and

- Drawing titled 'Initial Proposed Site Layout', Drg No. 455652/001 Rev. A (as relates to vehicular and pedestrian access details), Received 22 July 2020, and
- Phase 1 Habitat Survey Update dated 6 August 2020, Received 7 August 2020

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 LB2 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Prior to Commencement Conditions

5. Before any work, including any site clearance or demolition begin, or equipment or materials 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.

The Construction Management Plan shall include, but is not limited to, the following matters:

- Site management arrangements, including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles (including cycle parking for staff and visitors); and provision for the loading/unloading of plant and materials within the site;
- Wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; • measures for managing access and routing for construction and delivery traffic;
- Hours during which construction work, including works of site clearance, and deliveries can take place;
- Tree/hedge protection plan for the phase of development;
- Construction Traffic Management Plan;;

- **Ecological mitigation and protection for the construction phase of development**

Reason: In the interests of highway safety, in the interests of safeguarding adjoining amenity, 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 (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3 and to conform to the requirements of Policies.

6. **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 great crested newt, reptiles and badgers. 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 (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18)

7. **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.

8. **Prior to commencement of development a fully detailed and specified Biodiversity Enhancement Plan including a relevant location plan that is appropriate with the scale, nature and location of the development including provision of fixed habitat features, such as hedgerow enhancement and attenuation pond shall be provided to the planning authority for approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the planning authority.**

Reason: To ensure that all species and habitats are protected, conserved and enhanced (Biodiversity net gain) 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).

9. **Prior to commencement of the development the following drainage details shall be submitted to the Local Planning Authority for written approval:**

- **Confirmed method of surface water disposal with detailed drawings of the proposed design that demonstrate the inclusion of SuDS, where appropriate, and location and size of key drainage features**
- **Detailed drawings of the surface water and foul water drainage strategies**
- **Detailed drawings of proposed features such as infiltration structures and attenuation features**
- **Results of infiltration testing in accordance with BRE365, undertaken at appropriate locations/depths.**
- **Details of how surface water runoff from hard paved and vehicular surfaces will be prevented from entering the roof water attenuation basin**
- **Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event. FEH 2013 rainfall data is expected**
- **Calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event. FEH 2013 rainfall data is expected**
- **Calculations that demonstrates that the proposed drainage system will have sufficient capacity to cater for up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH 2013 rainfall data is expected**
- **Detailed calculations of proposed infiltration features informed by the results of infiltration testing. FEH 2013 rainfall data is expected**
- **Revised greenfield calculations for the intended non permeable area, using FEH methods and 2013 rainfall data**
- **Proposed discharge rates for the 1 in 1 year, Qbar, 1 in 30 year and 1 in 100 + CC events using FEH 2013 rainfall data, and demonstration of how runoff rates and volumes during smaller rainfall events have been reduced as far as practicable**
- **Confirmation that discharge to a public sewer has been agreed with the relevant sewerage authority**
- **Confirmation of maintenance arrangements for all drainage features**

The development shall be carried out in accordance with the approved details and thereafter be maintained as such.

If the results of infiltration testing indicate that infiltration will not provide a feasible means of managing surface water runoff, we highlight that discharge to a watercourse should be sought in the first instance. Best practice SUDS techniques should be considered and we promote the use of combined attenuation and infiltration features that maximise infiltration during smaller rainfall events.

Reason: To ensure adequate drainage arrangements serve the development and to mitigate, prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution and prevent adverse impact on adjoining land and use and to comply with Herefordshire Core Strategy policies S3 and S4.and the emerging policies of the Ross on Wye Neighbourhood Plan.

- 10. No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the disposal of foul, surface and land water,**

and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment and to comply with Herefordshire Core Strategy policies SD3 and SD4 and the emerging policies of the Ross on Wye Neighbourhood Plan.

11. Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.5 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 43 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, emerging Ross on Wye Neighbourhood Development Plan and the National Planning Policy Framework.

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

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

13. Development shall not begin in relation to the provision of road and drainage infrastructure until the engineering details and specification of the proposed roads and highway drains have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and completed prior to first occupation of the development hereby permitted.

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

14. The development shall not be first occupied until the roadworks necessary to provide access from Merrivale Lane, the publicly maintained highway, have been completed in accordance with details submitted to and approved in writing by the local planning authority.

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core

Strategy, emerging Ross on Wye Neighbourhood Development Plan and the National Planning Policy Framework.

Pre Occupancy Conditions

15. Prior to the first occupation of the development hereby permitted a scheme for the provision of covered and secure cycle parking on site and within the curtilage of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and the cycle facilities approved shall be made available for use prior to occupation of the dwelling it serves.

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy, Ross on Wye Neighbourhood Plan and the National Planning Policy Framework.

16. Prior to the first occupation of any dwelling within any phase of residential development hereby permitted a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 of the Herefordshire Local Plan Core Strategy shall be submitted to and approved in writing by the local planning authority and implemented as approved.

Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy and the National Planning Policy Framework.

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

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

18. Before any phase of the development is first occupied or brought into use, a schedule of landscape implementation and maintenance of non- private garden areas shall be submitted to and approved in writing by the local planning authority. Delivery and Maintenance shall be carried out in accordance with this approved schedule.

Reason: To ensure the future establishment of the approved scheme, in order to protect and enhance the visual amenities of the area and setting of heritage assets hereabouts, to maintain and enhance the character and appearance of the location and setting of the Wye Valley AONB and adjoining conservation area and to ensure that the development complies with the requirements of Policy SS6, RW1,, RA1, LD1, LD4 and SD1 of the Herefordshire Local Plan – Core Strategy, the Ross on Wye Neighbourhood Development Plan, the wye Valley AONB Management Plan and the design and environmental aims and objectives of the National Planning Policy Framework.

19. Details regarding the storage and collection location of bins should be provided and approved in writing by the Local Planning Authority prior to

occupation of any dwelling. Bin collection points would need to be provided for any plot located over a 25 metre walking distance from where the RCV can safely access.

Reason: In the interests of highway safety, public health and amenity and to comply with Herefordshire Core Strategy policies LB1, LD1, MT1 and SD1.

20. Prior to the first occupation of the dwellings hereby approved the driveway and/or vehicular turning area shall be consolidated and surfaced at a gradient not steeper than 1 in 8. Private drainage arrangements must be made to prevent run-off from the driveway discharging onto the highway. Details of the driveway, vehicular turning area and drainage arrangements shall be submitted to and approved in writing by the local planning authority prior to commencement of any works.

Reason: 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.

21. The pedestrian link from the site to the adjacent public right of way as shown on the plans listed under Condition 4 of this Decision Notice shall be made available use prior to the first occupation of the development hereby permitted.

Reason: To ensure sustainable non vehicular modes of movement are available from first occupation, to promote sustainable travel, help reduce carbon emissions and to comply with Herefordshire Core Strategy policies SS6, MT and SD1 and emerging Ross on Wye Neighbourhood Development Plan and the relevant aims and objectives of the National Planning Policy Framework.

Compliance Conditions

22. All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through an SuDs system (onsite soakaways and attenuation feature) within the development boundary; unless otherwise agreed in writing by the Local Planning Authority.

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

23. The ecological protection, mitigation, compensation and working methods scheme, as recommended in the reports by Keystone Ecology, including ecological assessment report (Keystone Ecology, dated April 2018), and bat survey reports, (Keystone Ecology Bat Roost Inspection Report, dated April 2018) and Keystone Ecology Bat Roost Characterisation Report, dated June 2018) 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 (2018), NERC Act (2006), and Herefordshire Core Strategy (2015) policies LD2, SD3 and SD4.

24. **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 (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

25. **No more than 16 dwellings shall be constructed on the site.**

Reason: To regulate the development, and on the basis of the application has been assessed and approved on the basis of this quantum of development and its impacts and to comply with Herefordshire Core Strategy policies SS1, SS3, RW1, MT1, LD1, RW1, SD3 and SD4 and the emerging Ross on Wye Neighbourhood Development Plan.

26. **The market housing mix shall be as described under Section 15 of the Application Form accompanying the proposal as listed under Condition 4 of this Decision Notice.**

Reason: The permission is outline only and this condition is imposed to ensure the development meets the present and future housing needs of Ross on Wye by requiring delivery of the most appropriate size and type of additional housing in accordance with the requirements of policies H3 and RW1 of the Herefordshire Local Plan – Core Strategy and policies contained within the emerging Ross on Wye Neighbourhood Development Plan.

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **Attention is drawn to the comments from Mandy Neill, Senior Landscape Officer, dated 8 May 2020. These should inform any future Reserved Matters details submitted.**
3. **For hedgerows the protection buffer should not be less than 2m from the woody stem of any hedgerow shrub or tree. No lengths of hedgerow or trees should be cut or removed during the bird nesting season (March-August inclusive) without a thorough check by a qualified ecologist no more than 48 hours prior work commencing. At all other times the applicant should be aware that any disturbance or damage to nesting birds and protected species is a criminal offence under wildlife legislation.**
4. **Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. Habitat enhancement could include wildlife friendly SuDS, tree and shrub planting (usually locally characteristic or directly associated cultivars of**

native species), wildflower meadows and Traditional ('standard') Orchards. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

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

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

If you have any queries please contact Welsh Water on 0800 917 2652 or via email at developer.services@dwrcymru.

(The meeting adjourned between 11.40 am-11.55 pm.)

17. 194418 - THE OLD HOPYARD, BLEATHWOOD, LUDLOW, SY8 4LP

(Re-organisation and upgrade of the existing 'Bleathwood lodges country park' to include demolition of existing site buildings, the change of use of the on-site residential property for holiday let, the construction of a replacement facilities/meet and greet building, maintenance building, and the provision of accommodation in the form of 45 lodges, with associated access and parking.)

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking for virtual meetings, Mrs C Whitlock, a local resident, spoke in opposition to the scheme, as a virtual attendee. Ms E Cass, the applicant's agent spoke in support of the application also as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Stone, spoke on the application. In summary, he observed that there had been many representations both in support of and in objection to the application including an objection from the Parish Council. In conclusion, he expressed concern about the sustainability of the application having regard to the National Planning Policy Framework's three objectives of sustainable development. He also referenced the local concerns about the scale and possible impacts of the development.

The Committee discussed the application.

The local ward member was given the opportunity to close the debate. He remained concerned about the sustainability of the site.

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

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

- 2. The development hereby approved shall be carried out strictly in accordance with the approved plans and supporting details and the schedule of materials indicated thereon unless other conditions of this Decision Notice dictate otherwise.**

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 and the National Planning Policy Framework

Pre Commencement Conditions

- 3. No development shall commence until a fully detailed Construction Environmental Management Plan (CEMP) and named ‘responsible persons’ 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 completed on site and all equipment and spare materials have finally been removed. The Construction Management Plan shall include, but is not limited to, the following matters:**

- site management arrangements, including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles (including cycle parking for staff and visitors); and provision for the loading/unloading of plant and materials within the site**
- wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway; • measures for managing access and routing for construction and delivery traffic**
- hours during which construction work, including works of site clearance, and deliveries can take place**
- Tree / hedge protection plan for the phase of development**
- Construction Traffic Management Plan**

The development shall be carried out in accordance with the approved details for the duration of the construction of the development.

Reason: In the interests of safeguarding adjoining amenity and uses and to safeguard protected species, wildlife and habitats and to conform to the requirements of 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 Policies SD1, LD2, and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy.

4. **With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls and roofs and for landscape surfacing (non grass areas, eg paths and tracks) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and thereafter be maintained as such.**

Reason: To ensure that the materials harmonise with the surroundings, maintain and enhance the character and appearance of the locality and countryside so as to ensure that the development complies with the requirements of Policy RA6, E4, LD1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

5. **Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 59 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.**

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

Prior to First use or occupancy Conditions

6. **A landscape management and maintenance plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management and maintenance plan shall be carried out as approved.**

Reason: In order to maintain the visual amenities of the area and to conform with Policy E4, RA6 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7. **Prior to the first use of the development to which this permission relates the car parking shall be laid out in accordance with the details shown on the approved plans listed under Condition 2 of this Decision Notice and shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.**

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

8. **Prior to the first use of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities for visitors and staff shall be submitted to the Local Planning Authority for**

their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained as approved.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative 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 and the National Planning Policy Framework.

- 9. Prior to the first use of the development hereby approved, a Travel Plan which contains measures to promote alternative sustainable means of transport for staff and visitors with respect to the development hereby permitted shall be submitted to and be approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.**

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 10. Prior to the first use of the development hereby permitted a scheme to enable the charging of plug in and other ultra low emission vehicles (e.g. provision of outside electric sockets) to serve the staff and visitors of the building hereby permitted shall be submitted and approved in writing by the local planning authority. The scheme shall be completed in accordance with the approved details and provision retained and kept available for use thereafter.**

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

- 11. Prior to any construction, a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including significant provision for bat roosting, bird nesting, hedgehog homes and movement corridors across the site, ecological hibernacula, including dead wood and pollinating insect ‘nesting’ opportunities 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 any ecologically sensitive habitats on or off the site, boundary features, watercourses 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.

Compliance Conditions

- 12. The soft landscaping scheme approved under condition 2 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 10 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5-year maintenance period. The hard landscaping shall be completed prior to the first 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 and the National Planning Policy Framework.

- 13. No individual shall reside on site in any accommodation hereby permitted for more than 28 consecutive days and no more than for a total of 140 days in any calendar year.**

Reason: The local planning authority wish to control the specific use of the land/premises for tourism use and not to introduce permanent residential accommodation within the units hereby permitted or over the site, in the interest of highway safety, sustainability, local amenity and environmental considerations and to comply with Policy SS1, SS6, RA2, RA3, RA6, E4, LD1, LD2, LD3 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 14. If during the course of the development unexpected contamination not previously identified is found to be present at the site then the work shall be stopped and no further development shall be carried out unless or until the developer has submitted a written method statement to be approved in writing by the local planning authority. The method statement shall include details about how the unexpected contamination shall be dealt with. Thereafter the development of the site will be carried out in accordance with the appropriate method statement.**

Reason: In the interests of human health and to comply with Herefordshire Core Strategy policy SD1 and the relevant aims and objectives of the National Planning Policy Framework.

- 15. The Ecological Enhancement and Mitigation Strategy, by the RPS Group dated December 2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2017 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006.

- 16. The Noise Management Plan supplied with the application and as referenced under Condition 2 of this Decision Notice shall be subject to a**

documented review on at least a yearly basis and a copy supplied to the local authority on request.

Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy and paragraph 180 of the National Planning Policy Framework.

- 17. The use of fireworks and Chinese lanterns shall not permitted on this site.**

Reasons: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy and paragraph 180 of the National Planning Policy Framework.

- 18. No more than 45 units conforming to the legal definition of a caravan shall be situated on the site subject to this planning permission at any time.**

Reason: On the basis of the quantum of development that has been assessed as acceptable with regards to highway safety, impact on amenity, the character and appearance of the locality and impact upon wildlife and so the Local Planning Authority can regulate the density of use and o comply with Herefordshire Core Strategy policies SS1, RA6, E4, LD1, LD2, LD3 and MT1.

- 19. Prior to the bringing on site and installation of the tourism accommodation hereby permitted, namely the 45 no. cabins as shown on the approved plans listed under Condition 2 of this Decision Notice, the following shall be submitted to the Local Planning Authority for written approval –**
- A detailed design for the surface water drain below Bleathwood Lane shall be submitted**
 - A drawing showing proposed ground levels in the vicinity of the southern pond shall be issued, identifying the level of the proposed adjacent site road**
 - The foul pumping station shall be provided with a minimum of 24 hours storage above the high level pump start level and the lowest onsite lateral connection. The pumping station shall meet Building Regulations standards Part H**
 - If existing tanks are to be re-used, hydraulic test results shall be presented to demonstrate the adequacy of on-line storage facilities for the storing sewage**

The development shall be carried out in accordance with the approved details and thereafter be maintained as such.

Reason: To ensure adequate drainage arrangements serve the site, to prevent drainage from the development affecting adjoining land uses and to comply with Herefordshire Core Strategy policies SD3 and SD4 and Brimfield and Little Hereford Neighbourhood Development Plan policies BLH12 and BLH16

Informatives

- 1. Public footpath LH15 crosses the site. The path must be given a full width of 2m and hedges adjoining the public footpath must be well maintained to ensure that they do not grow and reduce this width.**

2. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

(The meeting adjourned between 12.55 pm-13.05 pm.)

18. 200156 - LAND OFF MILL LANE, COLWALL, WORCESTERSHIRE

(Outline planning application for a residential development with all matters reserved except for access for up to 37 dwellings.)

(Councillor Stone indicated that due to technology issues he was prohibited from voting on the application.)

The Principal Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking for virtual meetings, Mrs K Davis of Colwall Parish Council spoke in opposition to the proposal as a virtual attendee. Mr J Dunham-Vaughan, a local resident, made an objection to the application by video submission. Mr J Baggott, the applicant's agent spoke in support of the application as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Johnson, spoke on the application. In summary, he commented on the requirement to provide housing in Colwall and suggested that any proposed development of similar size would face the criticism that it was to the detriment of the Malvern Hills Area of Outstanding Natural Beauty (AONB). He considered the Mill Lane site was sustainable and that there was local support for the proposal. The site had at one time been identified for development in the draft Neighbourhood Development Plan (NDP). He questioned the direction the emerging NDP, to which the proposal was now contrary, was taking. He urged the Committee to grant permission.

The Committee discussed the application.

The Principal Planning Officer emphasised that the proposal was considered to represent major development within the AONB and accordingly the National Planning Policy Framework directed that the application be refused.

The local ward member was given the opportunity to close the debate. He reiterated his support for the proposal.

RESOLVED on the Chairperson's casting vote: That planning permission be refused for the following reasons:

1. **The proposed development by its nature, scale and setting is major development within a designated area identified within the National Planning Policy Framework that does not meet any of the exception tests of NPPF Paragraph 172. Notwithstanding that, the proposal would have a significant and adverse impact and harm to both the character, appearance, setting and enjoyment of the Malvern Hills Area of Outstanding Beauty and on the purposes for which the area has been designated or defined, and an adverse impact on the character, appearance and setting of Colwall. As**

such the proposal is contrary to policies SS1, SS6, RA2 and LD1 of the Herefordshire Core Strategy, Malvern Hills AONB Management Plan and policies within the emerging Colwall Neighbourhood Development Plan, the landscape aims and objectives of the National Planning Policy Framework and paragraph 11, 170 and 172 and the provisions of the CRoW Act.

2. The application is also not accompanied by a completed Section 106 agreement which is necessary to secure the required provisions and make the development acceptable. It is therefore contrary to Policies H1, IDI, OS1 and OS2 of the Herefordshire Local Plan Core Strategy and the Council's Supplementary Planning Document on Planning Obligations

Informative

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

19. DATE OF NEXT MEETING

Noted.

The meeting ended at 2.25 pm

Chairperson

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	4 NOVEMBER 2020
TITLE OF REPORT:	190316 - ERECTION OF 8 DWELLINGS AND ASSOCIATED WORKS AT WATERS EDGE, SHARMAN PITCH, HOWLE HILL, ROSS-ON-WYE For: Mr Dowle per Mrs Julie Joseph, Trecorras Farm, Llangarron, Ross-On-Wye, Herefordshire HR9 6PG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190316&search-term=190316
Reason Application submitted to Committee – Redirection	

Date Received: 29 January 2019

Ward: Kerne Bridge

Grid Ref: 360504,220405

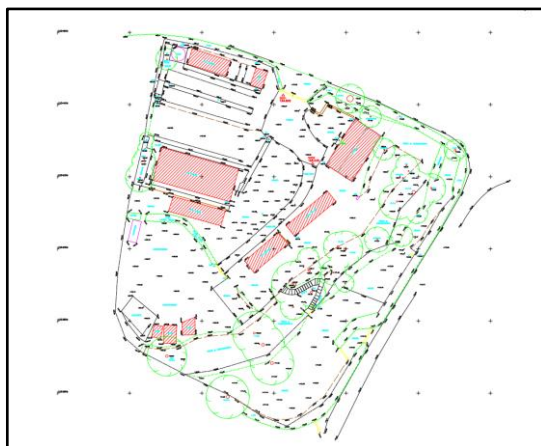
Expiry Date: 6 November 2020

Local Member Councillor Yolande Watson - (Councillor William Wilding has fulfilled the role of local ward member for this application.

1. Site Description and Proposal

- 1.1 The application site is located in the Parish of Walford and comprises of land that is used as a specialist plant nursery known as Howle Hill Nursery. This is an established business and is located on the corner of Sharman Pitch and the U70416 from Coughton to Ruardean in Howle Hill. There is a current access onto the U70416 from the site which appears to be for customers to the nursery. The site is located within the main built form of Howle Hill, a settlement designated under Core Strategy policy RA2 for proportionate growth. It is appreciated that Howle Hill as a settlement is dispersed. The settlement and the application site is located within the Wye Valley Area of Outstanding Natural Beauty (AONB), a nationally designated landscape area. The site is not subject to nor does it affect the setting of any heritage designations.
- 1.2 The application seeks full planning permission for the erection of 8 two storey dwellings with an internal access road. The proposals include four house types which consist of 6 detached 4 no. bedroom properties and a pair of 2 bedroom semi-detached dwellings. The site covers an area of approximately 0.67ha and slopes from approximately 174.1metres in the north east corner to 166.3metres in the south west corner. The woodland belt which straddles the site stands on a steep bank around 5 metres in height. There is a considerable amount of existing hard surfacing throughout the site, in addition to green houses, polytunnels and other buildings and storage sheds. As the site is currently used for commercial purposes as a horticultural nursery it can be classified as previously developed land (brownfield). The survey plan inserted below details the extent of the existing buildings within the site.

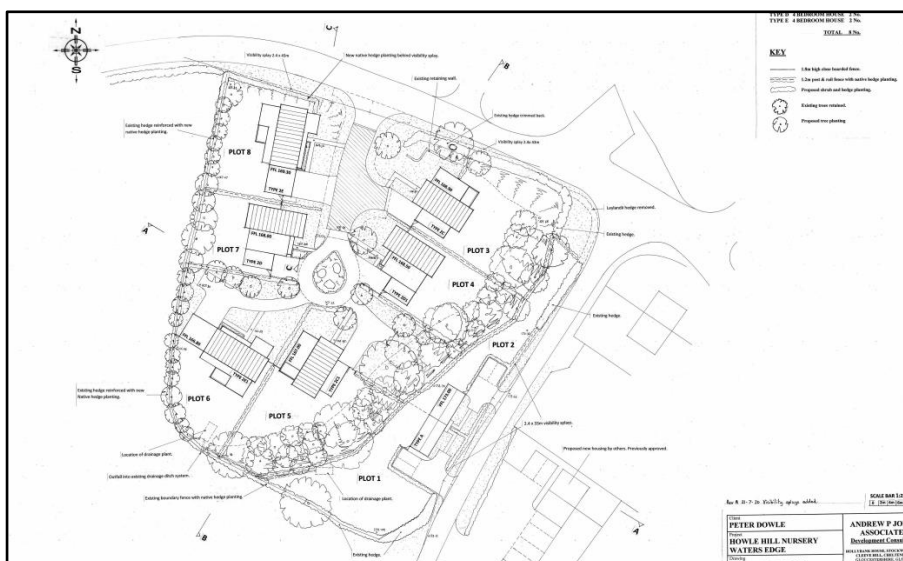
Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453



1.3 The site is located close to the junction between Sharman Pitch and Crossways, approximately 1.8km east of Coughton and 4.5km south east of Ross-on-Wye. There are currently two vehicular accesses associated with the site. The primary access is positioned off Sharman Pitch via a priority junction and the secondary access is off the Crossways via a priority junction. The plans inserted below identify the application site:



1.4 The application site is at a lower level than the surrounding countryside and it is currently screened by hedgerows. A belt of trees runs from the north east to the south west corner of the site. New planting is also proposed along the existing boundaries. Below is the proposed block plan indicating the dwellings and the relationship with the existing dwellings.



- 1.5 The scheme has been amended during the application process with the reduction of one unit from 9 to 8. Alterations in the design of the dwellings, including a reduction in the height of the dwellings have also been negotiated. In the eastern section of the site are a pair of 2 bedroomed properties which lie directly opposite a site which has planning permission for 4 dwellings. These two properties have their own access. The six 4 bedroom properties utilise the existing access into the site. The details of the proposed dwellings are described in more detail in section 6.
- 1.6 Foul sewerage will be managed by way of the addition of a new package treatment plant to serve the dwellings and surface water will be managed by means of soakaways.
- 1.7 The following supporting documentation has been deposited with the application, during consideration of this application by officers:
- Transport Statement
 - Drainage Strategy
 - Arboricultural Impact Assessment
 - Planning, Design and Access statement
 - Ecology report
 - Commercial report

2. Policies

- 2.1 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

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
RA1	-	Rural Housing Distribution
RA2	-	Housing in Settlements Outside Hereford and the Market Towns
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
E2	-	Redevelopment of existing employment land and buildings
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality

The 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 6	-	Building a strong, competitive economy
Chapter 8	-	Promoting healthy and safe communities
Chapter 9	-	Promoting sustainable transport
Chapter 11	-	Making effective use of land
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 Walford Neighbourhood Development Plan (NDP)

A Neighbourhood Area was designated on the 14th November 2012, however the plan is only at pre drating stage and as such no weight can be afforded to the Plan.

3. **Planning History**

161735 - Retrospective permission for a vehicular access egressing onto Sharman Pitch.
Refused

4. **Consultation Summary**

Statutory Consultations

4.1 **Welsh Water** comments:

Sewage. 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 Local Authority Building control Department / Approved Building Inspector as both are responsible to regulate alternative methods of drainage. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

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.

4.2 **Natural England – No objection**

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

Notwithstanding the above, your authority should be aware of a recent Ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of Coöperatie Mobilisation (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17).

4.2.1 The Coöperatie Mobilisation case relates to strategic approaches to dealing with nitrogen. It considers the approach to take when new plans/projects may adversely affect the ecological situation where a European site is already in 'unfavourable' conservation status, and it considers the acceptability of mitigating measures whose benefits are not certain at the time of that

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

assessment. Competent authorities undertaking HRA should be mindful of this case and should seek their own legal advice on the implications of these recent ruling for their decisions. Natural England's advice on other natural environment issues is set out below.

4.2.2 European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the River Wye Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

4.2.3 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 have¹. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

European site - River Wye SAC - No objection

4.2.4 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.

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

River Wye SSSI – No objection

4.2.6 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.

Protected Landscape – Wye Valley AONB

4.2.7 The proposed development is for a site within or close to a nationally designated landscape namely Wye Valley AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

4.2.8 Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape. Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

4.2.9 We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

- 4.2.10 The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose.
- 4.2.11 Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process.
- 4.2.12 The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website.<http://www.defra.gov.uk/habitats:-review/implementation/processguidance/guidance/sites/>

Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals.

Internal Council Consultations

- 4.3 **Transportation Manager** updated comments: The outstanding highways concern for this site was relating to the available and achievable visibility from the proposed access, particularly when looking to the right of the proposed access point. This has been the subject of a site meeting at which it was pointed out that the proposed plan indicated a tree (specifically the trunk) obstructing the visibility available. During this meeting it was also discussed that there may have been drafting anomalies with the location of the tree, and additional information was sought to more accurately set out the tree location and profile. This then would allow a more accurate visibility assessment.
- 4.3.1 Drawing number CTP-18-273 SK 03 Revision A sets out the product of this more detailed design and review by the applicants transport consultants. These consultants also set out the process of the review in an email to support the revised drawings. It sets out that an appropriate splay is deliverable within the extents of the highway, with a margin for maintaining the splay in future years. In addition this drawing shows that a slightly longer splay is deliverable than the drawing specifies and as a result this is considered acceptable.
- 4.3.2 In considering this application and the proposal set out in drawing SK03 also sets out the betterment to the junction of the U70416 and U70414 that will result as a product of the scheme.
- 4.3.3 Considering this updated design information with the proposed change of use and the improved situation that will result from the reduction of large vehicles accessing the site the proposed residential development is considered acceptable in highways terms.
- 4.3.4 In order to ensure that the splays are protected, particularly the splay to the left of the junction which relies on the application site land the application of condition CAB (2.4m x 43m in accordance with drawing SK03) should be applied in the event that permission is granted.
- 4.3.5 In addition the access amendments should be subject to condition CAE and in order to appropriately manage the construction phase the application of CAT is recommended. This should seek details on Wheel Washing Facilities, Site Operative Parking and the provisions for taking deliveries within the site to reduce the HGV operations on the U70416.

Original comments were as follows:

4.3.6 Additional information has been submitted regarding the achievability of the access on Sharman Pitch. The additional information has been reviewed however even if the quoted visibility splays of 34m and 37m is provided this will still be insufficient to meet the required visibility splay of 42 m and 46 m as calculated using the original speed and volume survey submitted. If the tree is removed to achieve the visibility splays, then there could be issues with the stability of the carriageway. The visibility splays for the other accesses along the U70414 should meet 37m in both directions.

4.3.7 It is noted that the change in the use of the site will reduce the number of large vehicles using the highway, however it will increase the number of vehicles moving at peak times and there are a number of narrow sections of highway which restrictions two way movements. .

There are still concerns regarding the provisions of a reduced visibility splay on Sharman Pitch therefore with the comments raised above this application as it stands can not be supported. ,

4.4 **Principal Natural Environment Officer (Ecology)** comments on amended plans:

The site location within the River Wye Special Area of Conservation (SAC) catchment triggers the requirement for a Habitat Regulations Assessment process. The appropriate assessment completed by the LPA must be subject to consultation with Natural England prior to any consent being granted.

4.4.1 The updated drainage scheme dated 12th March 2020 is noted and with revised application and confirmation from the applicant/agent received at the same time the following is noted:

All foul water will be managed by plot-specific private treatment plants draining to a shared infiltration drainage field over which the applicant will have legal control for the drainage fields. There is no reason for the LPA to believe this is not achievable at this location.

Surface water will be managed through onsite SuDS and infiltration features.

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

4.4.2 **Habitat Regulations (River Wye SAC) – Foul and Surface Water Management**

All foul water shall discharge through connection to new private foul water treatment plants specific to each dwelling with final outfall to a shared soakaway drainage field on adjacent land that is under the legal control of the applicant. All surface water shall discharge to appropriate SuDS or soakaway systems. All systems shall be installed as approved and hereafter fully maintained and operated to manufacturers specifications 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, SD3 and SD4

Aside from the HRA-drainage the previous ecology comments and suggested conditions remain relevant

4.4.3 **HRA Appropriate Assessment submitted to Natural England:** NO *adverse effects on the integrity* of the Special Area of Conservation; subject to appropriate mitigation being secured. Habitat Regulations 2017, Part 6, section 63(5)

The updated drainage scheme dated 12th March 2020 is noted and with revised application and confirmation from the applicant/agent received at the same time the following is noted:

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

All foul water will be managed by plot-specific private treatment plants draining to a shared infiltration drainage field over which the applicant will have legal control for the drainage fields. There is no reason for the LPA to believe this is not achievable at this location.

Surface water will be managed through onsite SuDS and infiltration features.

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

4.4.4 **Recommended Planning Conditions to secure appropriate mitigation:**

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

All foul water shall discharge through connection to new private foul water treatment plants specific to each dwelling with final outfall to a shared soakaway drainage field on adjacent land that is under the legal control of the applicant. All surface water shall discharge to appropriate SuDS or soakaway systems. All systems shall be installed as approved and hereafter fully maintained and operated to manufacturer's specifications 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, SD3 and SD4

Further additional comments stated as follows:

4.4.5 The site is within the River Wye SAC catchment and a habitat Regulations Assessment process is triggered. The required appropriate assessment must be completed by the LPA and submitted to Natural England for their formal comment PRIOR to any planning consent being granted.

4.4.6 As currently presented, and considering the most recent comments by the LPA's land drainage consultants there remains a scientific and legal doubt as to the ability to achieve a fully supported and informed scheme for foul water management that satisfies HRA requirements as well as all other statutory guidance, regulations and Core Strategy policies (including all management of outfall and legal agreement on who/how the system will be maintained), There is also currently no certainty on how a satisfactory surface water management solution can be achieved.

4.4.7 The LPA must be legally and scientifically certain of the achievability and ongoing management of both foul and surface water schemes BEFORE the HRA appropriate assessment can be completed and any recommendation to allow planning consent to be granted made. (Conservation of habitats and Species Regulations, NPPF, NERC Act, Core Strategy SS6, LD, SD3 and SD4

4.4.8 Notwithstanding the above:
The supplied ecological report appears appropriate and relevant. The recommended risk avoidance and mitigation measures should be secured through condition. A detailed biodiversity net gain enhance plan and specifications should be secured through relevant condition.

4.4.9 **Nature Conservation – Ecology Protection, Mitigation**

The ecological protection, mitigation, compensation and working methods scheme including the presence of an ecological clerk of works, as recommended in the ecology report by Janet Lomas dated November 2018 shall be implemented in full as stated and hereafter maintained unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2018 (as

amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006

4.4.10 **Nature Conservation – Biodiversity and Habitat Enhancement**

Prior to commencement of development a detailed scheme and plan for proposed biodiversity net gain enhancement features including provision for bat roosting and hibernation, bird nesting, hedgehog homes and pollinating insect 'nesting' 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 any biodiversity net gain feature or adjacent habitat.

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.

Original comments:

- 4.4.11 The site falls within the River Wye SAC catchment and triggers a Habitat Regulations Assessment. The required 'appropriate assessment' must be completed by the LPA and formally 'approved' by Natural England PRIOR to any planning consent being granted.

It is unclear from the supplied information how the foul water from the proposed plots and development will be managed as no mains sewer connection is available. The use of PTP is indicated but it is not clear if this is on a plot specific basis (as is usual best practice) or if an alternative is proposed. In line with Core Strategy policy SD4 hierarchy if final discharge to soakaway drainage fields on each plot or land under the applicants control is not proposed then a professional drainage report with all relevant percolation tests and supporting information showing that a soakaway system, including 'mound' systems is not possible must be supplied before a direct outfall to a General Binding Rules compliant watercourse can be considered.

Once this foul water information has been supplied the required HRA process can be initiated and final suggested ecology conditions and any further comments made.

4.5 **Principal Natural Environment Officer (Landscape) Comments**

Updated Comments provided by the Principal Natural Environment Officer on 19 October 2020

- 4.5.1 The site does lie within the Wye Valley AONB, a national landscape designation which affords it a high degree of protection and in policy terms stipulates that development should provide enhancement to the local landscape character.
- 4.5.2 Notwithstanding the above, the site is also by definition a brownfield site, currently in use as a plant nursery and previously quarried for stone. Substantial weight must also therefore be attributed to the effective use of land as well as consideration given to the current baseline in terms of the existing character of the site.
- 4.5.3 Extensive discussions have taken place with the applicant from pre-application advice through to the submission of the application before us today, these discussions have secured a number of amendments to the scheme, including:
- The retention of the beech tree along eastern boundary
 - Retention of roadside hedgerow where possible (agreement to removal of the conifer hedgerow which is not in keeping with local landscape)
 - A reduction in units along the roadside from 3 to 2.
 - A reduction in height of dwellings upon the brownfield site

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- Revisions to the style of dwellings proposed to reflect the rural character of the site.
- Further planting proposed along site boundaries.

Taking into account the current condition of the site and the revisions secured, on balance it is considered that the scheme has the potential to offer enhancement and is therefore compliant with policy LD1 of the Core Strategy

Previous comments stated as follows:

- 4.5.4 The site falls within the Wye Valley Area of Outstanding Natural Beauty. The landscape character type is forest small holdings and dwellings. The location is typical of the character type in terms of "dense settlement pattern with a complex matrix of narrow intersecting lanes fringed by wayside cottages interspersed with small hedged pastures and pockets of rough grazing". The site itself is unusual, as a commercial operation, with small scale buildings and structures and plants for sale in line with the business. Overall views into the site from the roadside gateway are of a mixed character. The boundary vegetation and tree belt currently makes a positive contribution to the natural environment.
- 4.5.5 The proposal for residential development on this site will alter the character of the site completely. The application is for 8 dwellings, however they are split by a large tree belt running south west to north east. The development would not be viewed together and having separate entrances and designs it would have two different characters. The pair of dwellings that front the road to Crossway require a substantial loss of roadside hedgerow and two new, separate vehicle entrances. This will considerably alter the character of this section of road on the AONB boundary and suggests that introducing two dwellings in this triangle of land is too large scale to work with the existing conditions.
- 4.5.6 The main section of the site is proposed for six dwellings. The building design and materials are interesting and it is accepted that the site location is suitable for residential development. The introduction of six, however, means that they each have relatively small garden areas, especially when taking account of the patio and paths also required in the back gardens, together with shading and leaf drop considerations from the existing retained trees. Breaking up the existing tree belt into separate ownerships could also cause maintenance issues and continuity of this feature could be compromised.
- 4.5.7 The Herefordshire Landscape Character Assessment states that increasing urbanisation is the greatest threat to the Forest smallholdings and dwelling character type and also that 'additional individual dwellings may be appropriate in some circumstances where the scale of the original settlement would not be compromised'.
- 4.5.8 Core Strategy Policy LD1 requires proposals to demonstrate that the character of the landscape has positively influenced the design, scale, nature and site selection of the development (bullet point 1). It also requires that development proposals should conserve and enhance Areas of Outstanding Natural Beauty through the protection of the area's character (bullet point 2).
- 4.5.9 The Wye Valley AONB Management Plan Policy WV-D2 requires a high standard of design to complement the local landscape character and distinctiveness.
- 4.5.10 While the site is brownfield, the proposal overall would not significantly enhance its immediate setting and does not fit in with the overall form and layout of the surrounding settlement. This is in terms of extensive hard surfacing for vehicles, small size of private gardens and the scale of built development that will overwhelm the unique site.

Previous comments: I have reviewed the revised drawings. In relation to the previous landscape comments by E. Duberley (dated 15/11/2019)

4.5.11 I confirm that the latest, more detailed visibility splay and highways response adequately address retaining more roadside boundary hedgerow and protecting the beech tree at the entrance. Therefore, if the application is to be approved then only a condition for a landscape management and maintenance plan would be required

Further comments stated as follows:

4.5.12 I have seen the amended proposals for the scheme; these are welcomed. A minor detail relating to the exterior materials I would recommend the window frames are of a recessive colour similar to that of the roofing.

In terms of the landscape plans I am content that the majority of existing vegetation is to be retained and that extensive new planting is shown.

I do have a concern that extensive amounts of boundary hedgerow are proposed to be removed and I would recommend this is reviewed with the highways officer to establish need.

In relation to the specimen beech at the entrance to the site I note this is to be retained however I do have concerns in relation to hedgerow removal beneath it – I would recommend this is simply coppiced – and would seek clarification on any earth works retaining walls or otherwise which may disturb the root system of this tree.

When these two details are finalised I am content for a condition to be applied in relation to the management of the scheme to ensure the successful establishment of all planting.

Original comments stated as follows:

4.5.13 Following a site meeting this morning these are my initial thoughts in relation to the proposal:

- The site is a brownfield site it is therefore considered there is opportunity for enhancement.
 - The tree belt which runs diagonally across the site should be retained and strengthened.
 - The 3 dwellings shown to the east of this belt should be removed, as they are more exposed within the local landscape and necessitate hedgerow removal.
 - The western site boundary should be strengthened with tree planting as this side of the development is more exposed.
 - The heights of the dwellings should be considered in relation to the levels of the site and the surrounding built form, with an appropriate housing mix.
 - The beech tree to the north of the site boundary should remain in situ and any proposed works potentially affecting its stability will need to be clearly identified.
 - The conifer hedge can be removed but native hedgerow should seek to be retained.
- Whilst it is accepted that there is opportunity for enhancement upon the site, the views into the site from the local landscape are important particularly given that fact that what is proposed represents a deviation from the existing dispersed settlement pattern of wayside cottages.

4.6 **Principal Building Conservation Officer:** These comments only relate to historic buildings, for archaeology advice please contact Julian Cotton, the Council's Archaeologist.

812m West North West lies Upper Wyhall, a Grade II* listed building with separate Grade II listed stables and cider house and set within an unregistered park and garden. The distance and intervening topography and vegetation mean that the understanding and experience of the building would not be affected by the development.

There are also 2 listed buildings to the North North West of the site at 730m away. These consist of Tan House and Coughton Mill House. The nature of the topography means that the setting of these buildings would not be affected by the proposals.

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

4.7 **Archaeology:** No objection

4.8 **Environmental Health Service Manager (Contaminated Land):** Comments. I refer to the above application and would make the following comments in relation to contaminated land and human health issues.

The site is within 100m of a closed landfill according to our records. With this alongside the change to a more sensitive use in mind, I'd recommend the following condition be appended to any approval.

1. No development shall take place until the following has been submitted to and approved in writing by the local planning authority;
 - a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
 - b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors
 - c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme s specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing.

The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health.

3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health.

4.9 The **Land Drainage Engineer** comments:

In our previous response to this planning application we highlighted that the following outstanding information should be provided:

- Revised proposals for ground raising in rear gardens and position of the drain headwall.

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- Information regarding the proposals for tankering of treated effluent.

The following information has been provided since our previous response:

- Email from Infrastruct CS Ltd dated 13 July 2020
- Drainage strategy drawing Ref WATE-ICS-01-XX-DR-C-001-P05

Only those points that were outstanding from our previous response are discussed below.

4.9.1 Development description

The Applicant proposes the construction of 8 dwellings with access roads. The site covers an area of approx. 0.67ha and slopes from approximately 174.1m AOD in the north east corner to 166.3m AOD in the south west corner. It is currently used for commercial purposes as a horticultural nursery.

4.9.2 **Surface Water Management Strategy**

1. Revised proposals for ground raising in rear gardens and position of the drain headwall.

On the latest drawing the length of the culvert has reduced and headwall repositioned to the north east of plot 5. We note the intention to advise the property owner with respect to right of access for the highway's authority. This should apply to all properties through which the pipe crosses. We highlight however that the pipes draining from the road into the inspection pit would be regarded as highway drains and the culvert and ditch beyond this as privately owned. The drawing states the commitment to ensure levels of the permeable paving are above the highway drainage channel and not below existing ground levels, so ensuring all flows are contained and this is agreed. We believe this is likely to be a feasible solution to minimise the risk of water resulting in flood risk to property. For the discharge of conditions application proposed level plans and/or sections of this area should be submitted that demonstrate these proposals in the detailed design for this area.

4.9.3 **Information regarding the proposals for tankering of treated effluent.**

2. It is understood that the 3rd party landowner has agreed to the siting of the drainage field although no documentation to this effect is available. The agent states that access for tankering would be subject to easement arrangements and that the route will be via a track from 3rd party outbuildings. It is unclear whether this track is currently suitable for accommodating a tanker or the where this intended route will be. A diagram of the proposal will be required. Whilst this may appear to be very detailed information, the ability to maintain the drainage field is a material consideration in the viability of the proposals. Prior to planning permission being agreed further information will be required to indicate location and suitability of the proposed tanker route. Confirmation will need to be provided as part of the discharge of conditions to confirm access has been agreed with the landowner and the location of the chamber is acceptable.

4.9.4 **Overall Comment**

Prior to the Council granting planning permission we recommend that applicant provides further information regarding the proposed route of the tanker for maintenance of the drainage field and that this proposed route is suitable to accommodate the size and weight of the tanker.

In addition the following should be provided to support any discharge of conditions application:

- Detailed drawings of the proposed surface water and foul water drainage systems, including cross sections through key features such as permeable paving and drainage field.
- Detailed calculations of the proposed surface water drainage system to demonstrate no increased flood risk up to and including the 100 year event with 40% climate change allowance. FEH 2013 rainfall data is expected. Calculations should be based on the findings of updated infiltration testing.

- Further information regarding site levels to demonstrate that flow that may temporarily overwhelm the inlet capacity of the permeable paving will be retained within the road and parking areas up to the 100 year + CC event.
- Detailed calculations of the proposed foul water drainage field using a more appropriate Vp.
- Plans/sections of proposed levels designed to contain highway runoff within the channel adjacent to plot 5.
- Survey demonstrating condition and route of the surface water drain serving the highway.
- Details of the proposed headwall from the highway drainage pipe.
- Additional survey of the area proposed for the foul drainage field to demonstrate appropriate fall through the drainage field.
- Infiltration testing at the location and depth of the proposed drainage field in accordance with BS6297 and Section 1.32 of Building Regulations Part H.
- Infiltration testing at the location and depth of proposed surface water infiltration features undertaken in accordance with BRE365.
- Suitable testing to confirm that groundwater levels are at least 1m below the base of all infiltration features
- Evidence confirming landowner agreement for installation of the drainage field, chamber and provisions for tanker access.
- Demonstration that each package treatment plant will have its own control system and that any communal systems are located in communal areas.
- Clarification that all communal drainage infrastructure will be maintained by a third party management company.

Previous comments from the drainage officer can be viewed at: 3

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=190316&search-term=howle%20hill

4.10 **Minerals and Waste Officer** comments: No objection

I can confirm that the site is identified under saved HUDP Policy M5 for the safeguarding of minerals. However, given the scale and nature of the proposal, and the relative abundance of hard rock reserves across the county, I have no objection to this application.

4.11 **Tree Officer:** I have no further comments to add.

Relevant Policy

NPPF:

- Paragraph 15 Conserving and enhancing natural environment

Core Strategy

- LD1
- LD3

Arboreal Features:

- There are two main arboreal features on the site which are to be retained. They are the mature Beech tree located next to the main entrance and the band of trees which runs the entirety of the site in a south west to north easterly direction, bisecting the site.

The westerly side of the site contains 6 of the plots with the remaining two (plots 8&9) on the other side on higher ground.

Potential Impacts:

- The central band of trees, due to their proximity to plots 3, 4 & 5, will cast considerable shade. All three plots are on the southern side of the tree line and it is likely that they will experience prolonged shading when the sun is lower, dependant on time of day and year.

I would also consider that the proximity of the trees to these plots could raise 'nuisance' issues such as falling debris, leaf drop and bird droppings. Whilst I'm of the opinion that these are not reasons for objection or even for alterations to the design layout they should be taken in to consideration. The band of trees are an important landscape feature which should be left unaffected post any development. There is potential that once the site is broken up into individual ownership we will see the gradual removal of trees. Therefore to prevent this from occurring it is highly probably that a TPO shall be made to protect them.

Summary & Recommendations

On account of the retention of the trees deemed to be of good quality and low impacts on them by the proposals I am of the opinion that the site is compliant with policies LD1 & LD3 of the core strategy and therefore support the application, subject of conditions.

Conditions

CK9 - Trees In accordance with plans
(Arboricultural Impact Assessment – Adrian Hope Tree Services)

CKA – Retention of Existing Trees

CKB - Protection during Construction

- 4.12 **Waste Officer:** Comments: Will the road be constructed to a suitable specification for a 26 tonne refuse collection vehicle? If not, a collection point for bins (e.g. an area of hard standing where bins can be placed on collection day) will need to be provided near the entrance to the development. Please refer to "Guidance Notes for storage and collection of domestic refuse and recycling"

In the event that the road within this development does not become adopted by Herefordshire Council:

The council will only agree to travel private roads for the purposes of waste collection if:

The council and its contractors determine that collections can be carried out safely;

and

The council receive written confirmation from the landowner/developer that the roads over which the RCV will travel are built to a suitable specification for this type of vehicle to travel over on a frequent basis;

and

The council and its contractor are indemnified against damage to roads and general wear and tear, other than that caused through negligence.

The council and/or its contractor will assess the safety of collections at the development via the completion of a risk assessment which will take into consideration the access and suitability of the road surface, width, obstructions and turning areas for a 26 tonne refuse collection vehicle (RCV).

If a private road is not suitable for the RCV to travel or an indemnity is not signed by the landowner, the collection point for rubbish and recycling will be at a point adjacent to the nearest public highway, as determined by Herefordshire Council.

The council and its contractor reserve the right to cease collections from private roads if the roads or entrance are not maintained to a standard suitable for the RCV or there are any obstructions in place.

5. Representations

5.1 Walford Parish Council – Object

Council wish to make the following requests and comments:

- The Council assume that the planning authorities are qualified to deal with matters arising from the proximity of the development to AONB and the core strategy implications.
- The Council are not convinced that the traffic statement correctly reflects the actual usage of the roads and asks that there be a re-analysis of the traffic flows.
- The area has suffered from severe problems with overflow parking on the roads. The Council don't think that the provision of garages will accommodate modern cars and that 2 parking spaces would not be sufficient especially for the larger houses. The Council would like the parking provision to be reviewed.
- Greater consideration should be made of the appearance of the development in the context of the existing dwellings in the area.
- Although there was an outline description of sustainability of drainage in the development, there is no reference to sustainable energy plans.

Further comments were received following a re-consultations on amended plans:

The Parish Council objects to this application on several ground:

- It is outside the settlement of Howle Hill. Precedence was set in application 171105 which was deemed to be outside the settlement area. This puts the application under the stricter criteria of RA3 which it does not meet.
- This is not a proportionate development. The proportion of 14% required by the core strategy has been met already within the settlement of Howle Hill.
- This is major development, so is under AONB protection. 8 houses in an estate configuration in a hamlet of single dwellings on large plots represents an increase of 25%. Being a major development in the AONB means it must be refused.
- Howle Hill is not a sustainable location for this size of development. There are no services in Howle Hill. With no bus service, residents have to drive on narrow, dark and winding roads to access services in Ross-on-Wye.
- This is detrimental to the visual impact within the AONB. The houses will still be visible especially given the wider opening on Sharman's Pitch necessary for the visibility splay. Five of the six houses in the lower section would be clearly visible from the entrance and to passers-by.

The Council feels that if these objections are not upheld, it would create the wrong precedent for future developments in the area. We understand that this case will be heard in Planning Committee and we should like to send two representatives to that hearing

The Chair read out a summary of two letters of objection which had been received from local residents. It was noted that there were a huge number of documents associated with this application and it was quite confusing to determine the most recent documentation. It was also noted that this application was resubmission of a previous application and while there had been some minor amendments particularly with regard to visibility splays the application was largely unchanged. The application stated it was for 9 dwellings but the plans only showed 8 dwellings.

It was resolved to **object** to this application on the basis of the previous objection, the housing was out of character and inappropriate for the site.

5.2 CPRE (Herefordshire) – Objection Comments on amended plans as follows

I am writing on behalf of the Committee of the Herefordshire Branch of the Campaign to Protect Rural England (HCPRE) to object to this application.

- 5.2.1 Our objections to the original application were sent to the Planning Officer on 19th April 2019 and a further one was sent on 26th November 2019 after the number of the houses had been reduced to 8, the height of the 6 larger ones reduced from 3 to 2 storeys and the roof design of these larger, visually prominent, houses changed to 'polytunnel' curved Profiles. All the objections in those letters still stand. Although the height reduction is an improvement this is marred by the inappropriate and insensitive roof design; polytunnels in this, the Wye Valley Area of Outstanding Natural Beauty (AONB), are not aesthetically attractive.
- 5.2.3 AONBs are protected from inappropriate development under Policy 15 of the National Planning Policy Framework (NPPF) para. 172...'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues'...(c) any detrimental effect on the environment, the landscape and recreational opportunities .. should be assessed by the Planning authorities. They are also protected under the Herefordshire Local Plan Core Strategy Policies SS1 and LD1 and within the principles of the Wye Valley AONB Management Plan.
- 5.2.4 On the theme of the inappropriate design of the houses and the suburban layout of the 'estate' one of the documents submitted by the Applicant, entitled 'Landscape Overview for Development at Howle Hill Nursery' commencesThe concept is to create a bespoke development nestled within the existing Woodland the associated illustrations show a sophisticated artificial ambience with large boulders strewn around on the margins between the houses... these are of Forest of Dean stonewhich will be used for accent walls on each dwelling and will be used also in its boulder form as a landscape material to add accent and form. We emphasise that this is a rural area, where the local dwellings are simple and functional. Historically this 0.67 Ha site was a working quarry (with consequent contaminating residues); more recently a modest horticultural Nursery and, currently, whilst in the ownership of the Applicant, a large, wholesale, Plant Nursery.
- 5.2.5 It has been argued that this is a 'brownfield site' but it is not on the Herefordshire Council Register of these sites. Even if it can be proved to be a 'brownfield site' the proposed housing density would be in conflict with NPPF Policy 11, para. 172, footnote 44.
- 5.2.6 In addition to the points made in our two previous letters objecting to the proposals there are further concerns, specifically the probable inadequacy of the drainage as described in the current application. There appears to be some doubt about the efficacy of the provisions for the disposal of foul water and the control of the surface/storm water, local residents are aware of frequent heavy flooding episodes down this steep hill.
- 5.2.7 The improved visibility splay at the entrance to the main part of the 'estate' is noted but, by opening up the aspect from the road, these large houses will be more visible and intrusive. If the site area is lit there will be 'light pollution' in this quiet area where, unusually, dark skies are still a feature. It is noted that the 'Planning Design and Access Statement' for this application has not been updated to refer to the reduced number of the re-designed houses and layout....thus it is not clear what the lighting arrangements will comprise.
- 5.2.8 The narrowness of the lane permitting access to the two more conventionally designed houses to the east (now Plots 1 and 2) will make exits quite difficult for the occupants...planning permission ref.P161735/F (retrospective) for improving the entry for traffic serving the Howle Hill Nursery was refused in September 2016; the current application may have improved the splay/visibility etc. for this access but the lane remains narrow with limited visibility.

5.2.9 Finally, this area is not within a Settlement, there are no services (not even mains drainage), there are no regular bus services, there are no pavements on Howle Hill nor the lane serving proposed Plots 1 & 2, and Sharman Pitch' (as it is named) is steep with limited visibility. The site area, within the confines of the old quarry, will not allow overspill parking for future residents and there is already considerable resentment of the cars and other vehicles parking opposite the Nursery main entrance on land which does not belong to the owner.

In our view this proposal cannot be described as a 'sustainable' development.

5.2.10 Summarising we believe that several Policies, national and local, would be contravened if this application is granted, the density and design of the houses is incongruous in this rural setting and the visual impact and size of the 'estate' would be contrary to the principles of the Wye Valley AONB Management Plan.

CPRE strives to preserve the beauty of the rural landscape and also protect the environment by discouraging inappropriate development in the countryside.

Original comments are as follows:

I am writing on behalf of the Executive Committee of the Herefordshire Branch of the Campaign to Protect Rural England (CPRE) to object to this application.

The reasons for this objection are:

LOCATION: The 0.67 Ha site is within the Wye Valley Area of Outstanding Natural Beauty (AONB) which is protected from inappropriate development under the current National Planning Policy Framework (NPPF) 'Conserving and enhancing the natural environment' Para. 172, the Herefordshire Local Plan Core Strategy 2011 - 2031 (CS) Policies SS6 and LD1 and by the principles and strategies of the Wye Valley AONB Management Plan.

It is sited in the Open Countryside as, although there are a few houses nearby, it is a scattered community with no focal point. St. John's Church is now a dwelling and the Public House, The Crown, closed some years ago. A recent planning decision made it clear that this is not a Settlement, far less a 'village' as stated in the Applicant's Planning Statement.

POSSIBLE CONTAMINATION: There is possible ground contamination as this land was a quarry; there was another quarry (now infilled) approx. 100m to the North West and during the 1960s there was prolonged Opencast Coal Mining on the land on the other side of the lane to the south east.

SITE SUITABILITY; It is unclear whether this is a 'brownfield' site as it does not appear in the Herefordshire Register of Brownfield Sites. Also NPPF Policy 11 'Making effective use of land', para. 117, whilst encouraging meeting the need for homes by using 'previously developed or brownfield' land introduces a caveat (footnote 44) except where this would conflict with other policies in this Framework.....It should also be emphasised that although permission was granted, in August 2018, to App. ref. P172215/O for the erection of one pair of semi-detached low-cost houses and two detached open market houses on land near to these crossroads, that site was outside the AONB; despite the inclusion of two 'low-cost' dwellings the site is still, eight months later, unsold. By contrast the proposed 9 houses at 'Waters Edge' are large, several with 4 or more bedrooms and certainly not 'low-cost'.

ROAD NETWORK: The lanes in this rural part of Walford Parish are narrow with substantial, mature hedgerows and lack footways. There are no bus services (apart from those serving stops on the B4234 at Walford), and Howle Hill is steep and difficult for walkers and cyclists. The crossroads adjoining two sides of the site comprise narrow lanes where increased car traffic would create a problem. You will know that retrospective permission for improvement to an

access to this Plant Nursery from the lane to the east (ref. P161735/F) was refused in 2016 but this application requires two accesses from the same lane. In our view this would be contrary to CS Policy MT1.

DESIGN: The style and density of the proposed houses does not fit in this rural setting and is alien from the more modest dwellings in the vicinity. With the proposed removal of the hedgerow and the proximity to the road, the tall, urban-style houses will be very visible from the highway and from the land around.

This is a rural area with farms, smallholdings and generally modest houses with large, well-cultivated gardens; NPPF Policy 5 'Delivering a Sufficient supply of Houses' para. 77 states that 'In rural areas planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs.'

DRAINAGE: Another concern is the management of the foul water from the proposed plots as no mains sewer connection is available. Even if the Package Treatment Plant option is considered this requires a final discharge; with the topography of this site this might be difficult.

SUMMARY: There is considerable local disquiet about this application from many long-standing residents. In our opinion the proposal is not sustainable; it is contrary to the NPPF Policies cited above and to Core Strategy Policies RA2, RA3, LD1, LD4, SD1 and MT1. The land is within the River Wye (SSSI and SAC) Catchment Area and a Habitat Regulation Assessment (HRA) will be required. The density, massing, and design is contrary to the requirement for 'protection and enhancement' of the Wye Valley AONB.

CPRE aims to preserve the countryside for its landscape value and protect its amenities and the environment by reducing inappropriate development.

We trust that our concerns will be taken into consideration when this application is determined.

5.3 **Wye Valley Society – Objection** - Comments on amended plans as follows –

The Wye Valley Society notes that the Applicant has submitted a further set of amended plans and additional supporting information for the above application. The number of the houses has been reduced from the original 9 to 8, they are two storey instead of three and the main roof profiles of 6 of the 8 houses is unconventional in that the profiles resemble those of polytunnels.

5.3.1 These new plans and information still do not seem to address the planning objections raised by this Society, the Wye Valley AONB Unit, Walford Parish Council, Herefordshire CPRE and over 50 residents of the Howle Hill settlement and immediately surrounding area. We therefore wish to reconfirm our objections to this application. We would also offer the following additional comments and objections:

5.3.2 The further increase in the size of the access splays and re-siting of the entrance means that the development will be even more prominent when viewed from the surrounding lanes. The access splay towards the South-East would still seem to be inadequate for a road where the applicant's own survey recorded 85% tile speeds of 33.5 mph for vehicles travelling in the Westbound direction.

5.3.3 The 'polytunnel' style of the roofs of the majority of the houses is inappropriate as it doesn't match any other dwellings in either the Howle Hill settlement or the surrounding area. This is contrary to the requirements of Policy RA2, sub-item 1 of the Herefordshire Local Plan Core Strategy (CS) where, for 'smaller settlements' the policy clearly states that it must 'demonstrate particular attention to the form, layout, character and setting for the site and its location in that settlement and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned'. The style of the proposed dwellings matches nothing in the surrounding area and clearly, from the volume of local objections, it is not considered to contribute in any way

to the social well-being of the settlement. As in our previous letters we would also observe that given the negative publicity that has surrounded the widespread use of permanent polytunnels, on two intensive holdings in this Parish, this seems a most insensitive design choice.

- 5.3.4 We still see no evidence that the applicant is making provision for roof-mounted photovoltaic panels. The AONB Management Plan highlights the need for environmentally sensitive development within the AONB and we believe that this must include energy efficiency measures as part of any new buildings. In a hilltop open site, such as this, we would therefore hope that the use of PV panels be a mandatory part of any design. We would also expect that measures should be taken to maintain and promote the existing 'dark skies' within such rural parts of the AONB, including making conditions to exclude the provision of street lighting.
- 5.3.5 There is still a 'close' of 6 identical houses arranged in a regular, suburban style. This is completely alien to the dispersed nature of the existing settlement where there are a wide variety of styles but no 2 dwellings are identical and the spatial arrangement is entirely random. In such an environment the proposed design will appear to be completely different and visually will resemble a much more urban housing pattern, something that we would completely oppose in an open, rural landscape area of the AONB. In terms of style we would comment that the prevailing local pattern is a mixture of Herefordshire rubble stone cottages and some brick built single storey dwellings.
- 5.3.6 We continue to believe that this site is outside the main settlement dwelling concentration for Howle Hill. As previously stated the assessment of the Howle Hill settlement, undertaken by the Planning Officer when considering application P171105/F and fully endorsed by the Appeals Inspector when dismissing the appeal APP/W1850/W/17/3179678, identified the main concentration of settlement related dwellings to be near to St John's Church and the Crown Inn (both now converted to private dwellings) with a smaller concentration around Sharman Pitch but several hundred metres from this site. We therefore believe that this application should be considered under CS Policy RA3, rather than RA2 and, on that basis, the proposal meets none of the specific criteria for development under policies RA3 and SS2.
- 5.3.7 Reference has also been made to planning application P172215/0 which was granted in August 2018. However, we believe that P172215/0 should have no bearing on this application as it was granted primarily on the basis of providing affordable housing, albeit in a location that was acknowledged as being unsustainable. It is also just outside of the designated AONB area. Both of these points were noted in the Inspector's report when dismissing appeal APP/W1850/W/17/3179678 which also cited P172215/0 as a precedent in favour of planning approval being granted. This site is now shown on the revised location map as a 'development site already approved'. However, although outline permission for this development was given on August 2018, with a 3 year limit for commencement of development, we believe that no application for consideration of the reserved matters has yet been lodged with Herefordshire Council.
- 5.3.8 We have reviewed the additional drainage system information and would fully endorse the reservations expressed by the Council's own experts in relation to the use of the adjacent field for foul water disposal. We also remain unconvinced that the matter of surface/storm water drainage has been adequately addressed, especially considering the increased potential for torrential downpours, and are concerned that storm water may also overwhelm the foul water system with serious pollution concerns for other properties and the River Wye, as Howle Hill drains into the Castlebrook stream, a tributary of the Wye.
- 5.3.9 On the matter of landscape planting we note that the hedges on either side of the access drive have now been reduced in width to a size that appears to be incompatible with any native hedging plant. This has presumably been necessary to achieve adequate visibility splays and it therefore seems inevitable that any developer would find it impossible to retain any hedging along the Sharman Pitch roadside.

5.3.10 In conclusion the Society feels that the amended proposals still comprehensively fail to address the objections raised by the local community. They do not comply with the specific requirements of CS Policy RA2 in respect of 'other settlements' nor do they address the visual and environmental objectives defined in the Wye Valley AONB Management Plan. In particular this application still actually seems to embody most of the features described as having a negative impact on the AONB, as detailed in Table 9 'Housing and the Built Environment' of the current Management Plan. We believe it would also contravene the protection status of the Wye Valley AONB as stressed in Policy 15 'Conserving and Enhancing the Natural Environment' para. 172 of the National Planning Policy Framework (NPPF) and also Policy SS6 of the Herefordshire Local Plan Core Strategy (CS). We would therefore urge Herefordshire Council to refuse this application.

Original comments are as follows:

5.3.11 There have been a number of applications, in this part of Howle Hill, over the last 3 years and in all but one case the Planning Officer has concluded that the location does not meet the sustainability criteria defined in the NPPF. The Society does not believe that this situation has changed in that access to public services, such as public transport, schools, shops, churches etc requires at least a one mile journey along narrow lanes that are, in part, only capable of supporting single vehicles, are without any footways and are extensively used by large farm vehicles. We therefore believe that occupants of any dwellings in this location could only safely access services by the use of motor vehicles. Traffic on the road network in the area of the proposed development also represents a significant risk to the elderly and very young.

5.3.12 The applicant has referred to the site as being in the 'centre of the village of Howle Hill. Policy RA2 actually defines Howle Hill as a settlement and a settlement as a grouping of more than 20 dwellings, often with a church or similar building. In the Delegated Decision Report for planning application 171105, at Little Howle Farm which is just across the lane from this site, the Planning Officer undertook a very comprehensive assessment of the settlement of Howle Hill and the distribution of dwellings that might comprise the centre of the settlement. That assessment came to the conclusion that the primary grouping of dwellings was towards the site of St Johns church, now a private dwelling, and towards Sharman Pitch but in an area removed from this site. We therefore believe that this site should not be considered to be within the boundaries of the Howle Hill settlement and is certainly nowhere near the centre of the existing dwellings.

5.3.13 We have previously commented on the RA2 suggested increase of 8 dwellings for the settlement of Howle Hill, over the current Core Strategy period. We would draw your attention to the extant permissions, on Howle Hill, at Great Howle Farm (S110885), at Thorny Orchard (P150248), at Myrtle Cottage (P170050) and recently an outline permission at Crossways (PI 72215/0) all of which are in the geographical area known as Howle Hill. The permission at Great Howle Farm was granted in 2011 and therefore falls within the 20 year core strategy period. It is for 12 new dwellings of which 5 are 2 bedroom, 6 are 3 bedroom and 1 is 4 bedroom. 2 of these dwellings are to be limited to occupation by people with local connections and 2 are to be 'affordable'. There are a further three 4 bedroom dwellings at Thorny Orchard, permission granted in 2015. The permission at Myrtle Cottage (PI70050) was for a new 3 bedroom dwelling, based on conversion of an existing outbuilding and the outline permission at Crossways is for 4 dwellings. Collectively these extant permissions provide for an additional 20 dwellings, so rather than there being a need for more dwellings, as suggested by the applicant, there is extant provision for more than double the 20 year target. Whilst there may be valid local reasons for significantly exceeding the targets laid down in the core strategy we are concerned that if a similar 100% increase were to be replicated over most of the Ross HMA then the impact on local communities, and the AONB, could be considerable and would undermine both the core strategy and the approach defined in the RHBP

- 5.3.14 The RHBP also considered the need for proportionate growth over the period 2011-2031 and appendix 4 of the core strategy indicates that the main growth in new dwellings is expected to occur between 2021 and 2031. Whilst front end loading of the target figures may be beneficial in some cases we are concerned that growth in rural areas and in the AONB needs to be managed to ensure that local services can accommodate the additional population without an excessive impact on the character and landscape quality of the AONB.
- 5.3.15 We do note that none of these extant permissions has, to date, delivered any new dwellings. This might lead to the conclusion that commercially Howle Hill is actually unsustainable in terms of new housing development, as the NPPF sustainability analysis would suggest and that there is no local need for new housing in this location.
- 5.3.16 The site is within the boundary of the Wye Valley AONB and as such should comply with Policy SD1 and the statutory requirements of the AONB Management Plan. This location is at a significant entry point into the AONB and any development will have an immediate visual impact. The current nursery business operating from the site is well screened by 6-8 foot high hedges and the small number of buildings on the site are single storey and thus not visible from the lane or surrounding vantage points. The proposed development includes 6 2 storey dwellings which will be much more prominent and the proposed hedging is much lower than that which currently exists. The proposed buildings are also of a design that is completely different to any of the surrounding dwellings. The Society notes that they appear to be of a similar design to developments in the centre of Ross on Wye and Llangrove, and not in keeping with the existing dwellings on Howle Hill. We therefore feel that this will create a very unwelcome, urban style landscape at this entry point into the AONB.
- 5.3.17 We also feel that 9 dwellings, including an access road, on a .67 hectare site represents a totally unacceptable building density for a location that is within an open countryside setting. Again it is completely different in character to the other groups of dwellings on Howle Hill and as such, does not comply with policy RA2.
- 5.3.18 The Council's Ecology consultee has already drawn attention to the lack of clarity over waste water disposal for the proposed development. We would wish to add that local knowledge indicates that this site already has a problem with surface water pooling and that sub-surface foul water off from existing properties, located across the road, has been noted on the site. We therefore feel that to place a further 9 large properties on this site would potentially result in a serious foul water disposal problem and that this could well then affect the existing properties downhill from the site. There seems to be no possibility of mains drainage being made available on Howle Hill and we would therefore suggest that any development proposal for this area should be closely investigated to ensure that there is adequate provision for safe disposal of both foul and surface water, without placing nearby properties at risk.
In conclusion the Society requests that this application be refused as it:
- 5.3.19 Does not adequately meet the sustainability criteria of the NPPF, especially in terms of safe access to local public services. The site falls outside of the presumed location of the settlement of Howle Hill, thus policy RA3 should apply rather than RA2
- 5.3.20 Does not meet any locally defined need and extant permissions already exist for 20 new dwellings
The number, size and style of the proposed development is not in keeping with surrounding area and represents an unacceptable visual intrusion within the Wye Valley AONB, thus not meeting the requirements of policies SD1 and ED1

The current drainage situation on the site suggests that it is unlikely to meet the requirements of policy SD3 and that development would pose a risk to other dwellings in the vicinity.

5.4 **AONB Officer** comments:

The site of this proposed development lies within the Wye Valley Area of Outstanding Natural Beauty (AONB), which is an area designated for its outstanding national landscape. The Wye Valley AONB Partnership seeks to encourage high quality design and to conserve and enhance the landscape. It is noted that the Design and Access Statement fails to recognise that the site is within the nationally designated protected landscape of the AONB.

- 5.4.1 The AONB Unit has major concerns regarding this proposal. The site is outside the village of Walford and, while possibly a brownfield site, is in open countryside in the AONB, disconnected from the centre of the settlement of Howle Hill and far from any defined settlement boundary. The NPPF paragraph 172 states “Great weight should be given to conserving and enhancing landscape and scenic beauty in... Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.... The scale and extent of development within these designated areas should be limited.” The Design and Access Statement fails to address this national policy in the Planning Statement.
- 5.4.2 The Wye Valley AONB Management Plan 2015-2020 Strategic Objective WV-D2 states “Encourage and support high standards of design, materials, energy efficiency, drainage and landscaping in all developments, including Permitted Development, to ensure greater sustainability and that they complement and enhance the local landscape character and distinctiveness including scale and setting and minimise the impact on the natural environment”
- 5.4.3 The scattered rural settlement of Howle Hill has a low settlement density with no mains sewerage or other public services or community facilities. However the development proposes an urban density level of 9 dwellings, including an access road, on a 0.67 hectares. The design of the buildings appears very standardised and does not conserve or reflect the character of existing buildings in the locality. Access to the development is only realistically achievable by the use of private motor vehicles. We are therefore concerned that the proposed design is not in a sustainable location and will create an incongruous housing estate that appears out of keeping with the scale, setting and character of the rest the settlement on Howle Hill. It is difficult to see how this ‘conserves and enhances the landscape and scenic beauty of the AONB’.
- 5.4.4 The Wye Valley AONB Management Plan 2015-2020 Strategic Objective WV-D3 states “Resist inappropriate development which will create a persistent and dominant feature out of keeping with the landscape of the AONB and/or if it damages Special Qualities in the AONB, including through high levels of noise and/or light pollution or any SAC, SPA or Ramsar site or other sites designated as environmentally important”. Consequently we recommend that the Council consider refusal of the application which fails to conserve or enhance the Wye Valley AONB and the settlement of Howle Hill.

- 5.5 To date a total of **98 representations** (over 3 rounds of consultation) have been received to the application. The comments within the objecting representations are summarised below:

Additional 10 comments following updated drainage and highway details July/August 2020.

Summary of comments:

- Reiterate objections. View not changed
- If goes ahead it will set a precedent. It will open the floodgates to further residential planning applications on the adjoining green field sites
- Transport report argues a reduction of 44 trips makes the entrance and exit safer. Argue it might reduce the probability of a collision but not necessary safer. Nor make Sharman’s pitch safer.
- TRICS data is not comparable to this site in character, location or standard to Howle hill development.

- Clearance of hedgerows is an environmental tragedy. Adverse visual impact in the AONB
- Package treatment plants need power supply and regular maintenance and breaks in power supply are comments. Additional traffic for removal of sewage
- How can the soakaways be protected from heavy loads
- PROW WA 55b opposite the site.
- Devalue property
- Construction traffic unload outside property. Inconvenient, and noise and air pollution with the works
- Much more traffic on the road,
- Houses arranged as a crescent are completely different to any nearby dwellings and density much higher
- Does not respect visual impact and no in line with RA2 or AONB management plan
- Foul water drainage not resolved as is surface water run off
- Visibility in the easterly direct seem to be inadequate and loss of hedgerow on the northern edge 60 Mph. The road has large agricultural vehicles using it.
- Have a significant and adverse visual impact on the setting of the AONB
- Not meet any defined local need for this type of housing
- Not comply with the visual impact and sustainability requirements of the NPPF and policy RA2
- Development not meet requirements under RA3, RA4, RA5, RA6
- Still have significant foul water drainage issues and cause surface water drainage problems for other properties on Howle Hill
- In breach of SS1 as not sustainable development. No jobs in the hamlet. 'commuter homes'.
- Major development in AONB
- Negative impact on existing business eg self-catering
- Development outside settlement boundary, density 12 per hectare, hamlets 4.6
- Design not innovative
- No services (no pub, church, shop, school, village hall, playground), no transport direct conflict with 'Declaration of an ecological emergency and its carbon management plan. Will increase cars and vans on the road. No room for supporting own food production. No electric charging stations for cars. Not a safe, healthy, sustainable and proportionate development in the AONB
- Loss of farming land at Lea, area should be preserved as 'green belt', erased Herefordshire gem of small cottages, fields and orchards.

Additional comments following amended design and description

- 8 dwellings will have an impact on light pollution
- Change in design give the appearance to old fashioned Nissan huts. Design is inappropriate; within the Wye Valley AONB polytunnels are not structures to be celebrated. The design is totally alien
- Polytunnels have no architectural interest and are temporary structures
- The proposed dwellings are much higher than the polytunnel itself, therefore having a much greater and significant visual impact on the surrounding AONB
- 'Dutch Barn' design is more in keeping with our rural setting but all the houses are essentially the same design which is not in keeping with the rest of the settlement
- Plots 1 and 2 are opposite planning but is our understanding that this is only outline. As such, these houses would appear especially out of place. Upper half with timber cladding bear no resemblance to houses adjacent on either side
- Not surprisingly the property removed from the original plan is one of the small, less profitable houses
- Glad they have been reduced from three to two storey but the roof design jars

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- Previous applications have stated that the nursery is not a retail business so visits from public must of a negligible number
- Residents have carried out their own traffic survey over 5 day period and shows the applicants submission is wildly inaccurate
- Landscape overview says more about what can be done during development of the site than about the implications for the residents of up keeping a well-manicured landscape
- Landscape report is self-generated and unsympathetic to the surroundings
- The amended transportation information draws upon standardised empirical data without any analysis of probabilities, peculiar circumstances or future projections
- No mention of climate change
- Most people would estimate that fully occupied 4 bedroom dwellings have 2 cars at least (sometimes 3)
- Drainage scheme seems to be lacking in detail. Suggests that there is an extreme risk that should a development of this size be permitted it would result in a severe environmental and public health problem
- Building houses in the depths of the countryside only serves to increase the carbon footprint
- The collision data relates to crashes only and doesn't take into consideration unreported accidents or 'near misses'
- Housing estates by their very nature bring with them noise
- The arguments made under the appeal ref: 171105 are applicable to this application. The Inspector comments on the crossroads and that itself is somewhat removed from the main built up parts of the village to the north and west
- The site is at the entry to the Wye Valley AONB and as such will have a detrimental impact on the visual landscape
- WVAONB Management Plan and policies RA2 both require any development within the AONB to be sympathetic to the local area and not to impact upon the visual amenity
- This is major development
- Howle Hill is on the route of the Wye Valley Walk
- The style of housing is not in keeping with the current individual local styles and while there are currently hedges and trees bordering the site along the road, these will be removed to improve the access
- A project of this size will negate removal and damage to trees and hedgerows, wildlife and aspect will be destroyed
- The application states it would be necessary to destroy by felling certain trees and hedgerows. Particularly a 'substantial' oak tree. Is this really what should happen in the name of this submission
- The three storeys will visibly stand out most significantly. The hamlet consists of rural style cottages and houses previously passed as suitable to the AONB. The whole area of Howle Hill reflects the beauty of the English countryside
- Some residents will see 3 storey buildings directly in their eye line. Surely that cannot be right
- Children live directly aside the lane and are restricted to not enjoying their bicycles or local freedom, an enjoyment we all partook in our younger years. Horse riders will chose to veto the lane
- We live in the countryside to enjoy the peace and quiet of the area – this will no longer be the case
- Would cause devaluation of own home with the loss of space from other homes and the wonderful view of the Welsh hills
- Need for these properties is questionable and does not include any affordable housing. Development includes 6 x 4 and 5 bed properties. The Rural Housing Background Paper established there was a significant oversupply of large, higher value properties
- The Council recently declared a climate emergency and therefore needs to take urgent action. The proposals does not contain design elements such as orientation of buildings, solar gain, renewable energy, sustainable water drainage

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- The design is neither outstanding or innovative and out of keeping with surrounding development
- The proposal would disrupt the fragile eco-system of the surrounding area
- The NPPF requires development to be sustainable which in this case is clearly not met with a lack of connections to public transport and public footpaths. There is also no employment, shop or pub to support
- Due to the remoteness each home enjoys the benefits of internet shopping, there is agricultural traffic and necessary utility vehicles for oil, gas and septic tank clearing
- Sharman's Pitch is an extremely steep lane with limited passing for two vehicles
- The traffic count census carried out factually incorrect. It should be recounted and site south west after Myrtle Cottage. The true numbers would be staggeringly greater
- To claim traffic movements will be reduced is making full use of the statistics – a business that size should never have been allowed to develop there in the first place
- The main egress from the development is directly onto a bend in a road that already has too much fast traffic
- The number of cars likely to be parked at the development will easily occupy the allocated 18 parking spaces and leave no option but for visitors to park on the road. Roadways appear to be 1.5 car width offering no simple access for emergency vehicles
- Existing permissions represent an increase of some 31% - way in excess of 14% within RA2. In addition the housing density within the current settlement lies at 0.7 houses per area but in the proposed it would be 13.4 houses per hectare. This unsympathetic increase in housing and housing density is completely out of character with the settlement and contrary to the requirement of policy RA2
- Clear that the site used to be a quarry but not mentioned in the application. These sites have been filled and levelled but locals are aware that all sorts of waste have been deposited and indeed a bore hole sunk to try to provide water for Dowle's Nursey showed traces of arsenic
- 2011 permission stated that due to the type of development full site investigation was not recommended. It is now planning for family homes and I feel it would be prudent to establish the sites health credentials
- There is no mains drainage on the site and nowhere for drainage
- The site is 'wet and damp' with considerable run off the current drain under the Dowle site just emptying into a ditch behind the site which has caused flooding to land and farm buildings. New development (in terms of surface and foul water) is only going to worsen matters
- Howle Hill is not a village or even a hamlet. It is two, spread out rural settlements that he planning application does not make clear at all and indeed, is very misleading. Recent planning application 171105/F was refused due to being located in an isolated rural location
- Previous application by the last owner for a bungalow on the site was refused ACCESS?
- The already successful business is exactly what Herefordshire Council are saying is necessary for the rural community. No discussion as to why the site should not have been marketed as a viable nursery business
- Challenge whether this is a brownfield site (not in the Herefordshire Register of Brownfield Sites). It was developed as a lime stone quarry in the 19th century. It was then used as a market garden. The use as a nursery has not involved the construction of any permanent structures – plants are grown in polytunnels and the office is a portacabin
- As the nearest neighbour 50m from the boundary of the site I object. This would blight the viability of our holiday let. This would be the case through the noisy dusty construction period. Longer term the visual impact from the property would be adversely affected
- The development will cause a number of years of disturbance on a noise and pollution level and the logistics will create traffic dramas
- The development will have a significant, negative impact on businesses on Howle Hill which rely on tourism

- Their erection could trigger further nearby developments that would lead to a creeping urbanisation
- Howle Hill does not offer enough social, economic, employment facilities or opportunities

5.6 Supporting comments:

- To see the site develop into a stunning example of modern housing would be an asset to the area and an exciting progression of an existing community
- Positive elements such as retention of woodland, retention of existing hedging, innovation using local stone, grey water harvesting and electric car charging points
- Reduction in heavy vehicles delivering to the nursery and reduction in cars from workforce
- Dwellings would be modern (yet in a way not to taint the area), airy and spacious, and in a beautifully landscaped spot
- This project would attract many young people, and not only young
- High quality, eco-friendly design, taking care of the wildlife which would blend into the existing landscape
- Outdoor areas seem so well considered
- Other new groups of homes or estates we have looked at have an extremely dangerous and fast road as their entrance

Additional Representation from the agent received 15 October 2020:

5.6.1 Thank you for the opportunity to comment on the above planning Application. As you are aware we are disappointed by the last minute landscape comments which have appeared on the committee report which have a contradictory view to the Landscape Manager, who has been fully involved in the development of the planning application from the Pre App some 2 years ago. Her comments clearly advise that there is no landscape objection to the scheme and that all the matters she has raised have been addressed. There are no other objections from any other statutory consultees and we have been working hard in these 2 years with your officers to overcome any areas of concern, especially those raised by local residents. It is our understanding that these have all been satisfied, hence the recommendation for approval.

5.6.2 Clearly one of the key issues relates to the fact that the site lies in, albeit on the edge of the AONB. Whilst this gives enhanced status, the NPFF is very clear that this does not preclude development. Indeed many villages in Herefordshire, like Howle Hill, which are identified in your Core Strategy for residential development, also lie within the AONB. We feel it would be helpful to draw member's attention to a recent planning appeal in the neighbouring village of Glewstone for 9 dwellings on a greenfield (former Orchard) site in the AONB with a public footpath running through the site. This was refused at committee contrary of officer recommendation. The Inspector considered that the main issue was the effect of the development on the character and appearance of the area with particular regard to the AONB. This appeal has many similarities to the current application, both in the scale of development, the size of the village, the nature of the roads and the concerns raised by many local residents.

In allowing the appeal planning ref APP/W1850/W/19/3224840 the inspector clearly stated that:

"I have applied great weight to conserving and enhancing landscape and scenic beauty of the AONB, which has the highest status of protection in relation to these issues. The site in my opinion would not constitute 'major development' in the AONB, and as set out above, the harm to the landscape and the AONB is limited to predominantly local impact, much of which can be sufficiently mitigated via the employment of adequate ecological and landscape measuresI consider that the benefits of the scheme outweigh the identified harm to the landscape and the AONB. I conclude that the scheme would be compliant with the development plan, when considered as a whole".

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- 5.6.3 Furthermore, the Inspector noted concerns regarding the local highway network and concluded that the village suffers similarities to many rural roads of limited width which requires passing places. Nonetheless he considered that there was no evidence on a detrimental impact on highway safety and the local highway network could accommodate the additional vehicle movements. He concluded that Glewstone, which Like Howle Hill has limited facilities, is identified for proportionate growth in the Core Strategy and in the context of the scale of the village as a whole 9 dwellings was considered to be proportionate.
- 5.6.4 We believe that this recent appeal decision from last year is a major material issue and should help support the Planning officer's recommendation for approval, particularly as the current application site is Brownfield, is well screened and predominantly sits at a lower level than the surrounding highway network.
- 5.6.5 We would also like to draw members attention to an application for 4 dwellings (in outline with no design agreed) which has previously been granted immediately to the east of the site on an open and rising piece of land and which lies directly opposite the site for the two proposed semi-detached dwellings which are modest properties and reflect the character and scale of the existing cottages at Crossways.
- 5.6.6 We believe it is important to highlight that as of April 2020 the Parish of Walford had a deficit of 55 dwellings. This is important not only in balancing both the Parish Council and other objector comments which refer to the housing numbers delivered in the Parish, but also and more significantly this highlights the difficulty of finding suitable sites in a Parish which has large greenfield areas within the AONB and many sites within Walford itself in the flood plain where flooding takes place on a regular basis. We believe this is another important material consideration. Given the Councils Housing land supply has fallen year on year and now sits at 3.69 years, the ability of the site to deliver 8 dwellings is a further strong material consideration which supports the recommendation.
- 5.6.7 The Report in Para 6.45 states there is no public transport, however we would like to point out that there is a school drop off and pick up point directly opposite to the site with a school bus to both John Kyrle and the local Primary School. This clearly demonstrates a level of sustainability which would reduce vehicle trips from the site.
- 5.6.8 Finally we would like to stress that the veteran beech tree to the east of the site entrance will be retained as will the existing hedge which simply requires some trimming back. As such there will be no loss of stability issues in and around the tree or the hedgerow. The only hedge removal on the lower part of the site lies to the west of the entrance. This is a requirement from your Highways Officer despite the reduction in the number of vehicle movements from the site on the basis that this will improve an existing substandard entrance and would be a highway requirement for whatever use was sought for this brownfield site. This will be replaced by well-developed hedge planting.

Additional Representation sent to case officer and committee members from the applicant received on 19 October 2020:

- 5.6.9 I am writing to introduce myself to you, to provide a little more background to the proposed application. We have run Howle Hill Nursery as a nursery here for 15 years, together with the award winning landscape design and build business. We currently employ 24 local staff here. As the nursery has grown and developed over the years we have sought planning permission for the introduction of our large tunnel, and later for the present office accommodation. As the business grew further I was faced with either expanding the Howle Hill site by purchasing further land for retail purposes or to seek an alternative site. We opted for the latter and have subsequently opened the Leaf Creative site at Huntley. This move has generated jobs for a further 12 new employees. It is this site that we would hope to move to if planning permission is granted.

5.6.10 Our design and landscaping business together with the retail site promote green issues wherever possible. We operate a fully peat free policy regarding compost sales, a plastic pot recycling programme and as a business plant thousands of trees and shrubs every year. We actively design wild flower, hedgehog and bee friendly environments in all of our gardens and promote local hard and soft landscaping materials where possible.

5.6.11 We also support a number of local schools in providing design for wellbeing gardens and offering teaching opportunities at Huntley together with some product support.

The proposal for residential development at Howle Hill Nursery, I believe offers a strong environmental package for a new build site which includes the following:-

- It retains all of the mature hedge on the western, southern and northern boundary with additional larger trees added.
- the central woodland belt running the length of the site is fully retained.
- the Lawson Cyprus conifer hedge is replaced with an instant 1.6 m native hedge. This is also the policy for any other hedge replacement.
- the hedge on the eastern side of the access is retained and just trimmed back
- the veteran Beech is fully protected . Only the light feathered offshoots are removed .
- the lower site has all of the front gardens landscaped to create a designed image for the site. This includes the use of large pieces of local Forest of Dean stone which is also the proposed stone for the feature walls .
- The central Island feature is planted with English oak and a mix of predominantly native species. This will provide a focal point for the site and provide some privacy screening between houses.
- grey water harvesting tanks are proposed .
- electrical charging points are proposed
- ecological mitigation is proposed including nesting boxes and areas for hedgehog homes

If the proposal is not successful we would reluctantly seek to develop this Brownfield site for light Industrial use or as a recycling base for plastics.

Howle Hill Nursery as a business has been met with aggressive resistance from local residents throughout its time on Howle Hill.

This includes complaints for the following :-

- articulated lorries accessing site delivering or collecting large trees
- signage for the nursery being lifted and discarded
- police involvement for threatening behaviour to staff for parking outside of the nursery
- continued complaints for staff parking on the common ground outside the nursery
- complaints for using the top gateway to deliver materials or plants to the lower yard.

It was this resistance over the last 15 years that led us to look at other options.

5.6.12 The planning department were consulted in an early pre- app and were supportive of a proposal for housing. We were advised that the site could accommodate in excess of the numbers we proposed. Our original design was for 9 dwellings, we have subsequently reduced this to 8.

As a result of various office and site meetings with your Planners, landscape officer and highways officer, we have listened and changed our application accordingly by reducing the numbers, amending the design of the dwellings to a curved roof to reflect the polytunnels on the site and reducing the height of the dwellings. Thank you for taking the time to read the background to the proposal and we hope you feel able to support our application.

5.7 In addition comments have been received from the Walford Parish Residents Association (WPRA):

Additional comments following amended design and description

- 5.7.1 I am writing, on behalf of the Committee of the Walford Parish Residents' Association, to object to this amended application for 8 houses instead of 9, with 2 storeys rather than 3, and with a very different roof profile for 6 of the 8 houses.
- 5.7.2 I wrote to you on 15th April this year expressing our concern and stating that, in our opinion, the proposals in that first application, were contrary to Policies RA1, RA2 and RA3 of the Core Strategy and that the design and mass was inappropriate in the Wye Valley Area of Outstanding Natural Beauty (AONB). Additionally, NPPF Policy 15 Conserving and Enhancing the Natural Environment par^ 172 stresses that 'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues'.
- 5.7.3 While we welcome the reduction of one house on this 0.67 Ha site and also the reduction in height of 6 of the 8 houses, we feel that the changed design of the roof structures is totally alien in this area. The fact that this site is being run as a Nursery, with polytunnels housing the plants, is not a reason to emulate the appearance of these temporary structures in permanent dwellings. We trust that you will take our points into consideration when this application is decided.

Original comments stated as follows:

- 5.7.4 The above matter was raised and discussed at the Walford Parish Council meeting on the 27March '19 at which concerns were raised. We consider that the views of local residents were not fully represented by the Parish Council. It is understood that there are grave concerns as to the nature and extent of this planning application and the possible adverse impact that it would have on the community.
- 5.7.5 This Association objects to the proposal and believes that planning permission should not be given. The reasons for this are as follows:-
1. The impact of this number of proposed houses on that site, contrary to Policies RA1, RA2, and RA3
 2. It is within the Wye Valley AONB, and the density is inappropriate within this Area
 3. It is against the advice given in Policy RA2, Paragraph 4.8.23, of the Core Strategy
- It is therefore earnestly requested that this Planning Application is not allowed to proceed

- 5.8 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=190316&search-term=190316

- 5.9 Internet access is available at the Council's Customer Service Centres:-
<https://www.herefordshire.gov.uk/government-citizens-and-rights/customer-services-enquiries/contact-details?q=customer&type=suggestedpage>

6. Officer's Appraisal

Policy context

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

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

- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). It is also noted that the site falls within the Walford Neighbourhood Area, where the Plan is at drafting stage. At this time the policies in the NDP can be afforded no weight as a planning consideration. The National Planning Policy Framework 2019 is a significant material consideration.
- 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, and as referred to in the policy section above, 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 With regards to heritage matters, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
- 6.5 The legal framework for AONBs in England and Wales is provided by the Countryside and Rights of Way Act (CRoW) 2000 which reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty, and sets out responsibilities for their management. In particular relevance to the proposal is following sections –
- 6.6 Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty; Section 84 confirms the powers of local authorities to take appropriate action to conserve and enhance the natural beauty of AONB and Section 85 places a duty on all public bodies and statutory undertakers to ‘have regard’ to the ‘purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.
- 6.7 The NPPF is a significant material consideration and has ‘sustainable development’ central to planning’s remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people’s quality of life.
- 6.8 Paragraph 11 of the Framework sets out a framework for decision taking and 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 (having regard to footnote 6) 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.
- 6.9 Having regard to this, it is a matter of fact that currently the Council is unable to demonstrate a 5-year housing land supply and this was confirmed in the recent position statement as being 3.69 years. This leads to the policies for housing supply being considered out of date. Footnote 6 of paragraph 11 clarifies that the AONB is an asset of particular importance.
- 6.10 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. Case law firmly established that policies within the NPPF do not make "out-of-date" policies for the supply of housing irrelevant in the determination of a planning application or appeal. Weight is, as ever, a matter for the decision-maker.

- 6.11 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. This 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.’*

Location of residential development

- 6.12 In locational terms, paragraph 79 of the Framework seeks to restrict development in isolated locations, but does acknowledge in rural locations it may be the case that development in one village supports the services in another village nearby. That said, the adoption of the Core Strategy represents a shift in policy that recognises proportionate growth is required in rural areas for social and economic purposes. It is with this in mind that the proposal is assessed under the CS policies alongside the Framework, notwithstanding the out of date nature of the policies.
- 6.13 Policies SS2 (Delivering new homes) and SS3 (Releasing land for residential development) of the CS clearly set out the need to ensure sufficient housing land delivery across the County. In order to meet the targets of the CS the Council will need to continue to support housing growth by granting planning permissions where developments meet with the policies of the CS, (and, where relevant with policies in other Development Plan Documents and Neighbourhood Development Plans). Policy SS2 states that a supply of deliverable and developable land will be identified to secure the delivery of a minimum of 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. 6,500 of these will be in Hereford, where it is recognised that there is a wide range of services and consequently it is the main focus for development.
- 6.14 Outside of Hereford City, and the market towns, CS Policy RA1 identifies that Herefordshire Rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. The dwellings will be broadly distributed across the seven Housing Market Areas (HMAs). Howle Hill is within the Ross-on-Wye HMA, which is earmarked

for an indicative 14% indicative housing growth and is listed in Figure 4.15 under policy RA2 as a settlement where proportionate housing is appropriate.

- 6.15 Notwithstanding the above, the preamble to Core Strategy Policy RA2 states that NDPs will be the principal mechanism by which new rural housing will be allocated. As stated above, the Walford NDP is only at pre drafting stage and therefore does not form part of the Development Plan for the county.
- 6.16 For decision making, when assessing the Development Plan in the first instance, and in particular considering policy RA2, this states that new development will be permitted 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. In relation to smaller settlements identified in Figure 4.15, proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement; and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned;
 2. Their locations make best and full use of suitable brownfield sites wherever possible;
 3. They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding development 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 a particular settlement, reflecting local demand.
- 6.17 Officers conclude, that when assessed against criteria 1 above the site clearly lies adjacent the main built form of the settlement. Taking this and all of the above into account, it is officers' opinion that the site is appropriate for residential development in locational terms.
- 6.18 In regards to Criteria 2 of CS policy RA2 the site is clearly previously developed land/brownfield.
- 6.19 Criteria 3 of CS policy RA2 is also critical here as this requires that proposals are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting. This is covered below, however it is acknowledged that particular attention should be paid to the form layout, character and setting of the site and its location within that setting. The settlement of Howle Hill comprises sporadic development. However there is a clear cluster of buildings around the crossroads. The proposed 6 dwellings in the main part of the site will be well screened due to being located at a much lower level. The proposed pair of semi-detached properties are not considered to be out of keeping with the character of the wider landscape.
- 6.20 In regards to Criteria 4 of CS policy RA2, it is noted the proposal will deliver 8 market housing and will be a mix of 2 bedroom and 4 bedroom properties. This will help to meet the deficiency within the parish of 55 units. It is acknowledged that there is a lack of 3 bedroom properties but it is for the market to determine the housing mix on each site and this is a modest scale of development where a diverse mix is not considered to be an overriding policy requirement.
- 6.21 As part of this assessment, it is also critical to acknowledge the site's location within the Area of Outstanding Natural Beauty. The NPPF directs, at paragraph 172 that great weight should be given to conserving and enhancing landscaping and scenic beauty in Areas of Outstanding Natural Beauty. This paragraph goes onto say that planning permission should be refused for major development⁵⁵ other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.
- 6.22 Footnote 55 clarifies that for the purpose of para 172, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it would have a significant adverse impact on the purposes for which the area has been

designated or defined. These criteria will be considered below, alongside the relevant Development Plan Policies and guidance contained within the NPPF before drawing a conclusion.

Landscape; Locality and AONB Impact

- 6.23 Core Strategy policy RA2 is underpinned by Policy LD1 of the Core Strategy, Landscape and townscape. Development proposals need to demonstrate that features such as 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
- 6.24 Core Strategy policy SD1 (Sustainable Design and Energy Efficiency) also seeks to secure high quality design and well planned development, that contributes positively to the character of the area and that development successfully integrates into the existing built, natural and historic environment. Regard is also had to both the AONB and built environment location.
- 6.25 Policy SS6 of the Core Strategy states that development needs to conserve and enhance environmental assets that create the county's distinctiveness. With SD1 going on to state that development should be designed to maintain local distinctiveness, achieved through the incorporation of architectural detailing and the use of appropriate materials. 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 refers to the overshadowing or overlooking of neighbouring properties and how overbearing a structure is. The Core Strategy seeks, via policy LD1, to ensure development proposals demonstrate how the character of the landscape and townscape has positively influenced the design, scale, nature and site selection of the proposal. Development should be integrated appropriately through the use of landscape schemes and their management. Furthermore LD1 seeks to maintain and extend tree cover where important to amenity.
- 6.26 With regards to landscape impacts, policy LD1 applies, which seeks to conserve and where possible, enhance the rural landscape and AONBs. I am also aware that 'great weight' should be afforded to conserving and enhancing the landscape and scenic beauty of AONBs as identified at paragraph 172 of the NPPF, which is also epitomised at Policy SS6 of the CS.
- 6.27 It is acknowledged that the proposal site itself is unusual, as a commercial operation, with small scale buildings and structures and plants for sale in line with the existing plant nursery business. As such the views into the site from the roadside gateway are of a mixed character that do not in themselves contribute positively. It is however considered that the existing boundary vegetation and tree belt makes a positive contribution to the natural environment.
- 6.28 There is no denying that the proposal for residential development on this site will alter its character. The 8 dwellings, are to be split by a large tree belt running south west to north east and the two elements would not be viewed together. Furthermore they have separate entrances and designs such that there are two different characters. It is noted the pair of dwellings that front the road to Crossways require a loss of roadside hedgerow to form the vehicle entrances and this will alter the character of this section of road. This is on the AONB boundary. The main section of the site is where the six dwellings are proposed and the building design and materials have evolved during the application process. It is accepted that the site location is suitable for residential development. The proposed scheme would change the character and appearance of the site which will result in some harm to the landscape but this harm is limited and localised, and will be mitigated by additional planting.

- 6.29 It is clear that Core Strategy Policy LD1 requires proposals to demonstrate that the character of the landscape has positively influenced the design, scale, nature and site selection of the development and it also requires that development proposals should conserve and enhance AONBs through the protection of the area's character and the Wye Valley AONB Management Plan Policy. WV-D2 requires a high standard of design to complement the local landscape character and distinctiveness. It can be argued that as the site is brownfield, the proposal would enhance its immediate setting. However, it can equally be claimed that the development does not easily relate to the overall form, layout and scale of the surrounding area. However due to the unique nature of the site (brownfield, well screened and the main part of the development being at a lower level) the proposal is not considered to overwhelm the settlement.
- 6.30 Rightful concerns have been raised by the Parish Council, AONB Officer, the CPRE, Wye Valley Society and third parties. The Council's landscape officer has therefore been consulted for views on the application.
- 6.31 In this context, concerns have been raised that the development due to its size and the perceived adverse significant landscape impact would otherwise outweigh a presumption in favour of sustainable development, on grounds of visual amenity and landscape character. The siting of the pair of semi-detached properties would be clearly seen on the edge of the AONB boundary. Officers consider that the negotiated reduction of one unit from this part of the site and the proposal design and scale of the dwellings will ensure that they will not appear harmfully prominent given the relationship with other residential development opposite.
- 6.32 With regard to the main part of the site for the 6 units, this is well screened and retention of the belt of trees through the centre of the site with the hedges to the west and south being enhanced with additional planting is welcomed. It is apparent there will be some hedge loss on the northern boundary of the site to accommodate the required visibility splays but this will be replaced by a new mixed species hedge. The retention of the veteran beech tree on the northern boundary (a key focal point of the entrance) will be retained and new hedging planted to replace that which is lost. The proposed 6 dwellings, although sizeable, would not, in my view, appear prominent or discordant, even during the winter months, when the screening effects of vegetation may be lessened and when compared to the other buildings on site already
- 6.33 The scheme and layout has evolved and is considered referential to the location in regards to design, scale and layout which has been positively influenced by the surrounding townscape and landscape but it is acknowledged that the removal of hedgerow will have a slight adverse effect upon the character of the AONB boundary. In regards to the landscape impact this will be offset by the introduction of new trees at the front of the site, behind the hedgerow. These will frame the view into the village and add some visual interest to the front of the site. The proposed planting to the rear of the site will ensure the development is well defined and does not have wider adverse effects upon the character of the area. Some public representations stated that the proposal should be considered as overdevelopment, however, the site is well proportioned for the provision of 6 detached properties, with sufficient space for parking and private amenity spaces.
- 6.34 The provision of landscape planting and biodiversity enhancements to help integrate the development into its surroundings has been proposed. This mitigation will also ensure the overall proposal will integrate into the surrounding landscape character. A detailed landscaping scheme and implementation of it as well as a management plan is recommended by the landscape officer and suitable conditions have been attached. In the particular circumstances of this case, it is also necessary to include a materials condition to ensure that the external finishes are appropriate to ensure they are locally appropriate. Whilst recognising the divided opinions on the matter, it is concluded that the development of this site would represent a form of development that would maintain the local landscape character and the character and setting of the settlement. On this basis and through appropriately worded conditions, the proposal is viewed to be in alignment (albeit with some tension) with Policies LD1 and SS6 of the Core Strategy and Section 15 of the NPPF and there is not considered to be a technical objection in relation to the impact on the landscape, locality or AONB.

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

Design and Amenity

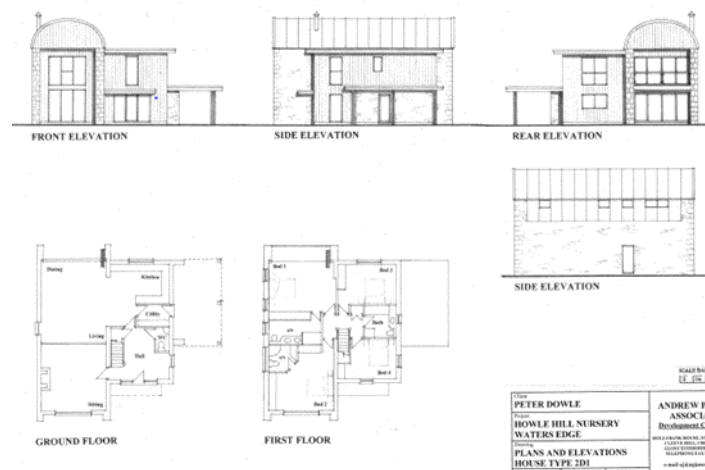
6.35 The NPPF promotes a high level of design. Para 124 states that:

“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”

Whilst para 131 goes further and requires local authorities in determining applications to give great weight to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area.

6.36 The detail of the design is assessed by policy SD1 of the Core Strategy. This policy states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, and proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.

6.37 The dwellings proposed consist of two storey properties. The form of the dwellings has been amended through the application process. The design for the 6 plots reflect the current nursery use of the site and as such is a landscape led development with a central landscape feature leading off to the individual bespoke designed plots. The roof heights are now lower and the main roof on each dwelling curved to reflect the polytunnels on the site. For the pair of semi-detached properties, the design was taken from the local vernacular of the area which ranges from traditional rendered cottages with pantile rooves, dormer and traditional bungalows constructed using render and brick, and stone barns. To the east of the site is a pair of 20th Century red brick cottages, of little architectural merit. These two dwellings (to the east of the plot) reflect a more traditional approach. Examples of the elevations of the dwellings can be seen below:

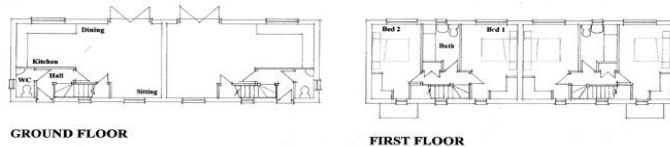
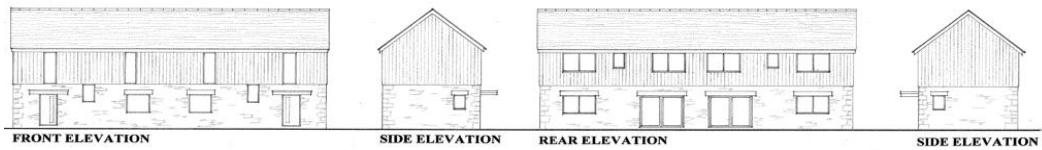


6.38 The levels, the backdrop of the trees and hedging around the site and the central belt of trees running through the site, result in an opportunity to create a development of architectural quality thus reflecting the desire for high quality design in both the NPPF and Policies LD1 and SD1 of the adopted Core Strategy.

6.39 Within the application, materials proposed include:

- Local Forest of Dean Stone
- Natural locally sourced sustainable timber cladding
- Sage Green aluminium windows and doors

- Dark Grey seeded tin rooves and cladding



SCALE BAR 1:100
 0 2m 4m 6m 8m

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Project HOWLE HILL NURSERY WATERS EDGE	Development Consultants
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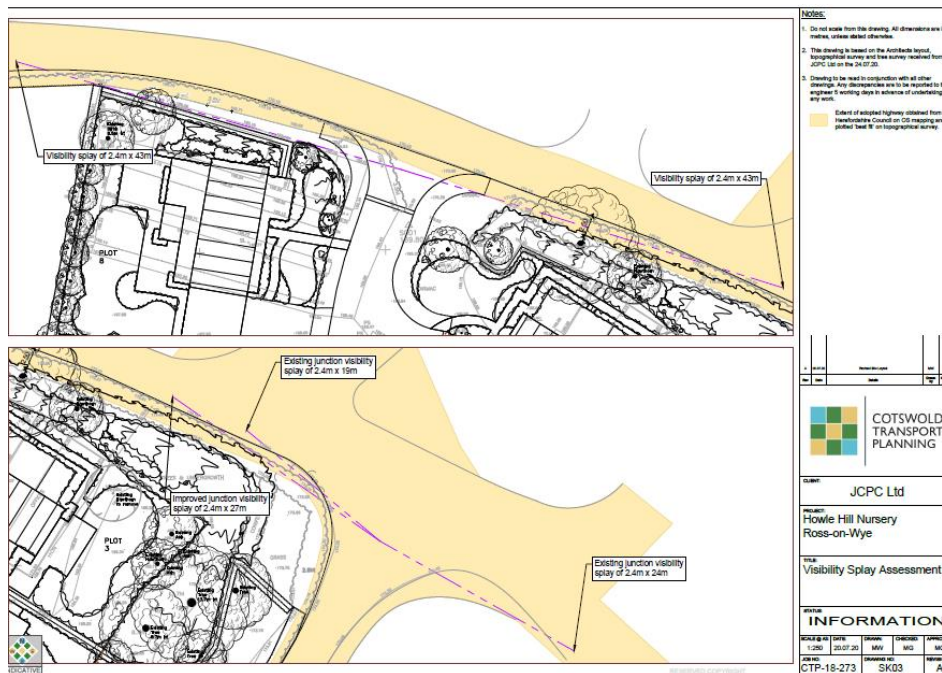
6.40 It is apparent when reviewing the application site that the lower part of the site in which the 6 detached dwellings are proposed is well screened, as well as sitting at a significantly lower level than the road. This enables the development to be relatively well self-contained. It is evident that the settlement of Howle Hill has an eclectic mix of design types so there is no definitive style characterising the area such that the design approach is not in itself at odds with the current character of the settlement..

6.41 The proposed materials for the dwellings are not found to be out of keeping with the locality or unacceptable in principle. However, it is found to be appropriate to condition exact details and finishes of the materials on any approval. When looking at amenity impacts, each dwelling will benefit from its own garden to the rear. Given the orientation of the dwellings, there are not found to be detrimental issues of overlooking for future occupiers. In relation to existing properties within the settlement in close proximity there are no concerns due to the distance and no concerns in regards to overshadowing or privacy are anticipated.

- 6.42 It is noted there are concerns raised in regards to the building design, the designs are bespoke and have evolved over the application period. This has included a reduction in units. Clearly design is a matter of subjectivity but it is considered that the bespoke style of the units sits comfortably in this setting.
- 6.43 To conclude, the design of the dwellings is found to have been influenced the locality, the materials are in keeping with the surroundings and the differing form respects the adhoc way in which the settlement has grown. As such in design terms the proposal is considered to be an appropriate and informed response to context which safeguards existing and new residential amenity and meets the relevant criteria of CS policies SS6, RA2 and LD1 and the design aims and objectives of the NPPF.

Access and Highway Safety

- 6.44 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.'(NPPF para. 109).
- 6.45 In respect of sustainability it is noted there is no public transport through the settlement. Albeit it has been brought to officer's attention there is a school drop off and pick up point directly opposite to the site with a school bus to the local secondary and primary school. A condition is recommended to secure the provision of bicycle storage on the site to encourage a wider range of sustainable transport options. There will undoubtedly be a reliance on the private motor vehicle to access shops and employment as this is acknowledged to be a rural area where access to such services is limited. Nevertheless, in the context of Howle Hill's settlement status the application site is considered to be sustainably located.
- 6.46 As can be seen from the consultation responses from the Council's Transportation Manager, revisions have been sought in order to assess the highways impacts as a result of the additional dwellings in this location. While the nature of the local road and significant concerns raised by local residents are acknowledged, the revisions which demonstrate that a safe access can be achieved means that it is not found to amount to a 'severe' cumulative impact. The proposed development does not present an unacceptable impact on highway safety and does not result in detrimental impacts in regards to capacity.
- 6.47 The site currently operates as a horticultural nursery as well as being open to the public. The site historically has struggled with deliveries from larger vehicles to the site which in the past have caused some local concerns. The site has very limited parking and no capacity for larger delivery vehicles to park or turn within the premises. As such the larger vehicles are forced to park on the road. Contrary to this the submitted layout plan indicates the provision of sufficient car parking spaces for the size of the dwellings as well as the required turning space for service vehicles
- 6.48 Access arrangements serving the proposal have been demonstrated to achieve relevant technical standards and required visibility splays to the satisfaction of the Transportation Manager. The access arrangements are shown below:



6.49 The parking and turning provision is in line with the Council's Highways Design Guide. The proposal is therefore considered to adhere to CS SS4 and MT1 and subject to conditions has the support of the Local Highways Authority. As directed by the NPPF, and corroborated by the lack of objection from the Transportation Manager, refusal on highways grounds is not found to be justified. With this in mind, as well as the proposed layout, the application is found to meet the aims of policy MT1 of the Core Strategy.

Ecology and trees

6.50 Policies LD2 and LD3 of the Core Strategy are applicable in relation to ecology and the impact on trees. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.

6.51 The site falls within the River Wye and Wye Valley and Forest of Dean Bat Sites SACs/SSSI 'Impact Risk Zones' in particular this means that foul and surface water management and any external lighting will need to be designed to mitigate all 'Likely Significant Effects' as both Natural England as a statutory consultee and this LPA need to assess any full application with regard to Habitat Regulations. The application is accompanied by a Tree Report and Survey and Ecological appraisal report. The ecological report followed a phase one extended habitat survey. The report makes several recommendations. The Council's Ecologist has viewed this and is content with the findings and recommendations, subject to these being conditioned on any approval. With the site falling within the River Wye SAC catchment, a HRA AA has been sent to Natural England for their approval. They have confirmed they have no objections to the proposal.

6.52 As highlighted within the submitted arboricultural report and comments from the Tree Officer, the mature beech tree located next to the main entrance and the band of trees which runs the entirety of the site in a south west to north easterly direction, bisecting the site are the main considerations. It is agreed that the band of trees is an important landscape feature which should be left unaffected post development. With regard to the impacts on the trees on the site, the Council's Tree Officer has viewed the submission and subject to conditions has no objection. Details of the landscape layout are provided below for reference.



6.53 In light of the foregoing, and following the submission of amended plans and additional information, the proposal is found to comply with the aims of policies LD2 and LD3 and all reasonable and responsible measures have been taken such as to ensure the LPA legal duty of care.

Drainage

6.54 Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).

6.55 As the proposed development site is located within Flood Zone 1 and is less than 1ha, in accordance with Environment Agency standing advice, the planning application does not need to be supported by a Flood Risk Assessment (FRA). It is noted that drainage colleagues have not objected to the proposal, although they have sought further clarification during the application on the management of existing surface water flows and the proposed foul water drainage strategy which has been provided. The surface water will be disposed of by soakaways and the access road will be constructed using a permeable surface to avoid any surface water run off onto the main road and all foul water is to be managed by plot-specific private treatment plants draining to a shared infiltration drainage field over which the applicant will have legal control. However, there is no reason for the LPA to believe this is not achievable at this location. The most recent comments of the Council's Drainage Engineer are noted. Given the size of the site and the supporting information, the methods are found to be policy compliant and achievable on the site. As such, it is considered that the requirements of Policies SD3 and SD4 would be satisfied subject to suitably worded conditions.

Sustainability

- 6.56 CS policy SS7 seeks to address climate change and at a strategic level this includes designing developments to reduce carbon emissions and sets out key considerations, which include ensuring design approaches are resilient to climate change impacts, and demonstrating water efficiency measures to reduce demand on water resources, amongst other things. Policy SD1 – Sustainable design and energy efficiency, also sets out what developments should utilise physical sustainability measures, such as orientation of buildings, water conservation measures, storage for bicycles, recycling and waste, and sustainable construction methods amongst other things.
- 6.57 Elements specifically relating to addressing and mitigating climate change in line with Core Strategy policy SS7 will be secured by condition. However within the supporting information the dwellings are proposing the following with the aim of achieving a low carbon output:
- Air source heat pumps
 - High specification thermal glazing
 - High quality insulation
 - Grey and rain water harvesting
 - Electric charging points

Heritage

- 6.58 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 is considered. 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.
- 6.59 It is acknowledged that 812 metres West North West lies Upper Wyhall, a Grade II* listed building with separate Grade II listed stables and cider house which is set within an unregistered park and garden. The distance and intervening topography and vegetation mean that the understanding and experience of the building would not be affected by the development. Also, there are 2 listed buildings to the North North West of the site, some 730m away. These consist of Tan House and Coughton Mill House. The nature of the topography also means that the setting of these buildings would not be affected by the proposals and in this regard I find no conflict with CS policy LD4 nor is there a requirement to undertake the heritage impact/public benefit assessment prescribed by the NPPF.

Other matters

- 6.60 In terms of the hierarchy matrix that was used to determine the settlements for proportionate growth under policy RA2, the Core Strategy is adopted and therefore forms part of the Development Plan for the County. Any concerns relating to the inclusion of Howle Hill as a RA2 settlement should have been submitted during the consultation on that document. This does not represent a reason to refuse the planning application now being considered. The planning policy position and circumstances of planning, particularly around the provision of housing and sustainability have changed considerably and it is acknowledged that development in rural settlements bring forward economic, social and environmental benefits.
- 6.61 Issues such as loss of a view, or negative effect on the value and resale of properties are not material planning considerations. The housing targets within the settlement are a minimum and considering the 14% indicative growth required across the Ross on Wye Housing Market Area, a

total of 55 new houses are still required within the Walford Parish between 2011 and 2031 (based on April 2020 data).

Housing mix and affordable housing

- 6.62 Policy H1 of the Core Strategy sets the threshold for the delivery of affordable housing at sites of more than 10 dwellings. The proposal is only for 8 and therefore there is no requirement for its provision.
- 6.63 Policy RA2 (4) seeks to ensure that schemes generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand. Policy H3 builds on this, requiring residential developments to provide a range and mix of housing. In particular, larger sites, such as this will be expected to:
1. *provide a range of house types and sizes to meet the needs of all households, including younger single people;*
 2. *provide housing capable of being adapted for people in the community with additional needs; and*
 3. *provide housing capable of meeting the specific needs of the elderly population by:*
 - *providing specialist accommodation for older people in suitable locations;*
 - *ensuring that non-specialist new housing is built to take account of the changing needs of an ageing population;*
 - *ensuring that developments contain a range of house types, including where appropriate, bungalow accommodation. .*
- 6.64 Policy H3 of the Core Strategy states that residential developments should provide a range and mix of housing units which can contribute to the creation of balanced and inclusive communities. As highlighted above the proposal is below the threshold for affordable housing provision and the site provides 6 x 4 bedroom properties and 2 x 2 bedroom dwellings. However, ultimately policy H3 leaves it for the market to determine the housing mix on each site and does not establish a specific requirement at this modest scale of development. So the scheme follows the principle of this policy.

Loss of Employment Land

- 6.65 As referenced above the site is currently used as a plant nursery. As part of the application, it has confirmed this business will be relocating. The reason for this has been identified as the existing poor access and the fact that the site has no capacity to extend further. The site is not a protected employment site as defined within the Core Strategy. However, it is acknowledged that as part of the submission the applicant has commissioned a Commercial Assessment which demonstrates that there is sufficient, more suitable employment land available in the vicinity and the loss of this site will not have a negative impact on the economic climate of the area. Part of the existing business, has already moved to a new premises and there are some associated benefits with a residential redevelopment of the site, particularly the removal or larger delivery lorries. It is therefore considered there is no direct conflict with Policy E2.

Contaminated Land

- 6.66 The comments from the Council's Contaminated Land Officer are noted and confirm that given the site's former uses and the proximity (100m) to a closed landfill site a desk study to consider contamination has been requested. Appropriate conditions have been added to ensure compliance with the requirements of policy SD1 of the Core Strategy.

Minerals and Waste

- 6.67 The site is identified under saved HUDP Policy M5 for the safeguarding of minerals due to the presence of hard rock. As identified above in the past it is evident that general quarrying did occur in the area. However, over the years there has been an increase in residential properties. This factor, along with the general access into the site, would make it unlikely to be a site where extraction would be encouraged in the future. Given the context of the site and the nature of the proposal, and the relative abundance of hard rock reserves across the county, there is considered to be no conflict with Policy M5.

Planning balance and conclusion

- 6.68 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Core Strategy constitutes a spatial strategy and policies designed to achieve sustainable development under the three objectives; social, economic and environmental. 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, a consideration of the conflicts with the development plan alongside the benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn needs to take place.
- 6.69 The application is for 8 dwellings on a previously developed/brownfield site which is adjacent to the main built form of a settlement identified under CS policy RA2, where the Plan directs development proposals which are outside Hereford city and the market towns. However, the site is located within an Area of Outstanding Natural Beauty. The NPPF at paragraph 172 is explicit that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
- 6.70 The NPPF sets out the scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest.
- 6.71 Consideration of such applications should include an assessment of:
- a) *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
 - b) *the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
 - c) *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated*
- 6.72 For the purposes of the above paragraphs, the NPPF (footnote 55) is clear in advising that whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined. This proposal is for a scheme of 8 units so is of a relatively modest scale. Furthermore it relates to a site where the main part of the development will be well screened. As such it is concluded there would be no harm to the setting of the AONB and overall it is not considered to significantly impact on the area and its characteristics. Officers as such conclude that this proposal does not represent 'major development' within a designated area and as such there is no direction to refuse the application.
- 6.73 In accordance with the statutory requirement, 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.

- 6.74 As set out in the foregoing paragraphs the development proposed is considered to accord with the Core Strategy. This is because the site lies adjacent to a main built up part of the settlement, in accordance with policy RA2.
- 6.75 Next it is necessary to turn to the material considerations, to ascertain if these indicate if a decision should be made other than in accordance with the Development Plan. A key material consideration is the NPPF. As the application is for the supply of housing, specifically 8 dwellings, the current implications of the Local Planning Authority not being able to demonstrate a 5 year housing land supply, plus requisite buffer, as set out in the NPPF (footnote 7), must be considered. The current published position is a 3.69 year supply. At paragraph 11d the NPPF states that where policies which are most important for decision making are out-of-date, permission should be granted 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.
- 6.76 This application is for housing, so the policies most important for determination of the application relating to housing as per paragraph 11d, footnote 7, of the NPPF must be considered as out of date by reason of the current housing land supply deficit. This does not mean that they attract no weight, but rather reduced weight which is to be determined by the decision maker.
- 6.77 Given the site's location and the proposal 11di is not engaged as there are no policies in the framework that provide a clear reason for refusal in this instance. Paragraph 11dii is, however, engaged, and the tilted balance adopted. The tilted planning balance, is generally assessed under the three overarching objectives of the planning system, namely the economic, social and environmental objectives. The proposal would positively contribute to the supply of housing at a time when at the county level the supply is not meeting targets and this would bring forward economic and social benefits. Furthermore it is noted that there is no NDP in place covering this area and so the local supply of housing land remains uncertain.
- 6.78 The benefit of granting planning permission would be the provision of eight dwellings on a brownfield site. The provision of housing in an area where there is a shortfall in housing sites is a benefit which carries significant weight. In terms of identified harm, there would be a degree of localised visual harm resulting from the alterations needed to achieve the visibility splays construction of the dwellings and removal of hedgerow and a temporary loss of habitats and wildlife connectivity until the mitigating planting is established. There would also be moderate landscape impact associated with the introduction of housing to the east of the site. As such there is some conflict with CS Policy LD1 which is attributed moderate weight. There would also be a moderate impact due to the proposed scale of the development and as such I would attribute weight to this. No other conflict has been identified with the more general provisions of CS Policy LD1 as a result of the scale of the proposed landscaping.
- 6.79 Officers acknowledge the large number of local representations received in regards to highway safety. It is noted that the LHA raise no objection and subject to conditions adequate visibility at the access can be achieved. These have been carefully considered but the proposed works, with appropriate conditions and mitigation would ensure compliance with the requirements of policy MT1 of the Core Strategy and with the guidance contained within the National Planning Policy Framework that states that development should only be prevented or refused on transport grounds where the residual cumulative impact of the development is severe.

- 6.80 It is also noted that a large number of concerns have been raised in respect to the development affecting the AONB. The site does not constitute 'major development' in the AONB, and as set out above, the harm to the landscape and the AONB is limited to a predominantly local impact which can be sufficiently mitigated via adequate ecological and landscape measures. Officers consider the design approach is acceptable and appropriate within the wider context and the layout is acceptable in terms of its relationship with the existing dwellings and the street scene.
- 6.81 Having regard to the three indivisible dimensions of sustainable development as set out in the Core Strategy and NPPF, officers conclude that the scheme, when considered as a whole, is representative of sustainable development and that the presumption in favour of approval is therefore engaged.
- 6.82 There would be economic benefits during the construction phase to suppliers and trades and after occupation through increased expenditure of disposable incomes. There is also an economic benefit with the proposed amalgamation of the client's existing business in Huntley with the relocation from this site to allow further expansion and creation of jobs. The payment of the New Homes Bonus is also another benefit to take into account. There may be some social benefits as a result of increased residents in the local area to support the facilities in Walford. These benefits are considered cumulatively to be moderate, given the scale of the proposal. There would also be a reduction in traffic associated with the existing businesses on site which would be another benefit. The contribution that the development would make in terms of jobs and associated activity in the construction sector and supporting businesses should also be acknowledged as fulfilment of the economic and social roles.
- 6.83 While there will be a degree of reliance on the private motor vehicle the site is identified as an RA2 settlement in the HMA. The scheme provides an opportunity to enhance biodiversity, so this does not weigh against the scheme in environmental terms.
- 6.84 In terms of identified harm, there would be a degree of localised visual harm resulting from the creation of the access, construction of the dwellings and removal of hedgerow and a temporary loss of habitats and wildlife connectivity until the mitigating planting is established.
- 6.85 Bringing all of the above together the proposal is considered consistent with the aspirations of the Core Strategy taken as a whole, albeit with some tension with policy LD1. However, it is considered to represent a sustainable pattern of development on a brownfield site. In light of the tilted balance the adverse effects of the proposal in relation to landscape change are not considered to significantly outweigh the identified benefits. The adverse effects identified are not sufficient to significantly or demonstrably outweigh the benefits when assessed against the NPPF as a whole. Having regard to the above, officers on balance recommend that planning permission be granted subject to the below conditions.

RECOMMENDATION

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

- 1. 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. C07 Development in accordance with approved plans and materials**

Pre-commencement conditions

3. **Development shall not begin until details and location of the following have been submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved:**

- **A method for ensuring mud is not deposited onto the Public Highway**
- **Construction traffic access location**
- **Parking for site operatives**
- **Construction Traffic Management Plan**

The development shall be carried out in accordance with the approved details for the duration of the construction of the development.

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

4. **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 43 metres in each direction along the nearside edge of the adjoining carriageway in accordance with drawing SK03. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.**

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

5. **Prior to the commencement of the development a tree protection plan in accordance with BS5837:2012 shall be submitted and approved in writing by the local planning authority and thereafter implemented in accordance with the approved details for the duration of the construction phase.**

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

Development shall not commence until until the following details are submitted to and approved in writing to the local planning authority of the following:

- 6.
- **Detailed drawings of the proposed surface water and foul water drainage systems, including cross sections through key features such as permeable paving and drainage field.**
 - **Detailed calculations of the proposed surface water drainage system to demonstrate no increased flood risk up to and including the 100 year event with 40% climate change allowance. FEH 2013 rainfall data is expected. Calculations should be based on the findings of updated infiltration testing.**
 - **Further information regarding site levels to demonstrate that flow that may temporarily overwhelm the inlet capacity of the permeable paving will be retained within the road and parking areas up to the 100 year + CC event.**
 - **Detailed calculations of the proposed foul water drainage field using a more appropriate Vp.**

- Plans/sections of proposed levels designed to contain highway runoff within the channel adjacent to plot 5.
- Survey demonstrating condition and route of the surface water drain serving the highway.
- Details of the proposed headwall from the highway drainage pipe.
- Additional survey of the area proposed for the foul drainage field to demonstrate appropriate fall through the drainage field.
- Infiltration testing at the location and depth of the proposed drainage field in accordance with BS6297 and Section 1.32 of Building Regulations Part H.
- Infiltration testing at the location and depth of proposed surface water infiltration features undertaken in accordance with BRE365.
- Suitable testing to confirm that groundwater levels are at least 1m below the base of all infiltration features
- Evidence confirming landowner agreement for installation of the drainage field, chamber and provisions for tanker access.
- Demonstration that each package treatment plant will have its own control system and that any communal systems are located in communal areas.
- Clarification that all communal drainage infrastructure will be maintained by a third party management company.

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 and the National Planning Policy Framework

7. Prior to commencement of development a detailed scheme and plan for proposed biodiversity net gain enhancement features including provision for bat roosting and hibernation, bird nesting, hedgehog homes and pollinating insect ‘nesting’ 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 any biodiversity net gain feature or adjacent habitat.

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.

8. No development shall take place until the following has been submitted to and approved in writing by the local planning authority;
- a) a ‘desk study’ report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice
 - b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors
 - c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme s specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing.

The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is

encountered which with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health.

9. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health.

10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health.

Other stage conditions

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

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

12. Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 of the Herefordshire Local Plan Core Strategy shall be submitted to and approved in writing by the local planning authority and implemented as approved.

Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy and the National Planning Policy Framework

13. 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 within the curtilage of each dwelling shall be submitted to the Local Planning Authority for their written approval.. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details 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 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 and the National Planning Policy Framework.

14. Prior to the commencement of any above ground works details of the following:

- **Air source heat pumps to all dwellings**
- **Triple glazing to all dwellings**
- **Provision for electric car charging in all dwellings**
- **Cycle storage provision in all dwellings**
- **insulation**
- **Grey and rain water harvesting**
- **Electric charging points**

shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details and shall be installed before the first occupation of each dwelling.

Reason: To ensure adherence to the approved plans, to protect the general character and amenities of the area and promote renewable and low carbon energy in accordance with the requirements of Policy SD1, SD2 and LD1 and of the Herefordshire Local Plan – Core Strategy National Planning Policy Framework.

15. Before the development is first occupied or brought into use... A schedule of landscape maintenance for a period of 10 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 and the National Planning Policy Framework.

16. Before the development is first occupied a schedule of landscape management and maintenance for a period of (state number of years) shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with the approved schedule.

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

Compliance conditions

17. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the Arboricultural Impact Assessment produced Adrian Hope Tree Services (ref 13866) dated 19th October 2018.

Reason: To ensure that the development is carried out only as approved by the Local Planning Authority and to conform with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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

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

19. No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars.

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

20. All foul water shall discharge through connection to new private foul water treatment plants specific to each dwelling with final outfall to a shared soakaway drainage field on adjacent land that is under the legal control of the applicant. All surface water shall discharge to appropriate SuDS or soakaway systems. All systems shall be installed as approved and hereafter fully maintained and operated to manufacturer's specifications 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, SD3 and SD4

21. The ecological protection, mitigation, compensation and working methods scheme including the presence of an ecological clerk of works, as recommended in the ecology report by Janet Lomas dated November 2018 shall be implemented in full as stated and hereafter maintained unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation.

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

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

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

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **I11 - Mud on highway**
3. **I09 - Private apparatus within the highway**
4. **I45 - Works within the highway**
5. **I05 - No drainage to discharge to highway**
6. **I47 - Drainage other than via highway system**
7. **I35 - Highways Design Guide and Specification**

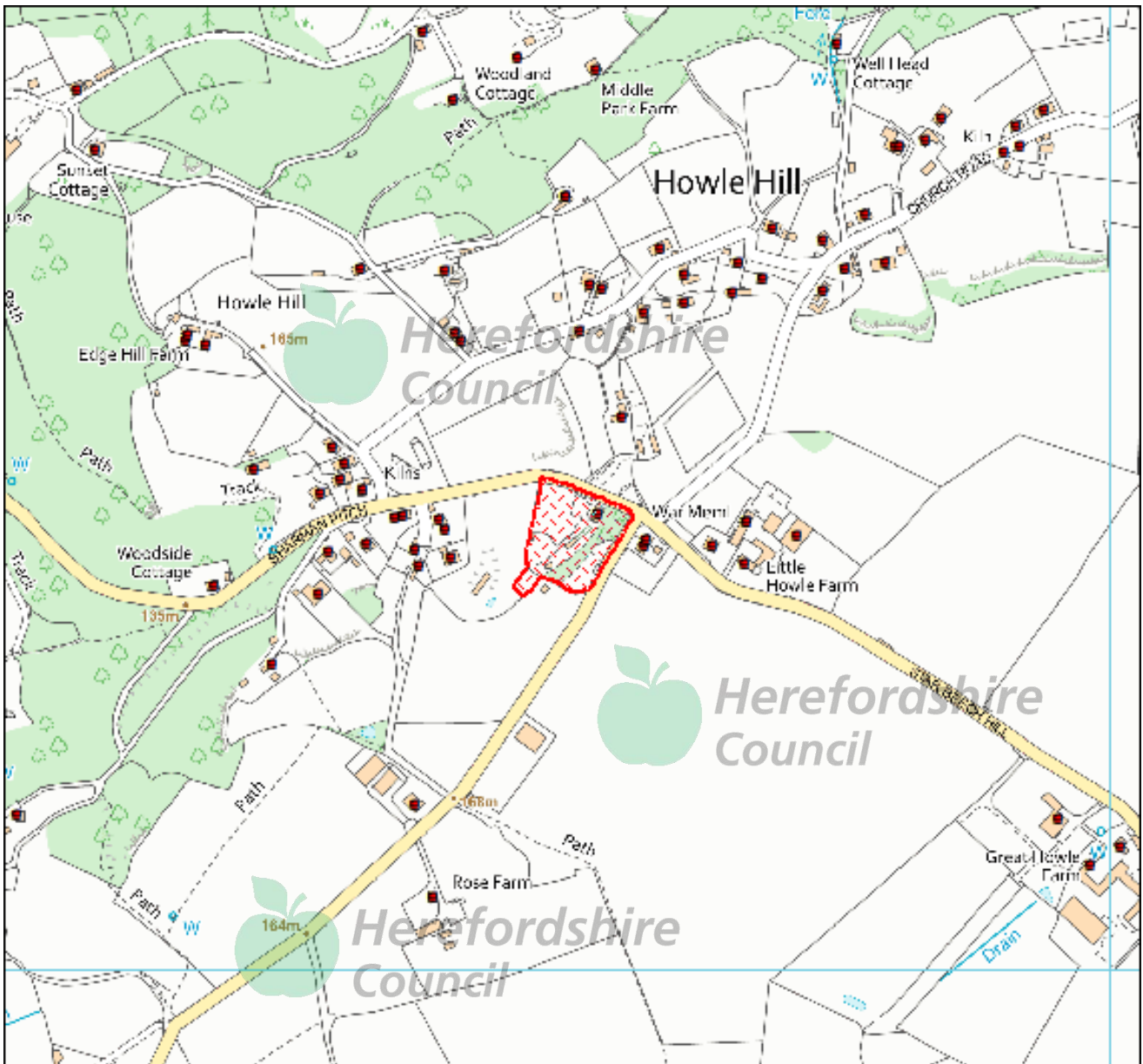
Decision:

Notes:

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Background Papers

Internal departmental consultation



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APPLICATION NO: 190316

SITE ADDRESS : WATERS EDGE, SHARMAN PITCH, HOWLE HILL, ROSS-ON-WYE,
HEREFORDSHIRE

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Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	4 NOVEMBER 2020
TITLE OF REPORT:	<p>192979 - APPLICATION FOR APPROVAL OF RESERVED MATTERS FOLLOWING OUTLINE APPROVAL 130945 (APP/W1850/W/17/3180227) FOR APPEARANCE, LANDSCAPING, LAYOUT AND SCALE FOR THE ERECTION OF 20 DWELLINGS AND ASSOCIATED COMMUNITY BUILDING AND ASSOCIATED WORKS AT LAND AT TUMP LANE, MUCH BIRCH, HEREFORD</p> <p>For: Ms Shaw per Mr John Renshaw, 86 Constitution Street, Leith, Edinburgh, EH6 6RP</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192979&search-term=192979
Reason Application submitted to Committee - Redirection	

Date Received: 20 August 2019**Ward: Birch****Grid Ref: 349813,230590****Expiry Date: 23 October 2020**

Local Member: Councillor Toni Fagan (Councillor Jenny Bartlett has fulfilled the role of local ward member for this application.)

1. Site Description and Proposal

- 1.1 The application site is located off Tump Lane in Much Birch and is about 7 miles to the south west of the city of Hereford. The site comprises of a sloping paddock (slopes to the south west) bordered by native species hedgerow and trees on the northern, western and southern boundaries. It is open on the eastern side where it adjoins 7 existing dwellings and an informal play area and block of garages. The access route passes between two blocks of garages. The northern block will remain, however the garages are to be demolished on the southern side. The approved access to the site is from the end of an existing estate road and via this existing garage area. Tump Lane (C1264) connects the A49 with the A466 with Much Birch at the north eastern end and Wormelow at the south western end. The site covers an area of approximately 1.44 hectares and its location is marked by the red star on the map shown below.



1.2 The houses in the locality are predominantly late twentieth century stock on this side of Tump Lane. There is a stable block on the northern end of the paddock and a public footpath follows the line of an existing hedgerow, but is wholly outside of the application site.

The amended layout plan and existing site plan is inserted below for ease of reference.



1.3 The site benefits from an outline planning permission for the erection of 20 dwellings with appearance, layout, scale and landscaping reserved for future consideration. The application was made under planning reference 130945. This application was originally refused by Planning Committee on 23 January 2017 however planning approval was secured via appeal (APP/W1850/W/17/3180227) on the 4 July 2018. The appeal decision notice is attached in Appendix 1 of this report for reference.

1.4 The site is accessed off the northern side of Tump Lane (C1264) that links the A466 and Wormelow to the south-west and the A49(T) upslope and to the north-east. The proposed access route to the application site will be via an existing cul-de-sac of 14 dwellings, which comprises part of a much larger block of predominantly late twentieth century housing on this side of Tump Lane. The site is currently used for grazing horses.

1.5 The proposal has evolved several times during the application process to amend the layout as well as incorporating other modifications and changes. This included design changes to the dwellings and the common room as well as seeking changes in respect to drainage, highways and landscape matters. Car parking spaces have also been distributed across the site. The proposal provides a mix of housing from 4 bedroom properties to 1 bedroom flats as well as a common house which will have shared facilities such as a common room and kitchen to be used by residents. The common house would be a single storey building.

1.6 There is to be mix of dwelling types and size and in tenure. The terraced dwellings across the site will be stepped slightly due to the topography and will be angled to create variety along the streetscape. A range of 1 bedroom, 2 bedroom, 3 and 4 bedroom dwellings are proposed as follows:

- PLOT 1 4 bed house
- PLOT 2 3 bed house
- PLOT 3 2 no. 1 bed flats
- PLOT 4 2 bed house
- PLOT 5 4 bed house
- PLOT 6 3 bed house
- PLOT 7 2 bed house
- PLOT 8 2 bed house
- PLOT 9 2 bed house
- PLOT 10 2 bed house
- PLOT 11 2 no. 2 bed flats
- PLOT 12 2 bed house
- PLOT 13 2 bed house
- PLOT 14 2 bed house
- PLOT 15 2 bed house
- PLOT 16 3 bed house
- PLOT 17 3 bed house
- PLOT 18 3 bed house

1.7 10 of the homes will be affordable.

1.8 The following supporting documentation has been deposited with the application during the consideration of this application by officers:

- Travel Plan
- Drainage Information (Surface Water)
- Design and Access Statement
- Landscape Management Plan

1.9 With the principle of development established, the application under consideration is for Reserved Matters and therefore in this instance seeks to deal with the appearance, scale, layout and landscaping in order to satisfy conditions 1 and 2. Matters relating to access were dealt with at Outline stage and thus will not be revisited.

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
H1	-	Affordable Housing – Thresholds and Targets
H2	-	Rural Exceptions Sites
H3	-	Ensuring an Appropriate Range and Mix of Housing
SC1	-	Social and Community Facilities

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

OS1	-	Requirement for Open Space, Sport and Recreation Facilities
OS2	-	Meeting Open Space, Sport and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD2	-	Renewable and Low Carbon Energy
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality
ID1	-	Infrastructure Delivery

2.2 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.

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

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

2.3 **Draft Much Birch Neighbourhood Development Plan**

The Much Birch Neighbourhood Plan has reached submission plan stage under Regulation 16. The consultation was undertaken between 27 May 2020 and 8 July 2020. The plan is currently at examination. The examination of the Much Birch NDP is scheduled to commence on the 2 November 2020.

At regulation 16 consultation, 13 representations were received. 9 external and 4 from internal service providers at Herefordshire Council. Statutory Consultees have raised no concerns regarding the site allocations or objectives and policies contained in the neighbourhood plan. Historic England, Natural England, Coal Authority, Welsh Water and National Grid have raised no concerns during the Reg14 consultation and Regulation 16.

There was one objection submitted from a resident, objected to the proposed dwellings at Larkrise and the footpath at Tump Lane. Three representations submitted by planning consultants seeking amendments to the settlement boundary or alternative sites to be included and The 'Much Birch and Axe and Cleaver Policies Map' should be enlarged to include two sites that have secured detailed planning approval.

The Strategic Planning team as part of the Regulation 16 consultation have confirmed that the plan is in general conformity with the adopted Herefordshire Core Strategy and the National Planning Policy Framework.

At this stage, with regards to para 48 of the NPPF, moderate weight can be attributed to the neighbourhood plan.

The relevant policies of the emerging NDP are:

- Policy MB1: Promoting Sustainable Development
- Policy MB2: Development Strategy
- Policy MB3: Conserving the Landscape and the Natural Environment
- Policy MB4: Protecting Heritage Assets
- Policy MB5: Foul and Storm Water Drainage
- Policy MB7: Renewable and Low carbon Energy Generation
- Policy MB8: Housing Development in Much Birch, King's Thorn, Wormelow and The Cleaver.
- Policy MB9: Housing Site Allocations
- Policy MB10: Meeting Housing Needs
- Policy MB11: Affordable, including Intermediate Homes
- Policy MB12: Housing Design and Appearance
- Policy MB13: Sustainable Design for Housing
- Policy MB14: Traffic Measures within the Parish
- Policy MB15: Highway Design Requirements
- Policy MB16: Protection and Enhancement of Community Facilities and Services

The Emerging NDP can be viewed at:

<https://www.herefordshire.gov.uk/directory-record/3089/much-birch-neighbourhood-development-plan>

2.4 National Planning Policy Framework (NPPF)

2. Achieving sustainable development
3. Plan Making
4. Decision-making
5. Delivering a sufficient supply of homes
8. Promoting healthy and safe communities
9. Promoting sustainable transport
10. Supporting high quality communities
11. Making Effective use of land
12. Achieving well-designed places
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

2.5 The National Planning Practice Guidance

3. Planning History

3.1 180208/O: Outline planning application for up to 20 dwellings, including 10 affordable dwellings, associated new access (via Tump Lane), car parking arrangements (for new and existing dwellings), community building (up to 200 m²), new POS (extension of existing play area) and new stretches of footpath with passing places (north and west bound along Tump Lane).Withdrawn.

130945/O: Residential development comprising up to 20 dwellings, including up to 10 affordable dwellings with associated new access (via Tump Lane) and car parking arrangements for both existing and proposed and community facility. Refused by planning committee. Granted at appeal. Appeal reference APP/W1850/W/17/3180227.

4. Consultation Summary

Statutory Consultations

4.1 Highways England (amended Plans – June 2020)

I am in receipt of a re-consultation, dated 22nd May 2020, regarding application P192979/RM for approval of reserved matters following outline approval 130945 (APP/W1850/W/17/3180227) for Appearance, Landscaping, Layout and Scale for the erection of 20 dwellings and associated community building and associated works at Land at Tump Lane, Much Birch, Hereford.

Following our previous response in October 2019, this particular application relates to matters reserved by an outline permission. Therefore, there are no further details considered by this consultation for Highways England to comment on. As such, we offer No Objection to this application.

However, it should be noted that Highways England were not consulted regarding the outline permission to which these reserved matters relate. While it is accepted that planning permission has been granted by appeal, we would have appreciated the opportunity to comment on what we perceived to be a potentially sub-standard arrangement at the junction of the A49 and Tump Lane.

Highways England (October 2019)

I am in receipt of a consultation regarding application P192979/RM dated 2 September 2019, regarding the application for approval of reserved matters following outline approval 180208 (APP/W1850/W/17/3180227) for Appearance, Landscaping, Layout and Scale for the erection of 20 dwellings and associated community building and associated works, located at the above address.

The principle of the development has been agreed in support of the outline planning application. As this reserved matters application is related to matters internal to the site, Highways England has no comments to make.

4.2 Welsh Water (Amended Plans - June 2020)

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

With reference to conditions 6 and 7 we refer to drawing numbers 1163-057 Rev A and 1163-058 Rev B and have no objection to the proposed foul water drainage arrangement. However the surface water network into which they intend to connect is shown on our records as being private or maintained by the highway authority rather than a public sewer. We therefore recommend this is investigated further to establish the ownership and the relevant discharge consent obtained before these conditions are discharged

Welsh Water (October 2019)

Development: Re-consultation: Application for approval of reserved matters following 130945 for Appearance, Landscaping, Layout and Scale for the erection of 20 dwellings and associated community building & associated works

We have no objection to the application for approval of the reserved matters subject to compliance with the requirements of the drainage conditions imposed on the outline planning permission, and the subsequent applications to vary the conditions thereon.

We welcome the introduction of a 3 metre protection zone to maintain the required access on the public sewer as shown on drawing number (L-) 103 and (L-) 100 and recommend that a drawing showing this easement becomes an approved drawing.

We welcome further opportunity to comment on details submitted pursuant to the discharge of conditions 6 and 7

4.3 **Natural England(October 2019)**

Natural England advise that a Habitat Regulations Assessment is required (Screening / and Appropriate Assessment). We look forward to receiving the HRA when this has been completed and will respond to the consultation in full at that stage. Please note that the usual 21-day deadline will apply on receipt of the consultation.

Internal Council Consultations

4.4 **Team Leader Area Engineer (Highways) comments (Amended Plans - Sept 2020)**

Comments:

1. Cross sections have now been provided, the sections look generic, with no levels. However as the road is currently private and the site is not looking to be adopted then this is a private matter
2. The northern kerbline has now been designed with kerbs, the southern sections between parking spaces 12 and 15 would benefit from having physical kerb line,
3. The parking has been increased on the recent site plan with the addition of disabled parking spaces. The parking will be managed in any housing agreements.
4. I am awaiting further comments regarding the Travel plan, when I received these I will pass them on.

If minded to approve please condition as follows: -

CAH - Driveway gradient
CAJ - Parking - Estates
CAP - Highways Improvement/off site works - see previous outline permission.
CAT - Construction Management Plan
CAX - Direction of proposed lighting
CB2 - Secure covered cycle parking provision
CB3 - Travel Plan

I11 – Mud on highway
I09 – Private apparatus within the highway
I45 – Works within the highway
I08 – Section 278 Agreement
I05 – No drainage to discharge to highway
I47 – Drainage other than via highway system
I41 – Travel plans
I35 – Highways Design Guide and Specification

Team Leader Area Engineer comments (Amended Plans - July 2020)

The plans submitted have been reviewed and the following comments can be made:-

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

1. Previous e-mails have requested

Access road

- A cross section through the access road needs to be submitted to show how they are going to achieve the proposed changes to the private road. – These have yet to be submitted
- White lining needs to be changed for the delineated footway to kerbs. – on the submitted plans these haven't changed

Layout

- The site needs to be designed and built to adoptable standards – This appears to have been done
- A footway should be provided on one side of the road - Agreed
- Whilst I would prefer parking to be adjacent to the properties, as discussed in the meeting to prevent unauthorised site parking, conditions would be written into any housing agreement. – Parking has been provided closer to some properties but it appears the overall number of parking spaces have reduced. The site originally looked to provide 29 throughout the site, this has been reduced to 16 with only 3 disabled spaces.

I am awaiting further comments regarding the Travel plan, when I received these I will pass them on.

4.5 **Travel Plan Officer Comments (July 2020)**

This is fine now, all issues addressed.

Travel Plan Officer (March 2020)

The travel plan is lacking too much information to be acceptable
Includes details of access to buses, schools and doctors and 30 car spaces at site but not much else.

Missing info on:

- Development – how many dwellings (break down of properties)
- Map to show development in relation to roads, current paths and services
- Plans to support sustainable travel on site – internal paths, bike parking, EV charging point
- Current modes of travel in that area and target levels post –development
- Details of how sustainable travel will be supported
- Details of how modes of travel will be monitored and reported to the Council
- Contact details of the Sustainable Travel Co-ordinator

4.6 **Principal Natural Environment Officer (Landscape) comments (Amended Plans – 5 June 2020)**

The amended drawings have mostly addressed previous landscape comment, dated 11/11/19 such as further SuDS information, however the soft and hard landscape should be updated on the latest scheme to ensure this information is up to date.

4.7 **Principal Natural Environment Officer (Landscape) comments (Amended Plans – 5 June 2020)**

Various aspects of the amended drawings have addressed comments, such as further SuDS information, however the soft and hard landscape will need to be updated to reflect the latest

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

scheme and address comments previously made, dated 11/11/2019. This can be addressed in the submittal of conditions.

Conditions

CK3 Landscape Scheme

- a) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.
- b) Trees and hedgerow to be removed.
- c) All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.
- d) All proposed hardstanding and boundary treatment.

CK4 Implementation

CK5 Maintenance Plan (5 years)

CK8 Management Plan (5 years)

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.

Principal Natural Environment Officer (Landscape) comments (November 2019)

I have reviewed the landscape plans (drawing no L-100) I have no objection to the general arrangement of the site, however I do have several queries relating to the detail of various aspects:

- The parking area is a large rectangular expanse at the entrance to the development it does not appear to relate particularly well to the community building or public open space. I would recommend both the siting and arrangement are reviewed, there is potential for it to be arranged with the SUDs pond in such a way as to partially screen this area and create an attractive focal point at the entrance.
- Are the swales self contained units for water to be held in or are they directed to the SUDs pond.
- The orchards are an effective idea to break up the massing of the built form, to be productive they will require a certain depth for a quincunx arrangement.
- There is limited planting along the western boundary which borders open countryside this will require additional hedgerow tree planting.
- There appears to be extensive roadway to provide access to the allotments which I am not convinced is necessary. The roadway to the east of the site should be reduced/removed.

When the detail has been amended a condition can be applied for a management plan for a 5 year period to secure the success of the proposed planting.

4.8 Principal Natural Environment Officer (Ecology) comments (Amended Plans-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.

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

The applicant has indicated in their application foul water will discharge to mains sewer, and surface water will outfall to SuDs lagoon and swales across the site. Welsh Water have confirmed in their letter dated 5/6/2020 that connection to mains sewer is acceptable.

Both Welsh Water (letter dated 5/6/20) and land drainage still have outstanding concerns regarding the proposed surface water drainage (report dated 3/6/20). Until these concerns are addressed and the surface water drainage scheme is approved, the Habitat Regs, Appropriate Assessment would conclude '*likely significant adverse effects*' on the River Wye SAC.

Ecological enhancements (biodiversity net gain)

Condition 8, requires a biodiversity enhancement scheme (integrated with the landscape plan) including the location of ecological enhancements/biodiversity net gain (including bat boxes and sparrow terraces, and proposed lighting, to minimise impacts to biodiversity (in line with the *Dark Skies Initiative*, DEFRA-NPPF 2013/18), as detailed in Ecology report, James Johnston 2013 and Focus Ecology 2017), has not yet been supplied.

Principal Natural Environment Officer (Ecology) comments (October 2019)

Site drainage

As per Conditions 6 & 7, Outline Permission 180208, there are no details yet provided for the site drainage strategy; (see recent email correspondence from Ruth Blair, drainage engineer, Balfour Beatty, dated 23/09/2019).

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.

Until full details of surface water and foul water proposals are provided, the required HRA cannot be completed.

The applicant has indicated in their application that surface water will outfall to SuDs lagoon and swales across the site. Foul water will discharge to mains sewer. Confirmation from Welsh Water that this is acceptable and sufficient capacity exists is required.

Ecological enhancements (biodiversity net gain)

The landscape scheme submitted provides detail of proposed planting scheme, including native trees and shrubs, which is suitable and of benefit to site ecology.

However, as per Condition 8, the biodiversity enhancement scheme should also include hard landscaping proposals (such as bat boxes and sparrow terraces, and proposed lighting to minimise impacts to biodiversity (in line with the *Dark Skies Initiative*, DEFRA-NPPF 2013/18), as detailed in Ecology report, James Johnston 2013 and Focus Ecology 2017).

4.9 Waste Operations Team Leader comments (Amended Comments)

Collection points have been provided and are in an acceptable location if the private road and turning heads are constructed to suitable standard for the refuse collection vehicle.

The council will only agree to travel private roads for the purposes of waste collection if:

The council and its contractors determine that collections can be carried out safely;

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

and the council receive written confirmation from the landowner/developer that the roads over which the RCV will travel are built to a suitable specification for this type of vehicle to travel over on a frequent basis; and the council and its contractor(s) are indemnified against damage to property and general wear and tear, other than that caused through negligence.

The council and/or its contractor will assess the safety of collections at the development via the completion of a risk assessment which will take into consideration the access and suitability of the road surface, width, obstructions and turning areas for a 26 tonne refuse collection vehicle (RCV).

If a private road is not suitable for the RCV to travel or an indemnity is not signed by the landowner, the collection point for rubbish and recycling will be at a point adjacent to the nearest public highway, as determined by Herefordshire Council.

The council and its contractor reserve the right to cease collections from private roads if the roads or entrance are not maintained to a standard suitable for the RCV or there are any obstructions in place

Waste Operations Team Leader comments (December 2019)

No swept path analysis has been provided for a refuse collection vehicle (RCV).

The RCV would not be able to travel the side 'lanes' Bins would need to be brought to the end of the lanes for collection however no collection points have been provided and this would mean residents would be required to move bins further than the recommended 30 metre distance. Areas of hardstanding where bins can be left on collection day need to be provided so that bins do not cause an obstruction on the carriageway.

The design and access statement says that the shared access road would not be adopted. The road needs to be constructed to a suitable standard for a 26 tonne refuse collection vehicle. The council will only agree to travel private roads for the purposes of waste collection if: the council and its contractors determine that collections can be carried out safely; and the council receive written confirmation from the landowner/developer that the roads over which the RCV will travel, including turning areas, are built to a suitable specification for this type of vehicle to travel over on a frequent basis; and the council and its contractor(s) are indemnified against damage to property and general wear and tear, other than that caused through negligence.

4.10 Open Spaces Planning Officer Comments: (Amended Plans – June 2020)

On site POS: I note that the masterplan as shown in the amended design and access statement now shows a layout which has been reconfigured to remove previously proposed community allotment to the north of the site, to provide green spaces for the use of community gardens and food productions running between rows of houses. All other open space remains as previously proposed including providing links to the existing play area.

I am satisfied that these changes to the layout will not affect the requirement to provide 0.018ha or land for POS as set out in my previous comments.

The provision will adequately provide for a variety of communal uses including provision for the enlargement of the existing play area. This will be equipped with new play equipment as set out in the Appeal Decision: App/W1850/W/17/310227 Tump Lane Hereford and in the Inspectors report paragraphs 31 and 32 which sets out the UO requirements for on and off site POS/Play provision:

My previous comments still stand and I have no further comments to make.

Open Spaces Planning Officer Comments (October 2019)

POS: On-site and Play: Off-site contribution

Appeal Decision: App/W1850/W/17/310227 Tump Lane Hereford. The Inspectors report paragraphs 31 and 32 sets out the UO requirements for on and off site POS/Play provision:

31: The UO provides for 0.018ha of land to be provided as POS within the appeal site. There is no detail as to how that will be managed or maintained. This can be controlled through a planning condition.

32: The UO provides for the provision of children's play equipment on the existing play area adjacent to the site. The specification for the play equipment would be agreed with the Council and the cost of it would be based on a final amount depending on the final number and type of dwellings that would be provided at reserved matters stage.

These details have been set out in the agreed UO for outline approval 180208 pursuant to this RM application.

On site POS: The developer has not confirmed that the quantum of POS to be provided on site meets the minimum requirements of 0.018ha of land. However, Proposed Site Plan drawing no. (L-) 100 shows substantial areas of open space offering a variety of uses, including:

- Enlargement of the existing play area
- Community wildflower meadow and open space around a proposed community building
- Community allotments at the top of the site
- Community planted areas between terraces, planted with small fruits and fruit trees.

I am satisfied that this is more than adequate.

Of site Play contribution: Although the Design and Access Statement submitted with the application indicates in paragraph 5.9 Open Space that the enlarged play area will be equipped, no plan has been submitted. This is supported as the agreed UO for outline approval 180208 pursuant to this RM application has agreed:

- The developer covenants to provide subject to clause 3.2 to provide children's play equipment to a specification agreed with the Council not exceeding a cost equivalent to: £965 per 2b OMU and £1,640 per 3b OMU

I note that the proposed bed space from 2b and 3b is as follows:

- 9 x 2 bed
- 5 x 3 bed.

To note the 2 x 4 bed are excluded.

However further detail will be required to confirm the number of OMU before I can provide a cost for the contribution.

On site POS Management

The agreed UU for outline approval 180208 pursuant to this RM application has agreed that the details as to how the 0.018ha of land to be provided as POS within the site is to be managed should be provided as part of the landscaping details as per the Appeal Decision and Condition 5 of the Inspectors report to include:

- ix) a scheme for the on-going management and maintenance of all landscape areas, other than private gardens, and the open space covered by the planning obligations, including management and maintenance schedules

Suitable management and maintenance arrangements will be required to support any provision of open space and associated infrastructure within the open space in line with the Council's policies. This could be a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

It may be worth pointing out that the existing play area is managed and maintained by Herefordshire Housing. As the existing play area is to be extended it may be a consideration in the future management of this element.

4.11 **Public Rights of Way Manager Comments**

No Objection

4.12 **Drainage Comments**

Overall Comment

Prior to the discharge of conditions 6 and 7, we recommend that the comments discussed above are address and that Welsh Water are re-consulted to allow them to confirm whether the proposed connections to their existing sewers are acceptable.

Full comments: <https://myaccount.herefordshire.gov.uk/documents?id=50fe6869-a660-11ea-9394-0050569f00ae>

4.13 **Housing Development Manager comments: (October 2019)**

I refer to the above amended plans and can confirm that Strategic Housing is in support of this application to provide 20 dwellings of which 10 would be for affordable housing.

5. Representations

5.1 **Much Birch Parish Council (Amended Plans - 8th October 2020)**

Following consideration of the further amendments to the planning reserved matters for Tump Lane, the Much Birch Parish Council has resolved that there are no further comments from the PC in terms of material placing considerations for this application.

Much Birch Parish Council (Amended Plans - June 2020)

The Much Birch Parish Council has discussed the reserved matters application 192979, as amended and there are no objections.

Much Birch Parish Council (October 2019)

The Much Birch Parish Council has considered the reserved matter details in re-consultation 192979 and there are no objections.

5.2 28 letters of representation, objecting to the proposals have been received over 3 public consultations following revisions to the proposal.

These representations raise the following issues:

Amenity

- Adverse impact upon residential amenity
- Direct overlooking of amenity space and into habitable rooms
- Direct overlooking from existing dwellings into proposed developments
- Loss of view
- Loss of light
- Intrusions of privacy: plots 14, 15, 18, 7 and 8 overlook properties
- No details on site levels / Cross sections so unable to ascertain heights or understand terracing
- Houses on a higher elevation further obstruction of privacy
- The level differences / slope will result in increased overlooking / impacts
- Common house would cause noise and disturbance
- Impact of alert alarms on lorries during construction phase
- Noise and air pollution during construction phases
- Hedge features Plot 18 negative impact on light in Kitchen
- Low shrubs will not help stop overlooking. Consideration given to Sympathetic large tree planting
- Concerns about common house commercial use? Noise, parking and use.

Character and Appearance

- Non-existent landscaping between site and neighbours
- Reduce the green space around my home.

Highway Issues

- Increase in traffic movements
- Danger to pedestrian safety
- Tump Lane too dangerous for more traffic
- Reduced Speed limit has not helped
- Reduction in parking for residents locally
- Impact on views
- Development done for financial gain
- Impact from construction traffic, and damage to roads
- How will construction traffic and parking be managed?
- How will parking be managed for residents during construction
- How will parking be allocated to current residents and maintained for those residents?
- Impacts of large lorries on the lane during deliveries? Delays / noise
- Mud on highway during construction
- No footway? How will this be addressed? Footpath down Tump Lane before the development starts
- Use of car parking spaces outside houses allocate to residents so in close proximity to homes
- New residents only have limited number of car parking spaces
- Community building has rooms for people to sleep. Therefore more traffic.
- Children safety to access play area
- The continuous footpath would increase in traffic noise and fumes to property. Not prepared to relinquish any of my property to this (footpath) to go ahead.

Biodiversity

- Impact on wildlife that roams freely
- Planting few fruit trees a weak attempt at self-sufficient model and no biodiversity?
- Woodburning Stoves – not impact on air emissions / fossil fuels Other Matters
- Beech hedge to be kept within legal height and not allowed to grow wild
- Gardens need to be kept tidy

Other Matters

- Strictest scrutiny should apply to RM following outline granted on appeal;
- There is already a community hall in the area
- Lack on integration with local residents / local occupants
- No benefits locally
- Noise of air source heat pumps
- Cohousing model shown to be unsafe during pandemic. Communal eating
- Impact on value of properties locally
- Pond near the children play area not safe. How will it integrate with the current one?
- No details of street lighting
- Removal of allotments – could the density be lowered and removal of communal building to ensure retention of the ability to grown food
- Reduce number of properties to make scheme more acceptable?
- No details provided about the affordable homes availability on the open market
- Proposed ‘workshops’ bring in more cars
- Planning still allows future extension of extension of homes. Fails to guarantee the future affordability of the homes
- How will domestic animals be contained- fowl communal areas
- Over development of Much Birch Village
- Drainage issues been addressed?

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192979&search-term=192979

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 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. As referred to in the policy section above, the level of consistency of the policies in the local plan with the NPPF will be taken

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

into account by the Council in deciding any application. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.

6.3 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 Much Birch Neighbourhood Area, which published a draft Neighbourhood Development Plan (NDP) which is currently out to examination.

6.4 The principle of development of this land and the means of access has been clearly established via the Outline planning. With this in mind, it is not for this application to revisit these matters. Rather, the focus of attention, for the avoidance of doubt, relate to the appearance, scale, layout and landscaping.

Appearance

6.5 As defined under in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 appearance means:

‘the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture’

6.6 A number of the submitted amended plans are inserted below for ease of reference.



Common house elevations and floor plan.

6.7 There are no designated heritage assets adjacent to the site and I am also mindful that with some exceptions the majority of housing stock in the immediate vicinity is predominantly post-war and red brick. Landscaping is an important consideration when reviewing and assessing the overall appearance of the scheme and this will be discussed further below.

6.8 The design of any building is to be assessed against policy SD1 of the Core Strategy. This states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, and proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.

6.9 The scheme promotes house-types that are now more ‘traditional’ in appearance. This is in response to concerns expressed upon receipt by the local planning authority. There followed a substitution of house-types. No major concerns are raised to the proposed designs and the way this scheme interprets the local Herefordshire vernacular in an efficient and modern style as it now relates to the immediate and corresponding landscape. The proposed materials also relate

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well as an overall composition and are considered to reflect local character in type, colour and texture. A key revision of the proposal was the alterations to the proposed common house (see above) with the removal of the lime render and its reduction in scale and improved design. Officers consider the overall effect of the changes to be a significant benefit and the appearance of the scheme is now significantly improved as a consequence of negotiation, such that it is representative of design that is appropriate to the context.

- 6.10 At a local level, Policy MB12 of the NDP seeks to set a series of guidelines for design approach to new development in which includes ensuring that new housing development, including alterations or extensions to buildings, will be required to achieve good standards and variety of architecture and design, particularly where there is a need to respect local distinctiveness and the traditional qualities and characteristics of the area within which it is to be located. It also references utilising a range of materials and architectural styles, building height and also protecting amenity and privacy of adjacent existing residential properties and ensure new residential development avoids locations where residents may suffer significant adverse effects from adjacent uses.
- 6.11 The proposed dwellings are relatively simple in form and would be constructed from red-facing brickwork plinths (to match local bricks) and light lime rendered elevations under clay roof tiles with grey rain water goods. They will have untreated timber to parts of the elevations, barge boards, fascia boards and shading. The proposed fenestration is to be triple glazed aluminium framed units. It is also noted the dwellings will have flues for wood burning stoves. The common house building (as shown above) is a one storey building with a brick plinth to match the houses and is simple in form.
- 6.12 Noting the variety of materials used on dwellings within the Wormelow and Much Birch vicinity, the proposal is found to be in keeping. Furthermore, having regard to the fact that there is no particularly strong architectural influence for the development to take, the design approach does reference the use of light coloured render and external facing brick which can be found in the locale.
- 6.13 Some representative elevations are inserted below for ease of reference.



Example of streetscene



Example of 2 bed dwelling type

4 bed semi-detached dwelling type

- 6.14 Overall, the appearance of the scheme as amended is considered to accord with CS policies LD1 and SD1 and Policy MB12 of the NDP.

Scale

- 6.15 As defined under in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 scale means:

‘the height, width and length of each building proposed within the development in relation to its surroundings’

- 6.16 Policy SD1 of the Core Strategy requires proposals to respect the scale, height, proportions and massing of surrounding development with LD1 seeking to ensure that the landscape or townscape character of the area has positively influenced, inter alia, the scale of the development.
- 6.17 The dwellings are two-storey and are in the form of semi-detached and terraced units. The scale, in terms of numbers of dwellings has already been agreed and considered acceptable and therefore the proposal is consistent with the outline permission in this regard. The common house has been considerably reduced in height and size during the application and now is acceptable in this regard.
- 6.18 For the purposes of this assessment, officers are content that the scale of development with regards to massing and proportions of the dwellings themselves is acceptable, according with Policies LD1 and SD1 of the Core Strategy and Policy MB12 of the NDP. The scale of the proposed dwellings (and common house) are not considered to be such that would be prejudicial to the occupiers of neighbouring dwellings by way of overshadowing, overlooking or through their overbearing appearance. Therefore, no conflict is found with Policy SD1 of the Core Strategy. The Housing Delivery Officer has no objection to the range and mix of housing proposed and the scheme presents a mix of house sizes and tenures that accords favourably with Policy H3 of the Core Strategy and Policy MB10 of the NDP.

Layout

6.19 As defined under in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 layout means:

“the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development”



Proposed site layout

6.20 Policy LD1 – Landscape and townscape states as follows:-

“Development proposals should:

- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, 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, nationally and locally designated parks and gardens and conservation areas; through the protection of the area’s character and by enabling appropriate uses, design and management;
- Incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings; and
- Maintain and extend tree cover where important to amenity, through the retention of important trees, appropriate replacement of trees lost through development and new planting to support green infrastructure.”

6.21 Likewise it is an NPPF core planning principle that development should always seek to secure the creation of high quality buildings.

6.22 Paragraph 127 enlarges on this and is a criteria based policy that aims to ensure that Local and Neighbourhood Plans ensure that developments will function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create an attractive and comfortable place to live, work and visit.

6.23 Development should also respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. In this

case the immediate area is characterised, as is not uncommon in edge of village locations, by a range of developments of different ages and styles.

- 6.24 The site has the benefit of planning permission for the erection of 20 dwellings and that is the number now applied for. The site layout is reproduced above and this has been amended in direct response to concerns expressed in writing by the local residents and council officers. The site has direct connectivity with and legibility with the adjoining housing site.
- 6.25 It should also be noted that criticism in respect of layout and location of the dwellings has been addressed to a large extent through the submission of revised drawings. A total of 29 car parking spaces required for the proposal have been provided. The provision of disabled parking spaces is also noted. The parking will be managed in any housing agreements and the site will have a Travel Plan. It is noted that car movement within the site is designed to be kept to a minimum.
- 6.26 The tree planting and landscaping proposed to be introduced and the revised locations of the dwellings in relation to the site boundaries are appropriate to the context of the site. In respect of the relevant criteria of SD1 above, I am content that the scheme makes efficient use of land and the access arrangements are safe. I am also satisfied that changes to the location of the play area, common house and car parking around the site and provision of a footway within the site will make the development safer. There is also natural surveillance of public open space. Elsewhere, as touched on above the dwellings are orientated and arranged such that there is an acceptable standard of amenity for prospective and existing residents.
- 6.27 It is evident that a number of the properties which border the proposed site currently benefit from long range views across open countryside towards Much Dewchurch and beyond. It is commonly understood that there is no right to a view over private land, although the impact of development upon the outlook of a property can affect living conditions. In this case, the orientation and siting of the proposed dwellings has endeavoured to preserve as much of these views as possible but it is acknowledged that there will be an inevitable impact upon existing residents which is considered to have been successfully mitigated through amendments to the scheme.
- 6.28 The layout has been strongly influenced by solar orientation. There is a natural link to the play area and this has been revised during the application to ensure nature overlooking surveillance of the area. The proposed layout retains a large area of greenspace in both community areas and the allotment garden. The location of the dwellings has evolved to encourage and gain level access for the properties. The houses also have a southerly aspect and as detailed within the design and access statement the housing has been either terraced or semi-detached to assist in both construction and thermal efficiency.
- 6.29 The common house has been designed to be one storey in height. The building has been positioned so it 'welcomes' people into the site, as well as being visible from the site entrance and play area. Properties along the eastern boundary have been relocated and repositioned to reduce the impact on those existing properties which abut the site.
- 6.30 I am conscious of, and sympathetic to, the comments expressed relating to plots 8, 15, 18 and the concerns from residents who live at 30 and 32 Tump Lane. It is acknowledged that privacy and overlooking concerns have been expressed with fears of overlooking into bedrooms, living rooms kitchen and gardens. The revised layout overcomes and alleviates these concerns in my view. No windows are proposed within the side elevations of the properties and separation distances have been increased and the properties relocated further from the eastern edge of the site. The site's topography has also been taken into account when assessing concerns. Consequently, officers are satisfied the proposal provides reasonable privacy for dwellings within the proposed layout and protects the privacy of existing neighbouring dwellings.



Plan showing proposed plots on eastern boundary and proximity to exiting dwellings abutting the site within Tump Lane.

- 6.31 Overall officers are content that the layout would generate good quality living conditions for occupiers with decent provision for private amenity space and separation distances and that living conditions for neighbours would also be respected. This is achieved by maintaining appropriate separation distances throughout. In conclusion on this issue, it is concluded that the scheme accords with the relevant CS policies.

Landscaping

- 6.32 As defined under in article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 landscaping means:
- ‘the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features’

6.33 The below drawing illustrates the layout of the site with the proposed landscaping features.



6.34 It is noted that the Landscape Officer has no objection to the proposal and plans have been revised following initial comments to reflect earlier concerns. The landscape plan illustrates the retention and planting of hedgerows and trees along the site boundaries. This would also serve to protect the relationship between the new dwellings and properties abutting the site. The tree planting of suitable species is welcomed and would assist in the softening of the appearance of the dwellings within the immediate locale. It is acknowledged that the site will retain a large area of green space on site, which will have a variety of uses including a play area and enlargement of the existing play area. This will be also be equipped with new play equipment. The public open space as required under the outlined consent (0.018ha) has been provided and details of its management will be formally reviewed and considered under condition 5 of the outline when submitted. There is also a shared garden space around the common building. Additional hedgerow tree planting has been provided along the western boundary which borders open countryside and a low shrub buffer to the Tump Lane properties on the eastern boundary has also been accommodated. A wayleave is required due to sewers and this is to be combined with an enlarged landscape buffer to existing houses which will be planted with wildflowers. There will also be the provision of fruit trees (heritage orchard) within the site.

6.35 It is a condition of the outline planning permission that a soft landscaping scheme should be submitted and that trees and hedges scheduled for retention should be identified. Having regard to the conditions yet to be discharged and the measures described in the current application, I am of the view that the landscaping prescribed is both proportionate and appropriate to the context and should achieve an effect that is consistent with the requirements of CS policies LD2 and LD3 and emerging NDP policy MB3.

6.36 It is acknowledged as part of the submission that a landscape management plan has been provided which is a requirement of the outline consent and also confirms the maintenance of the site which should alleviate concerns raised within representation received. The hardstanding within the site proposed is not considered to be excessive and is commensurate for the scale of the dwellings.

6.37 As such, officers are of the view that the proposed landscaping is acceptable and in terms of amenity impacts is found to respect neighbouring properties through the enhancement and improvement of boundary treatments. As such, the proposal is acceptable in terms of the requirements of Policy SD1 and LD1 of the Core Strategy and Policy MB3 of the NDP.

Other Matters

Transportation

- 6.38 No concerns have been raised by the Public Right of Way Officer and noting the comments received from the Council's Transportation Manager which recommend conditions for this application, The National Planning Practice Guidance makes it clear that:

'Conditions relating to anything other than the matters to be reserved can only be imposed when outline planning permission is granted. The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those reserved matters.'

- 6.39 Officers are mindful that access was considered at the outline stage and therefore the recommendations made by Transportation do not directly relate to the reserved matters of scale, appearance and landscaping as being considered by this reserved matters application. It is also noted that the suggested condition relating to the provision of cycle storage was imposed on the outline permission and must be satisfied prior to the occupation of any dwellings hereby approved.

The Common House

- 6.40 The common house/room will not be direct competition to Much Birch Community Hall and as such the proposal adheres to the aspirations of NDP policy MB16. For clarification, the common room will be for use of the residents and not as a community hall or commercial venture. The building proposed will have a dining area and kitchen. The proposed common room has been significantly reduced in size and is now proportionate in size compared to the scale of the proposed residential development and more in line with the proposed building which was shown on the indicative layout tabled at Outline stage. Its overall height and scale is now appropriate to its landscape setting.

Sustainability

- 6.41 In regards to the promotion of sustainable development and suggested sustainability features, the submitted information confirms the dwellings have been designed to make use of passive design principles and so will have very low energy consumption. The homes will make use of:

- An Air Source Heat Pump to each unit
- A wood burning stove to each unit
- Maximised solar gain through orientation, principal rooms will be organised to the South.
- Large windows to the South will make the most of solar gain and give good daylighting, whereas North facing rooms will have smaller windows to prevent heat loss.
- Shading over all South facing windows to prevent excess heat gain in summer
- Increase air tightness for enhanced thermal performance, complex junctions will be minimised.
- Reduce heat transfer through the walls, roof and floor through increased insulation and a reduction in thermal bridging.
- Possible timber frame construction with cellulose and wood fibre insulation is being looked at as a possible building method for the housing, which provides excellent thermal performance, low embodied energy and a breathable construction.
- Efficiency in use - a home user's guide will give information to the occupants on how to use their home and local information on a sustainable lifestyle.
- Composting bins should be provided on the site.
- A home user guide will be provided to the residents denoting where the nearest public recycling points are

- 6.42 The above ensures the scheme adheres to the principles set out in Policy MB7 – promotes renewable energy of domestic scale in accordance with Core Strategy policies SS7 and SD1

Ecology and drainage

- 6.43 Policies SD3 and SD4 of the Core Strategy seek to ensure that matters of flood risk and drainage (surface and foul) are fully considered. The outline planning permission included conditions seeking further information with regards to drainage. Following discussions with Drainage and Ecology, this element is still under consideration and a separate application to discharge the drainage and ecology conditions will be submitted. However, Officers are satisfied that these matters can be properly considered, along with the Ecology / Habitat Regulation Assessment issue as part of the application for the discharge of conditions 8 of the outline permission. Natural England will be consulted on any such application to discharge conditions in relation to drainage.

Heritage

- 6.44 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting: “to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

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

- 6.46 The NPPF offers further guidance about heritage assets, recognising that they are irreplaceable resources that should be conserved; ‘...in a manner appropriate to their significance.’ Paragraphs 189 to 196 offer particular clarity about the assessment to be made of the significance of heritage assets. Paragraph 192 outlines three criteria to be taken account of in the determination of planning applications.

- 6.47 These are as follows:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

- 6.48 While Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance.

- 6.49 As a result, and in order to properly consider the effects of development on heritage assets, recourse should be had to the NPPF in the first instance. Officers are content that the proposal is well related to the wider development in terms of scale and size and that the key views are preserved as per the indicative outline plans. The intervening development and open space provides a significant buffer from this development and no harm is identified to nearby heritage assets in the form of Bryngwyn Manor. As such the proposal complies with the requirements of policy LD4 of the Core Strategy and with the requirements of policy HD4 and MB4 of the emerging NDP.

Conclusion

- 6.50 The principle of a residential development for the proposed number of dwellings and vehicular access have already been established through the grant of outline permission. The scheme provides the requisite detail in respect of the matters reserved for future consideration by the outline approval. It is of an appropriate scale in terms of the amount of development proposed and also in terms of the type and mix of dwellings. The appearance of the dwellings (and common house) is found to be in-keeping with the surrounding built environment and has taken reference from surrounding properties in the local vicinity. The proposal ensures that residential amenity is safeguarded and the proposed landscaping features are considered appropriate and well responsive to the site and wider setting. Officers are therefore satisfied that the scheme is in accordance with the Herefordshire Local Plan – Core Strategy, the emerging Much Birch Neighbourhood Development Plan and the National Planning Policy Framework. Accordingly, the application is recommended for approval.

Next stages

- 6.51 Following the grant of the Reserved Matters application (if this is forthcoming), a separate application would need to be submitted to address planning Conditions 5, 6, 7,8, 10, 11, 12 and 13 on the outline permission which remain outstanding and the details of which require discharging under application 131315 (Appeal Decision APP/W1850/W/17/3180227).
- 6.52 A key concern of local residents is the provision and construction of the footway link along Tump Lane which is required under Condition 10 as detailed below. This pedestrian link to the school is a vital part of the overall scheme and would need to be discharged prior to any dwelling being occupied. At present the Section 278 Agreement has not progressed with highway colleagues however this footway link is not under consideration as part of this reserved matters application.

RECOMMENDATION

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

1. **The development hereby approved shall be carried out strictly in accordance with the approved plans:**

**DWG G04 Proposed site plan
DWG G05 Proposed site plan
DWG G08 Proposed Long elevation
DWG G06 Proposed site plan landscape
DWG A02 proposed 2 bed flat
DWG 116-059 Site layout Sheet 1 of 2
DWG A01 proposed 1 bed flat
DWG A-01 Proposed 1 bed flat
DWG A 05 Proposed 3 bed house
DWG G03 Existing tree survey
DWG G02 Topo Survey
DWG G01 Existing site plan
DWG G07 Proposed site plan
DWG 1163-060 site layout sheet 2 of 2
DWG 1163 045 Tump Lane Cross Sections
DWG 1163 -057 Drainage strategy sheet 1 of 2
DWG 1163 058 Drainage strategy sheet 2 of 2
DWG 1163 045 Tump lane section drawing
Revised Design and access statements**

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

Revised landscape management plan
Revised Travel Plan
Prospective member application
DWG A 06 proposed 4 bed house plots
DWG A 07 Shared building proposed plan
DWG A 08 Community building proposal elevations
DWG A 03 Proposed 2 bed house
DWG A 04 Proposed 2 bed house

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 and the National Planning Policy Framework.

INFORMATIVES:

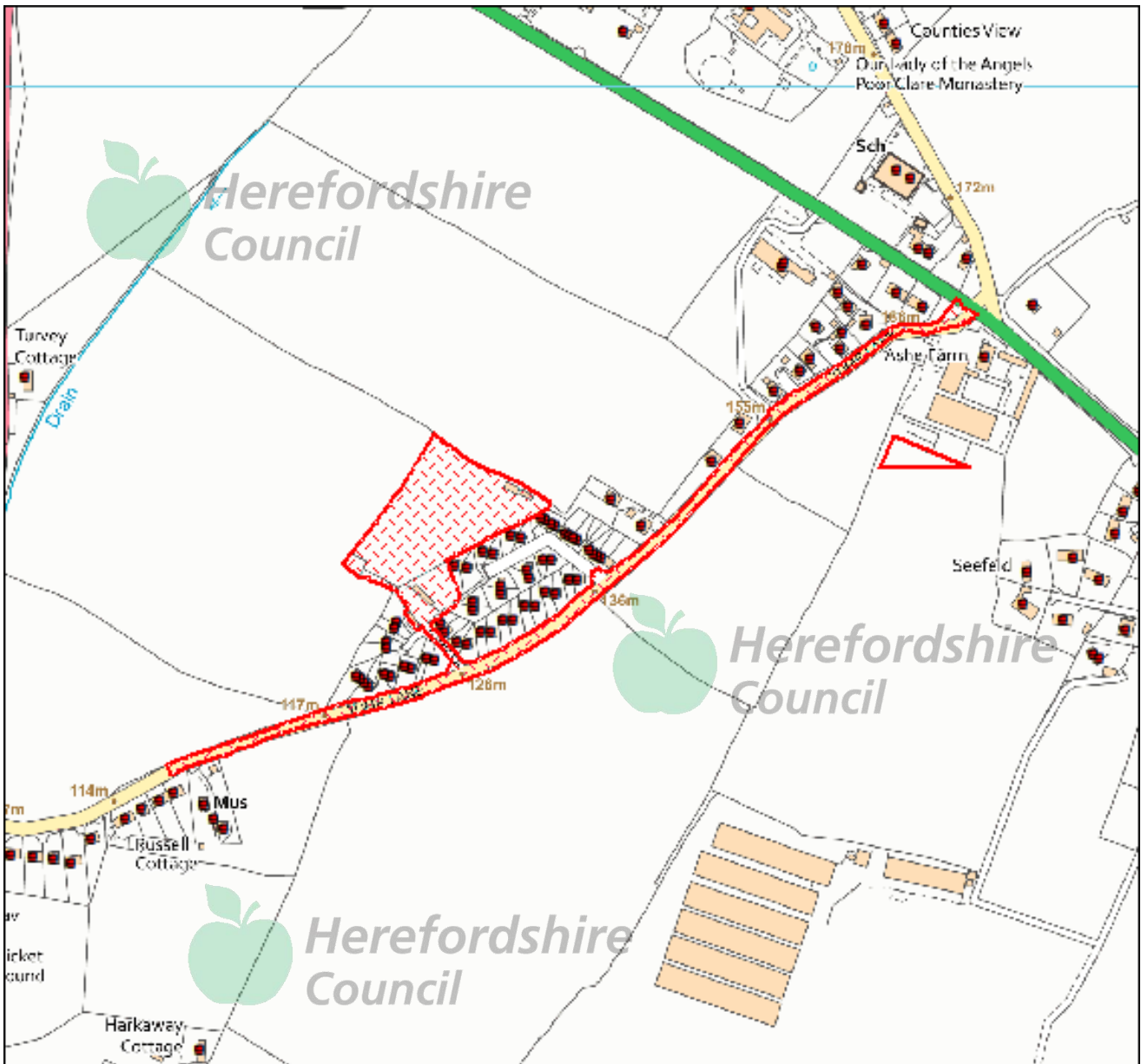
1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 192979

SITE ADDRESS : LAND AT TUMP LANE, MUCH BIRCH, HEREFORD

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Appeal Decision

Site visit made on 23 April 2018

by **D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC**

an Inspector appointed by the Secretary of State

Decision date: 4 July 2018

Appeal Ref: APP/W1850/W/17/3180227

Tump Lane, Hereford, Herefordshire HR2 8HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ms Kat La Tszar of Larkrise Co-Housing and Herefordshire Housing Ltd against the decision of Herefordshire Council.
 - The application Ref 130945, dated 3 April 2013, was refused by notice dated 18 January 2017.
 - The development proposed was originally described as "*outline planning application for a residential development comprising up to 20 dwellings, including up to 10 affordable dwellings with associated new access (via Tump Lane) and car parking arrangements (for both existing and proposed dwellings), and a community facility (of up to 200m²)*".
-

Decision

1. The appeal is allowed and planning permission is granted for residential development comprising up to 20 dwellings, including up to 10 affordable dwellings with associated new access (via Tump Lane) and car parking arrangements (for both existing and proposed dwellings), and a community facility (of up to 200m²) at Tump Lane, Hereford, Herefordshire HR2 8HW in accordance with the terms of the application, Ref 130945, dated 3 April 2013 subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal is in outline with all matters reserved except for access. I have dealt with the appeal on this basis, treating the submitted plans as indicative insofar as they relate to the appearance, scale and layout of the dwellings and community facility and landscaping. I have altered the description of development in the formal decision above to delete wording that is not a description of development.
3. The appellant has submitted drawing No (L) 07 with the appeal to illustrate how a proposed footway could be provided on Tump Lane in the direction of Wormelow. She has requested that this be taken into account in the determination of this appeal. A similar footway was considered within a previous appeal decision¹ for a site in Tump Lane. Moreover, the appellant has stated that the drawing forms part of a subsequent planning application for the development of the appeal site. All parties have had the chance to comment on this drawing and I do not consider that they would be prejudiced by my consideration of it. I have dealt with the appeal on this basis.

¹ APP/W1850/A/14/2221854

4. The Council have referred to Policy H10 of the Hereford Unitary Development Plan within its statement of case. However, it has confirmed that this was an error as this policy has been replaced by Policies H1 and H3 of the Herefordshire Local Plan Core Strategy (CS).
5. The Council have stated that the Much Birch Neighbourhood Plan area was designated in 2013 but the Neighbourhood Development Plan has not been progressed. As such, given the early stage of its preparation I give it little weight.
6. The appellant originally submitted a draft Unilateral Obligation (UO) and both main parties were given the chance to comment on this document and whether it would be effective at delivering the affordable housing. The appellant has subsequently submitted a signed and completed UO and I will return to this matter below.

Main Issue

7. The main issue in this case is whether the site would be a suitable location for up to 20 dwellings and a community facility having regard to the policies of the development plan in regard to the accessibility of services and facilities and highway safety and, if harm arises, whether this is outweighed by other material considerations.

Reasons

8. The appeal site comprises fields, paddocks and stables. Access would be provided from the end of an existing road and through an existing garage court. The proposal would involve the construction of up to 20 dwellings, a community facility and up to 10 of the dwellings to be provided would be affordable homes. The community facility would consist of shared facilities such as a common room, kitchen and shared guest accommodation.
9. The proposal would also involve the demolition of five of the garages to the one side. New parking areas would be created adjacent to the garages. These parking areas would encroach onto an existing informal play area and the proposal would extend that play area into part of the appeal site. The dwellings would adjoin a group of dwellings that forms part of the settlement of Much Birch. The settlement of Wormelow is located to the south- west of the site.
10. Policies SS2, RA1 and RA2 of the Herefordshire Local Plan Core Strategy (CS) relate to the delivery of new homes in the County. CS Policies SS2 and RA1 state that a minimum of 5,300 dwellings will be delivered across identified rural settlements on the basis of 7 Housing Markets Areas. CS Policy RA2 would support sustainable housing growth in or adjacent to Much Birch subject to a number of criteria including that they result in the development of high quality, sustainable schemes. CS Policy SS4 requires that proposals should facilitate a genuine choice of travel modes.
11. CS Policy MT1 states that development proposals should include a number of requirements covering movement and transportation. These include demonstrating 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 and including access to services by means other private motorised transport. These policies are reflective of the National Planning Policy Framework (the Framework).

12. The settlements of Much Birch and Wormelow contain a number of services and facilities including a primary school, medical centre, shop and post office that are within walking and cycling distance of the appeal site. There are also bus stops close to the junctions of the A49 and Tump Lane, to the north east of the site, and the A466 and Tump Lane, to the south west of the site.
13. Tump Lane is a road that is of restrictive width for sections of its length between the A49 and the A466. Furthermore, there are parts of the road that do not have a pavement on either side and it has no street lighting. A recent traffic regulation order (TRO) has reduced the speed limit on Tump Lane from 40 mph to 30 mph and has prohibited vehicles exceeding 7.5 tonnes maximum gross weight from travelling along it subject to certain exemptions.
14. The scheme indicates that a footway would be provided for the majority of the length of Tump Lane from the appeal site to the A49. The additional plan also indicates that a footway could be provided on Tump Lane in the direction of Wormelow. The footways would not be provided across existing driveways and within the 2 passing places. Both main parties are in agreement that these works would be within the public highway and could be implemented through the use of a planning condition.
15. I acknowledge that the footways would not be continuous from the appeal site to the A49 and A446 and that the street lighting situation would not alter. Nevertheless, they would provide pedestrians with a refuge from conflict with vehicular traffic for the majority of Tump Lane's length. This would result in a significant improvement on the existing situation. I also consider that the resultant reduction in the width of Tump Lane to a single carriageway in places would have the additional benefit of reducing the speed of that vehicular traffic.
16. As there are now services and facilities in both Wormelow and Much Birch the footpaths in both directions would be required to ensure that they are all more safely and easily accessible to pedestrians. The footways would be in close proximity to existing vegetation at various points. This vegetation could become overgrown and extend into the footway. However, I observed that in the main the existing vegetation appears to be well maintained therefore it is unlikely that it would become overgrown for extended periods of time in the future.
17. At the time of my site visit I noted that an appreciable number of pedestrians were using the lane and these included adults and children that appeared to be on their way home from school. There was also an amount of on street parking near to the junction of Tump Lane with the A49 which appeared to be parents picking up children at the end of the school day. However, I did not witness any evidence of unsafe parking or significant issues relating to the safe and efficient operation of the highway network. I acknowledge that this was only a snap-shot of parking levels but it is reasonable to consider that it is indicative of their levels at similar times on other days.
18. I acknowledge that there have been a number of vehicle accidents within the surrounding area including a number of fatalities on the A49. However, whilst there would be an increase in vehicle movements on Tump Lane as a result of the proposal there is little evidence before me to indicate that the increase would significantly alter the day-to-day variations in vehicle movements noted in the submitted traffic surveys. In addition, it has been brought to my

attention that a pedestrian crossing is to be installed on the A49 close to the junction with Tump Lane this year.

19. Moreover, it is likely that due to the increase in travel times along Tump Lane as a result of the introduction of lengths of single carriageway that the amount of vehicle movements along it could reduce. Furthermore, there would be a priority system incorporated into the highway works on Tump Lane that would give priority to the northbound traffic travelling towards the A49.
20. Even though Tump Lane contains undulations and bends the submitted evidence indicates that forward visibility from the passing places would exceed 60 metres. As such, I consider that there would be sufficient visibility between the passing places to ensure that vehicles could travel safely between them. I consider that subject to the design of the footpath it is unlikely that vehicles would mount it on a regular basis and therefore damage it. The Council's Transportation Manager considers that subject to detailed design amendments to the highway works and a further TRO that the scheme is acceptable in principle.
21. I observed a moderate level of on-street parking within the access road that leads to the garage court and a higher level of on street parking within the narrow no-through road that serves the adjacent part of the estate. I acknowledge that levels of parking in the evening when some residents return from work is likely to be higher. The demolition of the 5 garages and the access road utilising the garage court would reduce the number of parking spaces available to existing residents.
22. Nonetheless, a proposed parking area would appreciably improve the number of spaces available to existing residents and additional dwellings would be able to have direct access from their gardens to facilitate a driveway. The amount and location of the parking for each of the proposed dwellings would be controlled through the submission of details at the reserved matters stage. Consequently, I consider that the proposal would improve the current parking provision for the existing occupiers and that additional parked cars would not be parked on Tump Lane.
23. I noted that the existing access road that would also serve the development has a good level of visibility in both directions at its junction with the main part of Tump Lane and this would not be adversely affected by the proposal.
24. Concern has been raised in relation to delivery and servicing vehicles that require access to existing dwellings on Tump Lane. The proposed footway would not preclude access to existing properties. The carriageway is of restricted width in the vicinity of the property called The Slinget and vehicles making deliveries to this property would temporarily further reduce the width of the carriageway. The vehicles could park within the opening to the existing drive that would not be altered by the footpath or they may park on the footpath itself. Whilst this is not ideal it would only be for a temporary period whilst the delivery takes place. It would appear that these deliveries occur at the present time and pedestrians must either wait until the vehicle moves or walk round it. The proposal would not materially alter this situation.
25. The previous appeal decision, cited above, was for dwellings accessed from Tump Lane. Based on the limited information before me it would appear that there are some parallels with this appeal. However, since that appeal was

determined the CS has been adopted, the TRO has been implemented and the highway works now include footway provision in both directions on Tump Lane. As such, I consider that the circumstances are not directly comparable to this scheme. In any case, I am required to determine the appeal on its individual merits.

26. Taking into account all of the above, I consider that there would be alternative means to access services and facilities in Much Birch, Wormelow and further afield other than by the private motor car. As such, the appeal site would be in a relatively accessible location adjacent to Much Birch. I consider that the proposal would not conflict with the criteria of CS Policy RA2 in this respect. The proposal would also comply with CS Policy SS4. The scheme when taken as a whole would improve the existing parking provision for nearby occupiers, would significantly improve pedestrian safety and is likely to further reduce vehicle speed within Tump Lane. As such, the safe and efficient flow of traffic on the highway network and highway safety would not be adversely affected. It follows that the proposal would comply with CS Policy MT1.

Unilateral Obligation

27. Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; fairly and reasonably related in scale and kind to the development; and, since April 2015, must not be a pooled contribution where more than five such pooled contributions have already been collected.
28. The undertaking includes a provision whereby, should I determine that any obligation provided for therein is not a material planning consideration, can be given little or no weight, or does not comply with Community Infrastructure (CIL) Regulations 122 or 123, that obligation would not be enforceable and would cease to have effect.
29. The UO secures the payment of a contribution towards education provision at the nearby Much Birch Primary School. The Council has shown that three year groups are at or above the planned admissions numbers for the school. The provision of housing on the appeal site is highly likely to increase the demand for places at this school. The figure would be calculated by a formula set out in the Council's Planning Obligations Supplementary Planning Document (SPD), the final amount depending on the eventual number and type of dwellings that would be provided at reserved matters stage were the appeal to succeed. Contributions would be used to enhance and improve facilities at this school. There is no evidence before me to indicate that 5 pooled contributions have been made in respect of this matter. I am satisfied that the contribution would meet the relevant tests.
30. The UO provides for a contribution towards sustainable transport measures with the figure calculated by a formula set out in the SPD. There is no detail of what specific projects or infrastructure this would support or if it would be specifically related to the highway works in Tump Lane. The Council have also stated that they will not be requiring this contribution given its concerns in relation to the accessibility of the site and highway safety. As such, I consider that I do not have sufficient evidence before me to determine whether the

contribution meets the relevant tests and I have not taken it into account on this basis.

31. The UO provides for 0.18 hectares of land to be provided as public open space within the appeal site. There is no detail provided within the UO on how that would be managed or maintained. This can be controlled through a planning condition if the appeal is allowed. I am satisfied that the provision secured in this regard meets the relevant tests.
32. The UO provides for the provision of children's play equipment on the existing play area adjacent to the site. The specification for the play equipment would be agreed with the Council and the cost of it would be based on a final amount depending on the eventual number and type of dwellings that would be provided at reserved matters stage were the appeal to succeed. As the proposal has a direct impact on the play area and the facilities would be utilised by both the existing and future occupiers I am satisfied that this provision would satisfy the relevant tests.
33. The UO provides for a contribution to be made for the provision of waste and recycling bins for each dwelling. The Council has identified a need for waste and recycling facilities for each new dwelling. This contribution would be reasonably related in scale and kind to the needs generated by the proposed development and therefore the contribution would meet the relevant tests.
34. The delivery of affordable homes and the need for long term arrangements to secure their continued availability for affordable housing use is necessary to make the development acceptable in planning terms. The UO allows for the detail of the affordable housing to be defined in agreement with the Council before the development commences. The obligations in this respect in the UO are fairly and reasonably related to the achievement of those objectives. I am, therefore, satisfied that the obligations in relation to affordable housing included in the UO meet the necessary tests and that they can be afforded weight.
35. There is also a requirement for a contribution towards the Council's monitoring and management costs associated with the UO. However, all of the contributions sought are required to be paid prior to commencement of any development. There is no evidence before me which would indicate that the cost of monitoring and administering the UO would give rise to additional costs over and above the Council's existing resources. Having regard to the judgment of the High Court ², I do not consider that the payment of a contribution in this respect is needed to make the development acceptable in planning terms. As such, it would not meet the relevant tests.

Other matters

36. Local residents object to the proposal on a wider basis, including in respect of, loss of views, the proposed model of co-housing is unproven, lack of employment opportunities locally, the local schools and GP surgery being full, issues with drainage and the impact on wildlife and animal welfare. These did not form part of the Council's reasons for refusal and I am satisfied that these matters would not result in a level of harm which would justify dismissal of the appeal.

² Oxfordshire CC v Secretary of State for Communities and Local Government [2015] EWHC 186 (Admin).

37. While I understand that my decision will be disappointing for some local residents, the information before me does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.
38. The Council has stated within its Statement of Case that the proposal will result in the loss of agricultural land. However, I have no evidence to indicate that the appeal site constitutes the best and most versatile agricultural land. Moreover, this issue was not raised in the Council's Officer Report or its reasons for refusal. As such, I give it little weight.

Conditions

39. I have considered the conditions put forward by the Council and the statutory consultees against the requirements of the Planning Practice Guidance (PPG) and the Framework. In the interests of conciseness and enforceability the wording of some of the conditions has been amended.
40. Conditions relating to the definition and submission of reserved matters, commencement and approved plans have been imposed to comply with legislation and in the interests of certainty.
41. In the interests of visual amenity and biodiversity conditions are necessary to ensure the development is carried out in accordance with the initial ecology and protected species appraisal and setting out details to be included in the landscaping reserved matters. It is necessary for these details to include the management, maintenance and an implementation programme for the open space cited in the UO.
42. In order to protect the living conditions of existing residents during the construction period and in the interest of highway safety conditions in relation to the hours of construction and delivery and in relation to wheel washing apparatus are necessary.
43. In the interest of highway safety and in order to promote sustainable travel choices the highway works shown on the submitted plans will need to be secured, cycle parking details and a Travel Plan are necessary.
44. In order to avoid duplication I have amalgamated the conditions in relation to foul and surface water drainage works and I have taken into account the condition suggested by the land drainage manager. These details are required to avoid pollution and to prevent increased risk from flooding. I have not included the condition in relation to no development taking place within 3 metres of the public sewer as this is covered by separate legislation and the layout of the site is a reserved matter.
45. I have not imposed a condition in relation to the implementation of a landscaping scheme as this is part of the reserved matters and can be dealt with at that stage.
46. The Framework advises that conditions should restrict national permitted development rights only where there is clear justification to do so. The PPG advises that such conditions will rarely pass the test of necessity and should only be used in exceptional circumstances. The detailed scale, layout and appearance of the dwellings will be determined as part of the reserved matters and it has not been demonstrated that this condition is necessary.

47. The PPG advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In the case of the pre-commencement conditions, I consider that resolution of the matters specified to be so fundamental to the development that it would otherwise be necessary to refuse the application.

Overall Balance and Conclusion

48. There is no dispute that the Council cannot demonstrate a 5 year supply of housing land. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development (paragraph 14) bearing in mind the objective (paragraph 47) to boost significantly the supply of housing.
49. The proposal would provide up to 20 new dwellings through a mix of market and affordable housing in an area where there is an acknowledged shortfall. There would be economic and social benefits associated with the construction and occupation of the dwellings.
50. The development would provide open space within it and would include an extension to the existing play area. Whilst intended as a necessary facility for future residents of the scheme, existing Tump Lane residents would, in theory, also be able to use the open space. However, the extension of the play facilities is required as mitigation for the development proposed. As such, I consider that these matters should attract no more than very limited weight, given that there is already an area of open space and a play area for existing residents on Tump Lane.
51. Whilst the proposed highway improvement works set out above are intended to encourage future residents to walk to access local services and facilities they would also benefit existing residents.
52. The proposal would accord with the development plan when read as a whole. Furthermore, there are not any adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Nor are there any specific policies in the Framework that indicate development should be restricted. There are no material considerations that indicate that the proposal should be determined other than in accordance with the development plan.
53. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be allowed.

D. Boffin

INSPECTOR

- Attached schedule -

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Unless modified by any of the other conditions within this decision the development hereby permitted shall be carried out in accordance with the following approved plans: (L-) 100; (L-) 04 D; (L-) 05 E; (L) 07; (L-) 11 B; (L-) 11 D-01 B; (L-) 11 D-02 B; (L-) 11 D-03 B; (L-) 11 D-04 B; (A-)01; (A-)02.
- 5) The landscaping details submitted in accordance with condition 1 above shall include, but are not confined to, the following:
 - i) A plan(s) showing details of all existing trees and hedges on the application site. The plan should include, for each tree/hedge, the accurate position, species and canopy spread, together with an indication of which are to be retained and which are to be removed.
 - ii) plans at a scale of 1:200 or 1:500 showing the layout of proposed tree, hedge and shrub planting and grass areas;
 - iii) a written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and grass establishment;
 - iv) Existing and proposed finished levels and contours;
 - v) the position, design and materials of all site enclosure and boundary treatments between and around dwellings, around the boundaries of the site as a whole and around areas of open space;
 - vi) car parking layout and other vehicular and pedestrian access;
 - vii) hard surfacing materials;
 - viii) a timetable for implementation;
 - ix) a scheme for the ongoing management and maintenance of all landscaped areas, other than private domestic gardens, and the open space covered by the planning obligation, including long term design objectives, management responsibilities and maintenance schedules.
- 6) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. The

drainage works shall be implemented and thereafter managed and maintained in accordance with the approved details and timetable. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 7) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
 - 8) The development hereby permitted shall be carried out in strictly in accordance with the recommendations set out in the initial ecology and protected species appraisal dated 7th February 2013 unless otherwise agreed in writing by the local planning authority. Prior to commencement of the development, a habitat protection, enhancement and management scheme should be submitted to and be approved in writing by the local planning authority. The scheme shall include provision for long-term management of the nature conservation features and the appointment of an appropriately qualified and experienced ecological clerk of works to oversee the approved scheme and shall be implemented as approved.
 - 9) During the construction phase, of the development hereby permitted, demolition, construction works and deliveries taken or despatched from the site shall take place only between 07:00 and 18:00 on Mondays to Fridays and 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
 - 10) No dwelling shall be occupied unless and until the highway works shown on Drawing Nos (L-) 04 D; (L-) 05 E; (L) 07; (L-) 11 B; (L-) 11 D-01 B; (L-) 11 D-02 B; (L-) 11 D-03 B; (L-) 11 D-04 B; (A-)01; (A-)02 have been constructed, surfaced and drained in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
 - 11) No development hereby permitted shall commence until wheel cleaning apparatus has been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The apparatus shall be operated and maintained in accordance with the approved details for the whole of the construction period of the development hereby permitted.
 - 12) Within 8 weeks of the first occupation of the development hereby permitted a scheme for the provision of covered and secure cycle parking on site, including a timetable for implementation, shall be submitted to

and approved in writing by the local planning authority. The cycle parking shall be installed and made available for use in accordance with the approved details.

- 13) No dwelling shall be occupied until a Travel Plan which contains measures to promote alternative sustainable means of transport for occupiers of the development hereby permitted has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and an annual review of the Travel Plan shall be undertaken. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	4 NOVEMBER 2020
TITLE OF REPORT:	<p>201757 – APPLICATION FOR VARIATION OF CONDITION 2 OF PLANNING PERMISSION 170440 (PROPOSED AMENDMENTS TO EXTANT CONSENT REF 160398 RE SINGLE STOREY, LOW IMPACT DWELLING HOUSE AND REPAIR OF THE CURTILAGE LISTED GLASS HOUSE AND GARAGE). TO INCORPORATE DESIGN CHANGES, INCLUDING THE ADDITION OF A PLANT ROOM ABUTTING THE BOUNDARY WALL AND WORKS TO THE GLASSHOUSE</p> <p>201758 – PROPOSED DESIGN ALTERATIONS TO PREVIOUSLY APPROVED APPLICATION 170440, INCLUDING THE ADDITION OF A PLANT ROOM ABUTTING THE BOUNDARY WALL AND WORKS TO THE GLASSHOUSE</p> <p>AT LAND ADJACENT TO COACH HOUSE, LUMBER LANE, LUGWARDINE, HEREFORDSHIRE</p> <p>For: Mr & Mrs Roach per Lee Greening, 2nd Floor Offices, 46 Bridge Street, Hereford, HR4 9DG</p>
WEBSITE LINKS:	<p>https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201757&search=201757</p> <p>https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201758&search=201758</p>
Reason Application submitted to Committee – Redirection	

Date Received: 5 June 2020

Ward: Hagley

Grid Ref: 355159,241078

Expiry Date: 31 July 2020

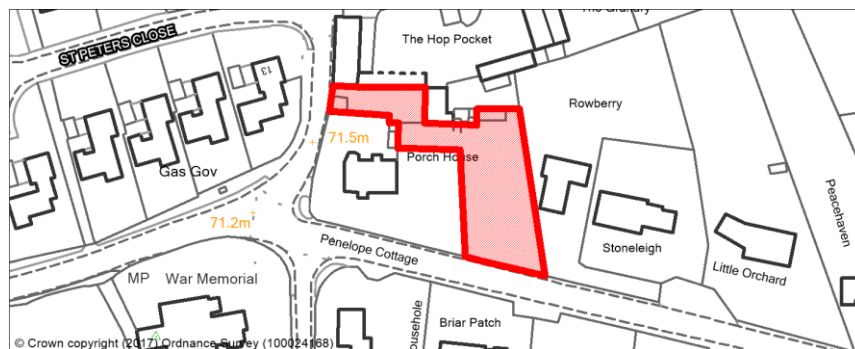
Local Member: Councillor Paul Andrews

1. Site Description and Proposal

- 1.1 The applications relate to land adjacent to the Coach House which is accessed off Lumber Lane, Lugwardine which is an established settlement to the north east of Hereford. The site is close to the historic centre of the village and is within the existing residential built form of the village, at the cross roads of the Hereford to Ledbury road (A438), Rhystone Lane (C1144) and Lumber Lane. There is a bus stop located to the east of the junctions.

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

- 1.2 The site is located within the historic curtilage of Porch House a Grade II listed dwellinghouse (which is now in separate ownership to the application site), the dwellinghouse known as Coach House is considered to be curtilage listed with the boundary walls also being considered to be listed. The development site is located in the vicinity of St Peters Church which is Grade II* listed and includes a number of other individually listed buildings within its curtilage (including the war memorial). Additionally the Lugwardine Conservation Area covers this part of the village and the development site, with the boundary of the conservation area, running along the eastern boundary of the site.
- 1.3 The area falls entirely within the River Lugg sub-catchment of the River Wye Special Area of Conservation, which is noted to be failing its conservation objectives at this point. The site is served by mains sewers, with the Welsh Water sewer network in the area conveying foul water (under the River Lugg) to the Eign Treatment works, which ultimately discharges to the River Wye.

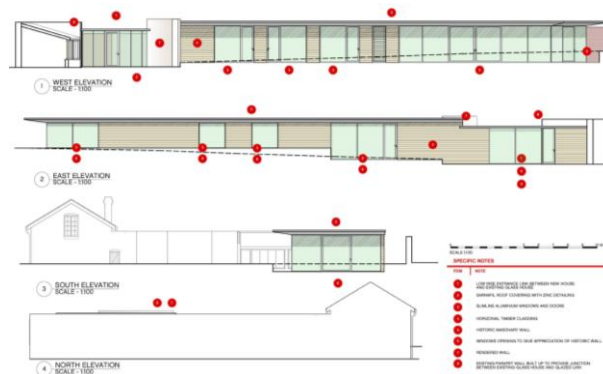


Application site edged in red

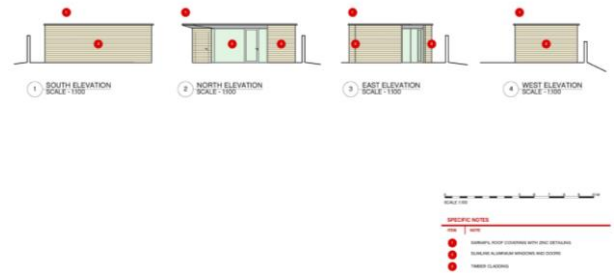
- 1.4 The site has an extant planning permission (ref:170440/F) and listed building consent (ref: 170599/L) for the erection of a single storey dwelling. The approved site plan and elevation plans for the dwelling and outbuilding are included below for reference, given this is the starting point for considerations as the proposed development.



Site Plan as approved (showing entire application site)



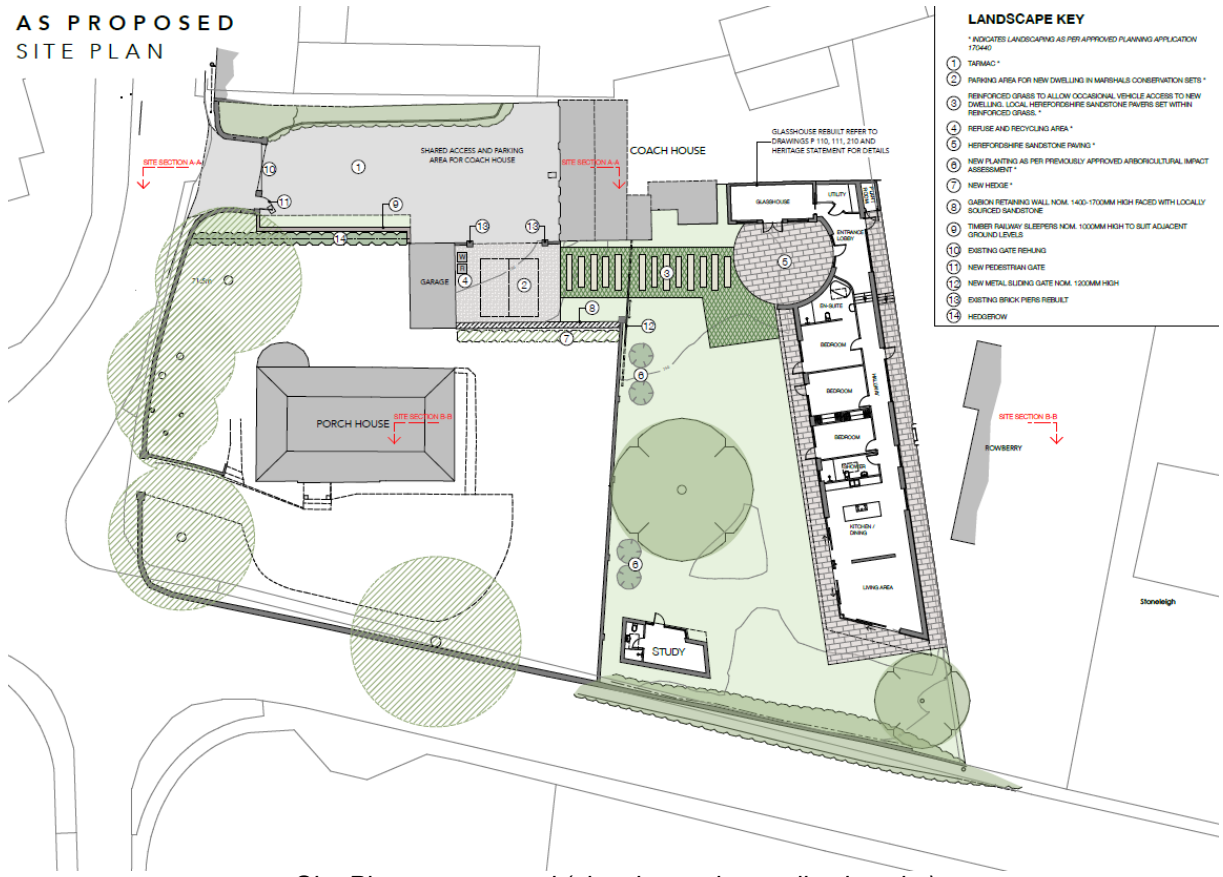
Elevations of dwelling as approved



Elevations of outbuilding as approved

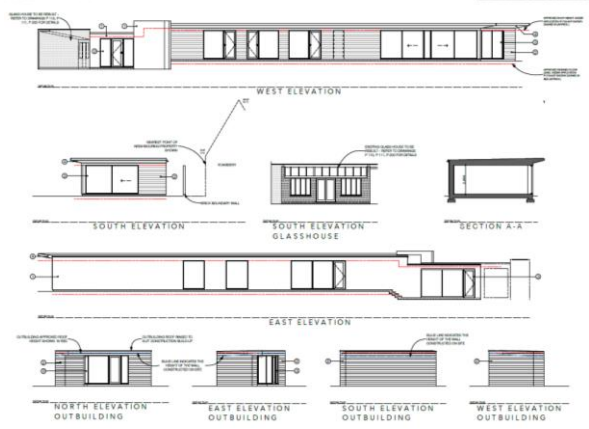
- 1.5 The proposals are submitted under both a Section 73 variation of conditions application to amend condition 2 of the previously approved scheme and a new Listed Building Consent application for the works.
- 1.6 The proposal is for various amendments to the approved development scheme, the substantive amendments proposed are:
- the addition of a modest plant room to the rear of the dwelling in the north east corner of the site;
 - the increase in the finished floor levels of the dwelling and an ensuing increase in the roof height of the dwelling by approximately 0.57m;
 - the increase in the roof height of the outbuilding by approximately 0.20m;
 - alterations to the fenestration of the dwelling and the reduction in the amount of horizontal timber cladding being replaced with larger areas of through colour render (white) sections;
 - consent for the reinstatement of the Glass House;
 - alterations to the boundary treatment and landscaping details including the rebuilding of brick piers, a pedestrian access gate, a gabion retaining wall, a timber railway sleeper wall and a new sliding metal gate.
- 1.7 For reference, below are included a selection of proposed plans to aid the understanding of the proposals.

**AS PROPOSED
SITE PLAN**



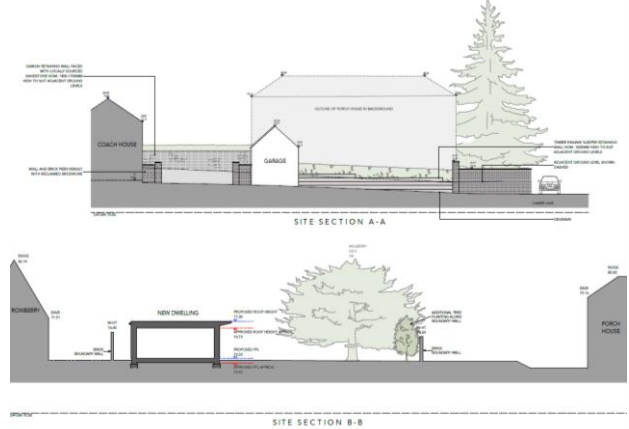
Site Plan as proposed (showing entire application site)

**AS PROPOSED
ELEVATIONS**



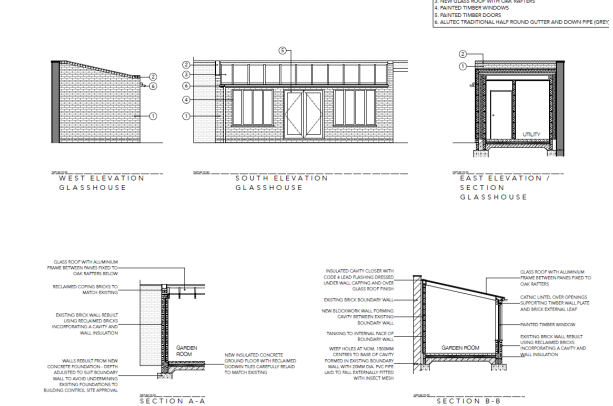
Elevation plans as proposed

**AS PROPOSED
SITE SECTIONS**



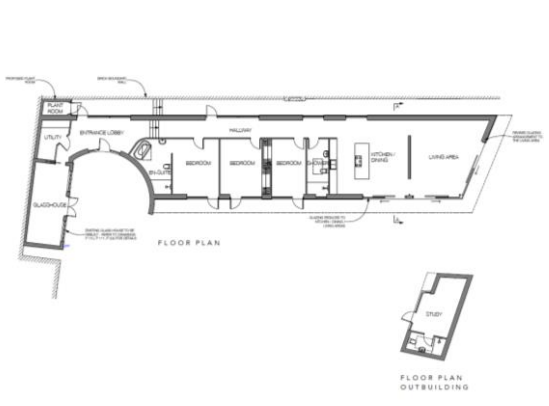
Section plans as proposed

**AS PROPOSED
GLASSHOUSE - ELEVATIONS**



Glasshouse Elevation plans as proposed

**AS PROPOSED
FLOOR PLAN**



Floor plans as proposed

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

Policies

Herefordshire Local Plan – Core Strategy

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

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Releasing Land for Residential Development
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- RA1 - Rural Housing Strategy
- RA2 - Housing in Settlements Outside Hereford and the Market Towns
- RA3 - Herefordshire's Countryside
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- LD4 - Historic Environment and Heritage Assets
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Wastewater Treatment and River Water Quality

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the 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 The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/downloads/download/123/adopted_core_strategy

[Bartestree with Lugwardine Group Neighbourhood Development Plan \(made 1 December 2016\)](#)

https://www.herefordshire.gov.uk/downloads/file/3207/neighbourhood_development_plan_adopted

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

- Policy BL1 Criteria for the Design of New Housing
- Policy BL3 Infilling and Windfalls
- Policy BL4 Settlement Boundaries
- Policy BL7 Conserving Historic Character

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

National Planning Policy Framework

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

1. Introduction
2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
9. Promoting sustainable transport
12. Achieving well designed places
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

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

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

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

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

3 Planning History

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

160390 (Planning Permission) – Single storey, low impact dwelling house – Approved with conditions

160398 (Listed Building Consent) – Single storey, low impact dwelling house – Approved with conditions

170440 (Section 73 variation of condition) – Proposed amendments to extant consent ref 160398 re single storey, low impact dwelling house and repair of the curtilage listed glass house and garage. – Approved with conditions

170599 (LBC) – Proposed amendments to extant consent ref 160398 re single storey, low impact dwelling house and repair of the curtilage listed glass house and garage. – Approved with conditions

194379 (LBC) – Proposed design alterations to previously approved application 170599, including the addition of a plant room abutting the boundary wall – Withdrawn

194389 (Section 73 variation of condition) – Application for variation of condition 2 following grant of planning permission 170440 to incorporate minor design changes – Withdrawn

4 Consultation Summary

Statutory Consultations

4.1 Historic England – No Objection

“Thank you for your letter of 26 June 2020 regarding the above application for planning permission. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

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

Internal Council Consultations

4.2 Transportation Manager

Original Comments

“There are no highways objections to the proposed plan amendments.”

4.3 Service Manager Built and Natural Environment (Ecology)

Original Comments

“Please note these comments and HRA process apply equally to the linked (required) LBC application ref 201758

Based on advice received by the LPA in relation to ‘Section 73’ applications - if an application is made under Section 73 to carry out development without requiring compliance with a condition which has nothing whatsoever to do with drainage or any sort of discharge of water, then it cannot possibly result in an effect upon the SAC (as relates to the current Phosphate considerations) and can be considered as ‘screened out’ from requiring any further HRA considerations or requiring an appropriate assessment.

In this application this revised detail would be the submission of substitute plans, in order to construct a dwelling to slightly revised physical size-design. The proposed changes would not have any material effect on the drainage or foul water flows created by the development and as already approved and no increase in occupancy would be supported..

This specific application can be considered as screened out from requiring any further HRA process and NO adverse effects on the integrity of the Special Area of Conservation; is identified. Habitat Regulations 2017, Part 6, section 63(5)

It is noted that all surface water from this proposed development will be managed through onsite soakaway-infiltration systems and no surface water is proposed to enter the combined mains sewer system.

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

- Construction or Demolition processes
- Other: NONE

Appropriate Assessment information, discussion and proposed mitigation measures:

Based on advice received by the LPA in relation to 'Section 73' applications - if an application is made under Section 73 to carry out development without requiring compliance with a condition which has nothing whatsoever to do with drainage or any sort of discharge of water, then it cannot possibly result in an effect upon the SAC (as relates to the current Phosphate considerations) and can be considered as 'screened out' from requiring any further HRA considerations or requiring an appropriate assessment.

In this application this revised detail would be the submission of substitute plans, in order to construct a dwelling to slightly revised physical size-design. The proposed changes would not have any material effect on the drainage or foul water flows created by the development and as already approved and no increase in occupancy would be supported.

Recommended Planning Conditions to secure appropriate mitigation:

Not applicable

CONCLUSION:

This specific application can be considered as screened out from requiring any further HRA process and NO adverse effects on the integrity of the Special Area of Conservation; is identified. Habitat Regulations 2017, Part 6, section 63(5)

Screening completed by: Ecology (J Bisset) 25/08/2020

There is no requirement to submit 'screened out' screening assessments to Natural England"

4.4 Service Manager Built and Natural Environment (Heritage)

Original Comments

"Recommendation:

There is no heritage objection to the proposed amendments as it is considered that they would not cause additional harm to the setting of adjacent heritage assets or the character or appearance of the Conservation Area.

The NPPF requirement (Para.130) to ensure approved schemes are not materially diminished as a result of applications for variation of condition has been satisfied.

Heritage Background:

The proposed site is situated within the Lugwardine Conservation Area, and within 5-20m of Porch House, a Grade II listed, late-Georgian detached dwelling, and 50m of St. Peter's Church, Grade II*.

Conditions:

C07 – Development in accordance with approved plans and materials.

C13 – Samples of external materials.

CH3 - Masonry Sample Panel

No works in relation to any of the features specified below shall commence until a sample panel of all new facing brickwork is provided on site at a minimum size of 1m x 1m and showing the proposed:

Glass House:

brick type, size, colour, texture, bond pattern, mortar mix, joint thickness and finish profile.

Confirmation of the materials and methods shall be approved in writing with the Local Planning Authority and carried out accordingly.

Reason: To ensure that special regard is paid to protecting the special architectural and historic interest and integrity of the building under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and in accordance with policy LD4 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

CH8 – Joinery Works (metal or timber).”

Further Comments

“Recommendation:

When assessed against the 2016 and 2017 approved schemes there is no heritage objection to this variation of condition application.

It is considered the proposed scheme would satisfy the statutory requirements set out in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to preserve the setting of heritage assets, and to preserve or enhance the character and appearance of conservation areas.

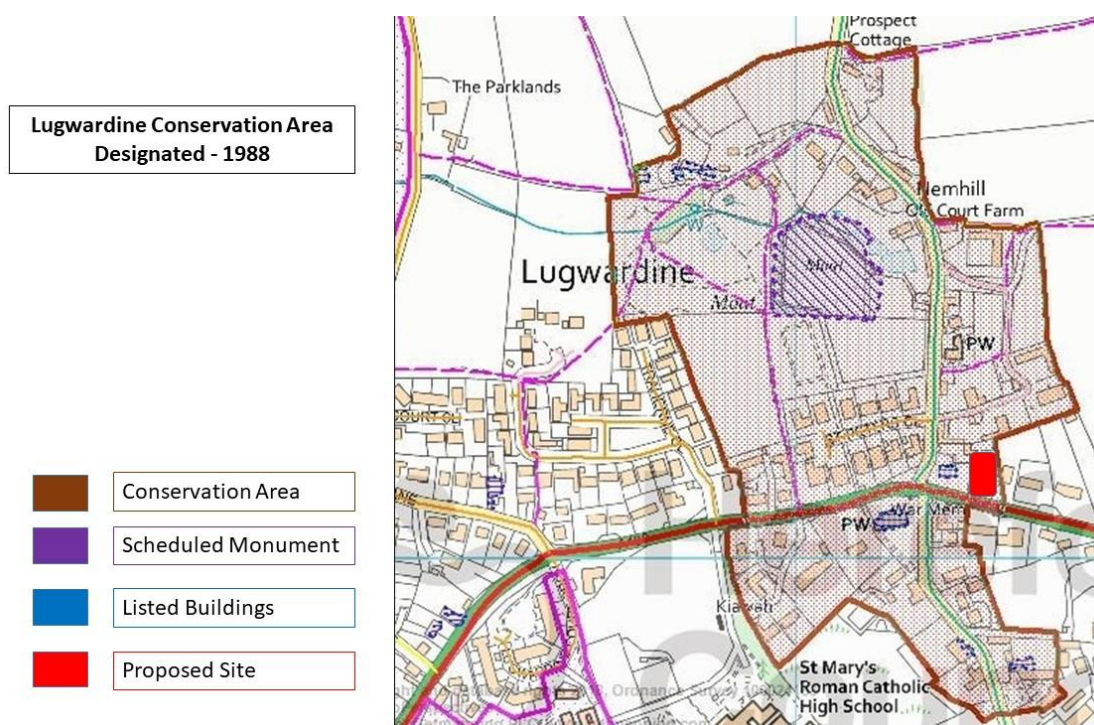
In addition, Paragraph 130 of the National Planning Policy Framework, which advises the quality of an approved development should not be materially diminished between approval and completion as a result of changes to an approved scheme, is also satisfied.

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

Heritage Background:

The land adjacent to Coach House is situated within the Lugwardine Conservation Area, and within 5-30m of Porch House, Grade II listed, and 50m of St. Peter's Church, Grade II* listed; it is also approximately 150m north-west of a mediaeval moated site which is designated a Scheduled Ancient Monument.

In addition to these assets there are eleven designated heritage assets (excluding churchyard monuments) within a 500m radius of the site.



The site concerned primarily forms part of the setting of Porch House - being situated within its historic curtilage - but from an associative perspective its character contributes to how the setting of other heritage assets, and this part of the wider settlement, is perceived.

Conservation Area:

Lugwardine Conservation Area is broadly linear in form, oriented on a north/south axis, with its southern sector dissected by the A439. The staggered junction between the A439, Lumber Lane and Rhystone Lane ensures that structures situated around it have a prominent and commanding visual presence.

The Church of St. Peter and the moated site evidence the earliest recorded development of Lugwardine as a mediaeval settlement, which was formerly in the ownership of the Crown, and detailed in the Domesday Book.

There are several 17th century timber-framed cottages in the northern sector; and four substantial farmsteads, one in the northern sector – Old Court Farm – two in the central sector – Porch Farm and New Rent Farm - and one in the southern sector - Rock Farm.

Three of these, (Old Court, Porch & Rock) had their farmhouses purposely detached from their farm buildings, affording them some prominence in their respective streetscapes, and, in design terms, each exhibited a degree of a-la-mode architectural character.

In addition to these sites there are also a number of the 19th century buildings which have significant architectural, aesthetic and historic merit, including those associated with the Godwin Brick & Tile Works, and Lugwardine Chapel, all situated in Lumber Lane.

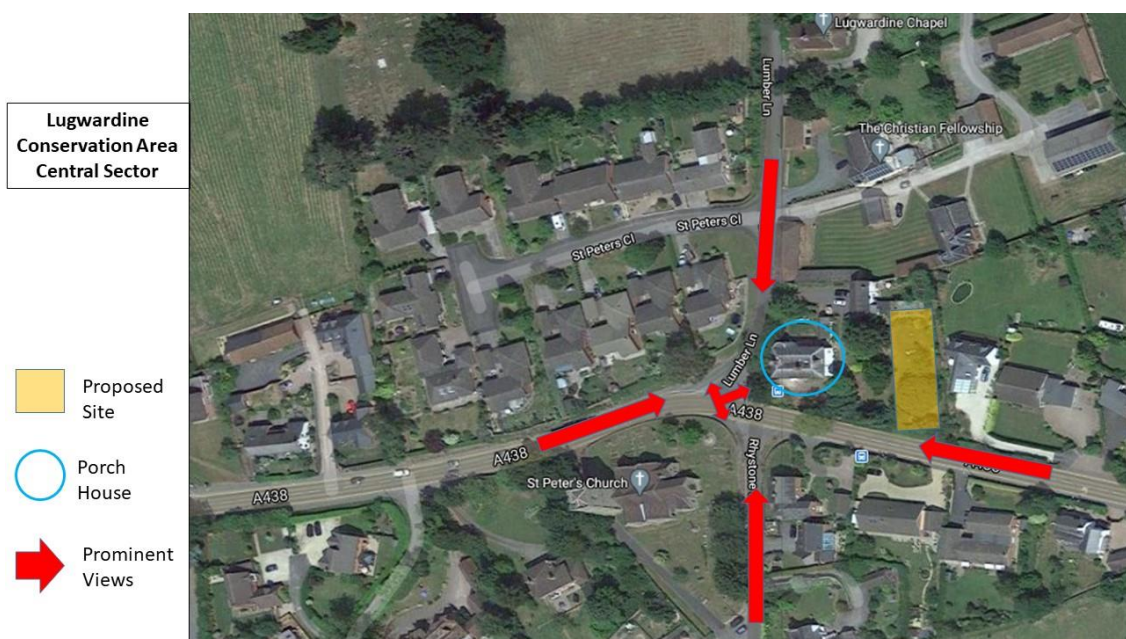
Godwin's influence on materials utilised within the settlement in the mid-late 19th century is a substantial one, with several buildings incorporating architectural brickwork detailing, and decorated tile flooring, including structures and boundary treatments at Porch House.

Although not exhaustive, non-designated heritage assets within the conservation area include:

Aberdeen Cottage (No.'s 1&2); the Glebe; the Terrace (No.'s 1&3); Old Court Farm; Old Court Barns; Brickyard Cottage; the Old Tile Factory; Ross Cottage; Monk's Orchard & Barn; the Sheepcote; the Granary; the Hop Pocket; Penelope Cottage; Church House; School Cottage (No.'s 1&2); School House; Kartway House (former Vicarage); Little Rock; the Barn (at Rock Farm).

Important views within the conservation area which relate to the site include:

- A439 – eastwards from the western boundary of the CA;
- A439 – westwards towards the junction with Lumber Lane and Rhystone Lane;
- A439 – at the junction with Lumber Lane;
- Lumber Lane – southwards towards the junction with A439;
- Rhystone Lane – northwards towards, and at, junction with A439;



Where historic boundary treatments remain, such as brick and stone walling, they make a positive contribution to the character of the area; conversely, the proliferation of post & rail and panel fencing has had a negative impact as it is not representative of vernacular treatments.

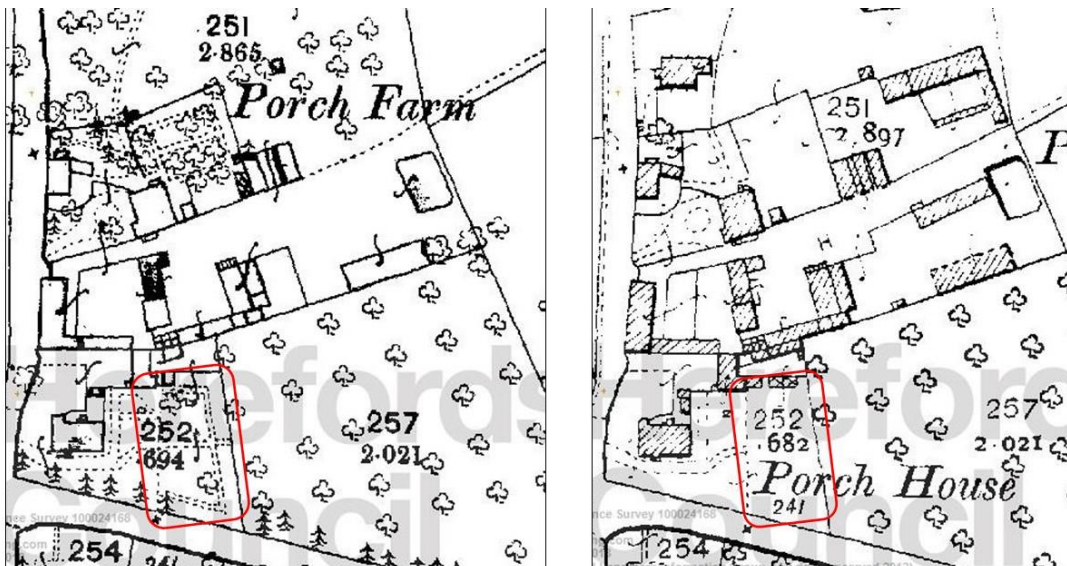
In terms of modern housing, the 20th century development at St. Peter's Close has had the most harmful impact on the conservation area given its uncharacteristic pattern, density and architectural form.

The significance of the conservation area lies primarily in the characteristics which evidence the settlements morphology, particularly where they are associated with evolving domestic, social and economic practices; these include its layout and density – relatively sparse linear development in the northern and eastern sectors of Lumber Lane, and a denser but still linear pattern in the southern sector along Rhystone Lane – the separation between plots and the degree of historically undeveloped space which remains, particularly in the northern and western sectors, and the variety of architectural forms which enable an understanding of the vernacular craftsmanship employed over a 700+ year period.

Porch House - Setting:

Porch House represents the strongest example within the conservation area of the domestic/agricultural detachment pattern previously highlighted, and the dwelling's architectural treatment displays a modest Georgian grandeur typical of its socio-economic status and its rural context; its position overlooking the crossroads also provides it with a degree of prominence which is reflected in the cohesive design characteristics of its southern and western elevations.

Historic OS mapping from 1886 illustrates the curtilage land to the east of the house forming part of a designed garden scheme, but by 1903 this appears to have changed, possibly due to a change in the functionality and formality of the space (the glasshouse also appears at this stage). Later OS mapping illustrates the curtilage as one complete parcel with no distinct design characteristics, but it remained an undeveloped domestic curtilage and as such has contributed to the significance of Porch House as an aspirational, late 18th century, farmhouse.



Proposed Site within former Porch House Curtilage

Heritage Comments:

PP/LBC - 160390/398 – 2016:

The 2016 application proposed sub-division of the curtilage of Porch House, and whilst this would inevitably result in change to its setting it was felt that the design response proposed maintained the garden character of the site, and that the new sub-dividing boundary wall treatment reflected the scale and form of the historic wall adjacent to Rowberry; on this basis impact on setting was considered limited.

PP/LBC - 170440/599 – 2017:

The 2017 application sought to extend the approved dwelling by incorporating the historic glasshouse with a sympathetic link, and adding a detached study/store to the newly created south-western corner of the site.

It was felt that the proposed amendments to the approved scheme were minor, and that the high quality of design, and enhancement of the outbuilding, ensured the scheme was in line with statutory obligations and policy requirements.

PP/LBC - 201757/578 – 2020:

This latest application proposes the addition of a plant room to the north-eastern side of the dwelling and an increase in floor and roof heights across all new buildings to accommodate existing construction levels.

The plant room addition is a minor amendment situated in an enclosed part of the site, and whilst the increase in roof height will result in the dwelling and office being taller than the boundary walls the perception of this increase will be minimal given the distance between Porch House, the new boundary wall and the western edge of the new dwelling; on this basis it is considered neither amendment will harm the character of the conservation area or the setting of Porch House.

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

Recommended conditions of approval have been provided in previous comments.”

5 Representations

5.1 Bartestree with Lugwardine Group Parish Council

Original Comments

“Bartestree with Lugwardine Group Parish Council wish to object to this application for the following reasons:

- Density of the works are no longer low impact. There will be a substantial amount of over-shadowing. NDP BL3 – The new building would fail to be in keeping with the scale of its surroundings.
- Enforcement should insist that the foundations are reduced to the original planning agreed – even if this means underpinning the wall. If this proves to be impossible, the building should be built further away from the wall.
- Lack of privacy – the roof light looks straight into the bedrooms of Porch House.
- It does not comply with NDP BL7 – Conserving heritage character. The wall surrounding Porch House has been removed without consent. The glasshouse has also been removed without consent.
- There would be a loss of light to neighbouring properties as the wall would be 0.8m above the wall and very close to the neighbouring property. The first application stated “a successful project would respect important views and respect the scale of neighbouring buildings. The scale does not impinge on the existing house to the East” – this is clearly no longer the case.

The following comments were also made for drawing to the attention of the planning officer.

- The applicant appears to have a history of ignoring Listed Building Consent; planning regulations and the intrinsic nature of the Conservation Area.
- The complete lack of openness and clarity is an unsatisfactory feature of all the planning applications relating to this site.
- Did building regulations approve the footings? Or have they not looked at it?
- No extraction fans are shown on the plans. Do they not intend to install them?
- The gabions already installed are not in keeping with a Grade 2 listed property and should be removed.
- The Godwin tiles must be used in any building erected on the site
- It is vital that Planning, Enforcement and Conservations teams work together on this matter to ensure clarity and an adherence to rules and regulations.”

5.2 Third Party Representations

The application has received 64 representations to date, 30 supporting the application and 34 objecting to the development. The main points raised are summarised below:

- Amendments will significantly increase the size of the approved building, from the height that it was originally approved at to what is proposed now

- Raising the height of the roof is inappropriate given the proximity to Rowberry and Porch House, it would cast a shadow such as to significantly reduce the daylight to the kitchen/diner area of our property and adversely affect our amenity to an unacceptable level.
- The increase roof height will block the views from the adjoining dwelling
- The installation of a heat recovery system is an unnecessary addition to the dwelling and no details are provide as to the vents.
- The development does not fit with the design aesthetic of the local area, poor design
- The development will be visible from the bedroom windows of the Porch House and would compromise privacy
- Retrospective applications make a mockery of the planning process, much of what is proposed is retrospective.
- The proposals amount to stealth changes to the approved scheme.
- The integration of the Glass House into the dwelling and re-use of Goodwin tiles is carefully considered and the is proposal is of a high-quality design
- The demolition of the glass house was knocked down and with now be rebuilt and the building will now be characterless and s
- Application would not impact on adjoining roads and so no objection
- The size of the dwelling has previously been increased (in terms of footprint)
- There would be an increase to traffic on lumber lane
- The design and construction of a modern building does not sit comfortably within the curtilage of a listed building
- The increase in height would detrimentally impact the views travelling down the hill of the A438
- The raising of the height of the gabion retaining wall is entirely inappropriate, as are the timber sleepers
- The foundations have been laid higher than approved, if these were laid correctly there would be no need for the application.
- There has previously been applications to remove trees from the site and this has had a detrimental impact on a once mature garden
- Porch House and St Peters Church are listed buildings and focal points of the village, the changes proposed would have a detrimental impact to the significance of the heritage assets
- The relaying of the Goodwin Tiles and reinstatement of the Glass House is beneficial
- The location of the refuse storage area next to the garage/wash house is inappropriate
- The proposal conflicts with policies BL1 of the NDP (criteria I, V, VI), policy BL3 & BL8

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

201757 – Section 73 variation of condition:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201757&search=201757

201758 – Listed Building Consent:

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201758&search=201758

6 Officer's Appraisal

6.1 This report relates to one site which is the subject of two applications which were submitted simultaneously and are for the same works. Application reference 201757 is an application for a variation of condition of the previously approved planning permission (170440/F) to alter the development and application reference 201758 is a Listed Building Consent application for the same works. This report considers both applications

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

concurrently and ultimately makes two independent recommendations on the applications.

Policy context and Principle of Development

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

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

- 6.3 In this instance the adopted development plan (taken as a whole) is the Herefordshire Local Plan – Core Strategy (CS henceforth) and the Lugwardine and Bartestree Neighbourhood Development Plan ('NDP' henceforth). The National Planning Policy Framework ('NPPF' or the framework' henceforth) is also a significant material consideration, but does not constitute a statutory provision, unlike the development plan.
- 6.4 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the framework require a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy 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.
- 6.5 As is set out at paragraph 30 of the framework and stipulated at Section 38 (5) of the Planning and Compulsory Purchase Act 2004 (as amended), *“if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document”*. In this way should a conflict between the NDP and the CS arise, the NDP will take precedence over the CS unless there are other material considerations that dictate otherwise
- 6.6 CS Policy SS1 sets out the presumption in favour of sustainable development, which is reflective of the positive presumption enshrined by the current NPPF as a golden thread running through plan-making and decision-taking. Policy SS1 also confirms that proposals which accord with the policies of the CS (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise. Again, this is broadly reflective of Paragraph 11 of the current NPPF.

- 6.7 The principle of the development of a single storey dwelling has been established on the site with the grant of planning permission for the dwelling in 2016 and its subsequent amendment in 2017. Material operations have commenced in relation to this permission and so the consent is considered to be extant in perpetuity and this constitutes a fallback position for considerations and officers attribute very significant weight to it; in this regard the extant permission forms a baseline for these considerations.
- 6.8 It follows that as the site has an extant planning permission to which a variation is sought (ref: 201757), it is not within the Local Planning Authority's ambit at this stage to reconsider this matter and to do so could be construed as being unreasonable.

Heritage

- 6.9 The application site is located within the curtilage of a listed building, the setting of another listed building and is within the Lugwardine Conservation Area, therefore the consideration of any impact to these heritage assets is important to the overall acceptability of the proposal. The legislative and policy context for considering these matters is set out below.
- 6.10 When considering the impact on the heritage assets the Local Planning Authority has a number of statutory duties in this regard. These statutory duties are set out under the Planning (Listed Buildings and Conservation Areas) Act 1990 ('LBCA Act' henceforth). Section 16 (2) and Section 66 (1) require that in considering whether to grant listed building consent or planning permission for any works which affect a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In relation to any building or other land in a conservation area, Section 72 requires a general duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 6.11 The historic environment is an important aspect of the framework at Chapter 16; paragraph 184 lays out that whilst there are a range of heritage assets, they are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 6.12 In relation to the determination of applications, the framework (at paragraph 189) includes an expectation that applicants should describe the significance of any heritage asset affected, including any contribution made by its setting, with this level of detail being proportionate to its setting but no more than is sufficient to understanding the impacts of a proposal on significance. Following on, paragraph 190 of the framework, indicates that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, seeking to avoid or minimise any conflict between the conservation of an asset and a proposal. Further local planning authorities, ought to take into account the desirability of sustaining and enhancing the significance of a heritage asset, the positive contribution that conserved assets can make to communities and the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.13 However the framework is clear at paragraph 191, where there is evidence of deliberate neglect or damage to a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.

- 6.14 In this respect, the advice set out at paragraph 193 of the Framework is relevant, insofar as it requires that great weight be given to the conservation of a designated heritage asset. The more important the asset, the greater the weight should be. Paragraph 194 goes on to advise that any harm to, or loss of, the significance of designated heritage assets should require clear and convincing justification.
- 6.15 The framework sets out two tests for cases where harm is identified, that being the test for substantial harm under paragraph 195 and the less than substantial harm test under paragraph 196. In interpreting the framework the High Court held in the Bradford case that there are only three levels of harm (as identified in the framework), 'substantial harm, less than substantial harm and no harm'. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm; it follows that if there is minimal harm it must fall to be considered within the category of less than substantial harm and the appropriate test undertaken.
- 6.16 At paragraph 195, it states that where substantial harm is identified local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. For cases of less than substantial harm to the significance of a designated heritage asset (under paragraph 196), this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Providing the desirability of preserving an asset has been given considerable weight, and the balance tipped appropriately in-favour of preservation, the assessment of the weight to the actual harm to significance (or special interest) in the overall balance is a matter for the decision maker.
- 6.17 Paragraph 200 sets out that Local Planning Authorities should look for opportunities for new development within Conservation Areas and within the setting of listed buildings to enhance or better reveal their significance; with proposals that preserve those elements of the setting that make a positive contribution to the asset should be treated favourably. At paragraph 201 the framework notes that not all elements of a conservation area necessarily contribute to its significance.
- 6.18 Policy SD1 of the Core Strategy requires that development proposals take into account the local context and site characteristics. Moreover, new building should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area. Policy SS6 states that development proposals should be shaped through an integrated approach to planning a range of environmental components from the outset, including the historic environment and heritage assets. Moreover, Policy LD4 states that development proposals affecting heritage assets and the wider historic environment should protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and design.
- 6.19 The NDP includes a policy relating to the conservation of the historic character, policy BL7 is as follows:

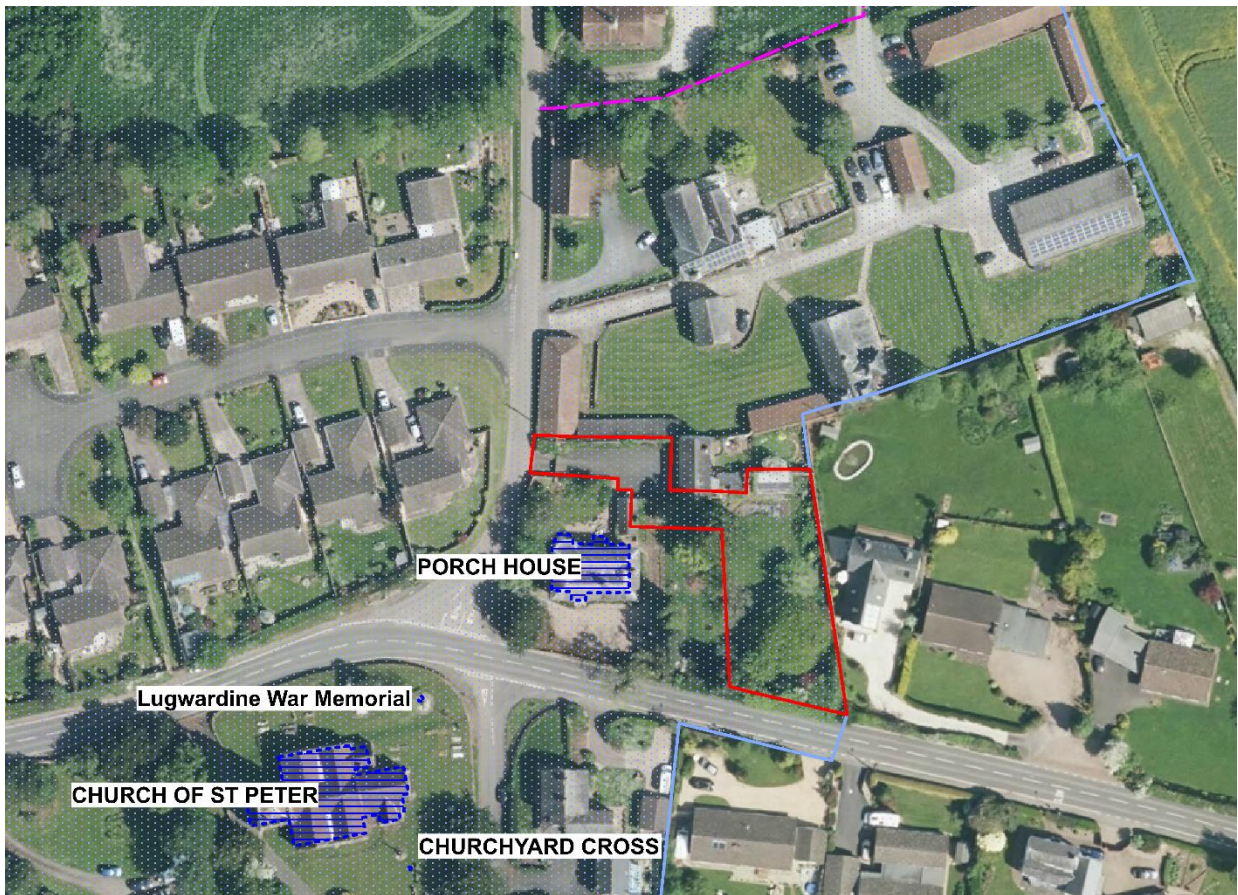
“All applications affecting heritage assets in the Parish will be required to consider the significance of any heritage asset affected including any contribution made by their setting.

Great weight will be given to the conservation of a designated heritage asset and any harm or loss will require clear and convincing justification in line with national policy.

Non-designated heritage assets, including the unregistered parks and gardens and traditional orchards shown on Map C, will be conserved or enhanced and their character protected. A balanced judgment will be required about the effects of any development proposals on or close to such assets having regard to the scale of any harm or loss and the significance of the heritage asset.

Within the Lugwardine Conservation Area, new development must conserve or enhance the character or appearance of the Conservation Area.”

- 6.20 It is noted at this stage that the provisions of NDP policy BL7 reflect the requirements of the framework, in that point one relates to paragraph 189, with point two relating to paragraphs 193 & 194; the last aspect reaffirms the statutory duties on the decision-maker.
- 6.21 The applications are accompanied with a heritage statement as part of the documents submitted. This is considered to adequately describe the significance of the heritage assets affected including the contribution made by their setting, satisfying the expectations of paragraph 189 of the framework.



Aerial image showing application site edged in red, listed buildings in dark blue & labelled, with the conservation area in light blue.

Listed Buildings & Setting

- 6.22 The application site is within the historic curtilage of Porch House a Grade II listed building, with the Coach House and the boundary walls being considered to be curtilage listed and is within the setting of the St Peters Church a Grade II* listed building, within the curtilage of the church are two individually listed buildings, the Lugwardine War Memorial Grade II, the Churchyard Cross Grade II and the Ridler Monument listed at Grade II.
- 6.23 The LBCA Act at Section 1(5) provides the meaning of a 'listed building' which means a building included on the national list and includes; any object or structure fixed to the building and any object or structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948. There is also the provision for aspects of a building to be excluded from the listing, however that is not applicable in this case. The effect is that whilst the primary building is listed, other aspects may be curtilage listed such as ancillary buildings and boundary walls etc. with these receiving the same statutory protections.
- 6.24 The applications do not propose any works directly to the identified listed buildings (namely Porch House) as this lies outside of the application site. As such the proposal relates to curtilage listed structures and the setting of listed buildings.
- 6.25 There is a statutory duty to consider and have special regard to the impact of the proposals on the setting of heritage assets; the framework defines setting as: "The

surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral”

- 6.26 In this regard the site is considered to principally form part of the setting of Porch House as it is situated within the historic curtilage; with the site also being regarded to be within the setting of St Peters Church though the relationship isn't as strong as it is some 50 metres to the west with the A438 in between. I note that approximately 150 metres to the north west of the application site lies a mediaeval moated site, which is a designated Schedule Monument and the Building Conservation Officer identifies there to be eleven other designated heritage assets (excluding the churchyard monuments) within half a kilometre of the site, however officers don't consider the proposals to affect the setting of these heritage assets.
- 6.27 Porch House lies at the corner of Lumber Lane and it is understood to be an early 19th century building (circa 1830 as identified by Pevsner) with stuccoed brick with a hipped slate roof set within an ample curtilage. It is noted to have a degree of prominence as it adjoins the crossroads and this is reflected in the cohesive design characteristics of its southern and western elevations. Further the building has associations to William Godwin and internally includes an ornate Godwin tiled floor amongst other features. Officers consider its significance to be derived from its design aesthetic, cultural associations with Godwin and prominence as a substantial detached dwelling at the crossroads with an ample curtilage. The contribution that this development site makes to the setting of the heritage asset was considered to be from the sense of spaciousness that it offered the historic curtilage of the dwelling.



Site photo showing the side (east) elevation of Porch House, which faces the site of the dwelling.

- 6.28 St Peter's Church occupies the land to the southwest of the crossroad, it dates to circa 13th/14th century with evidence of a 12th century window and as a Grade II* asset it is identified as an important building of more than special interest. The value of the church is considered to be wide ranging, as evidential (given the potential archaeology in the graveyard), aesthetic (given the architectural features of the building) and communal (as a community focal point in the village), the significance of the building in terms of its setting

mainly is considered to be from its location on a prominent and open location in the centre of the village. The contribution of the development site to the setting of the building is however limited due to the separation distance, the same applies to the monuments in the curtilage of the church.



Left photo showing St Peter's Church and right photo showing view from St Peter's Church towards the application site past Porch House and the War Memorial.

- 6.29 The development permitted would undoubtedly affect the setting of the Porch House, given it subdivided the historic curtilage of the building, however this aspect of the development has been permitted and so it forms a baseline for considerations and is not being re-assessed, with the principal consideration being if the amendments proposed would cause additional harm to the setting of heritage assets.
- 6.30 The proposed alterations to the development are not considered to result in harm to the setting of the heritage assets, the slight increase in the roof height of both the dwelling and the outbuilding is not considered to be detrimental to any views of the heritage assets. This is due to the minor nature of the increase and their subservient form compared to the surrounding built form especially given the distance between Porch House, the new boundary wall and the western edge of the outbuilding. Further the plant room is a minor amendment in an enclosed part of the site and so would not result in any harm. I note the representations on this matter and the consultation responses from the Building Conservation Officer in this regard.

Conservation Area

- 6.31 As the application site is within a conservation area, the Local Planning Authority must ensure special attention is paid to the desirability of preserving or enhancing the character or appearance of the conservation area, when it is determining this application, as per Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 6.32 The House of Lords in the South Lakeland case (4) held that the "statutorily desirable object of preserving the character of appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or appearance unharmed, that is to say preserved." However it goes on to acknowledge that change per se isn't unacceptable, as all development must involve a form of change and if the purpose of the legislation was to prevent development it would have done so in very different language. In that way where a particular development is not considered to have any adverse effect on the character or appearance of the area and is otherwise unobjectionable on planning grounds, that would not be a sound planning reason for refusing it.

- 6.33 The interpretation is added to by Historic England vs Milton Keynes Council (2018), where Mr Justice Dove noted that the phrase ‘character or appearance’ is not confined simply to the historic built fabric of the area. Whilst the built environment is integral to the appearance of an area, quite deliberately the statutory test isn’t confined to simply visual matters, as the character of the area includes a range of qualities which are relevant to an evaluative planning judgement. The test includes matters such as historic uses and the contributions which they make to the character of the area by influencing the understanding of that area and reflecting experiences that are not simply visual. It is clear that considerations need to be comprehensive and include all historic aspects of the area which bear upon its value and the appreciation of it, but it is clear that the built fabric should be regarded as pre-eminent over other dimensions of historic interest such as the uses that have historically taken place.
- 6.34 Considering the notion of isolated harm in relation to the wider conservation area, R. (Irving) v Mid-Sussex District Council (2016) held that if there is harm to a part of a conservation area, the fact that the area as a whole will still have special character does not overcome the fact of that harm for considerations under Section 72 of the 1990 Act.
- 6.35 As noted by the Building Conservation Officer in their consultation response, the Lugwardine Conservation Area is broadly linear in form, oriented on a north/south axis, with its southern sector dissected by the A439. The staggered junction between the A439, Lumber Lane and Rhystone Lane ensures that structures situated around it have a prominent and commanding visual presence. The significance of the conservation area lies primarily in the characteristics which evidence the settlements morphology, particularly where they are associated with evolving domestic, social and economic practices; these include its layout and density – relatively sparse linear development in the northern and eastern sectors of Lumber Lane, and a denser but still linear pattern in the southern sector along Rhystone Lane – the separation between plots and the degree of historically undeveloped space which remains, particularly in the northern and western sectors, and the variety of architectural forms which enable an understanding of the vernacular craftsmanship employed over a 700+ year period. In this regard and specifically around the application site, the character of the locale derives from historic dwellings set within spacious and prominent curtilages, as well as more modern development that doesn’t address the public highways.
- 6.36 Given the development previously permitted, the proposals would not adversely affect the character of the area as the erection of a dwelling on this land with the outbuilding has an extant consent, with there being no harm from what is proposed in this regard. In terms of the appearance of the area, the design and form of the proposal is broadly similar to the dwelling already approved, with the proposals involving an increase in the roof height of the dwelling by approximately half a metre and approximately 20cm on the outbuilding. In this regard, having given this matter special regard and having considered the representations and consultation response from the Building Conservation Officer, officers consider that the appearance of the area would be preserved with the proposals not being harmful to the appearance of the locale,.

Curtilage listed buildings

- 6.37 In relation to curtilage listed buildings, they receive the same level of protection as listed buildings and in this regard the principal area of consideration is the glasshouse. This building abuts the brick boundary wall shared at the north end of the site with Coach House. The building was of brick construction with a glazed roof and large windows, it included a Godwin Tile floor. The building has been dismantled without explicit consent, and whilst the Godwin tiles from the floor have been retained along with other materials, the building has never the less been irreversibly damaged.



Image 4: Glass House southern elevation following site clearance and removal of the windows. Central brick column supporting the timber wall plate exposed. Deflection and deterioration to the wall plate visible. The roof is covered in felt which is in very poor condition and fixed to the common rafters with timber battens.



Image 5: Internal view of the Glass House showing Godwin floor tiles and deflection to the roof structure over.



Image 6: Southern elevation showing the original timber windows which are damaged and in a very poor state of repair.



Image 7: Eastern elevation which clearly shows the difference in brickwork between the Glass House and boundary wall.

Selection of photos from Heritage Statement (page 5) showing former Glass House



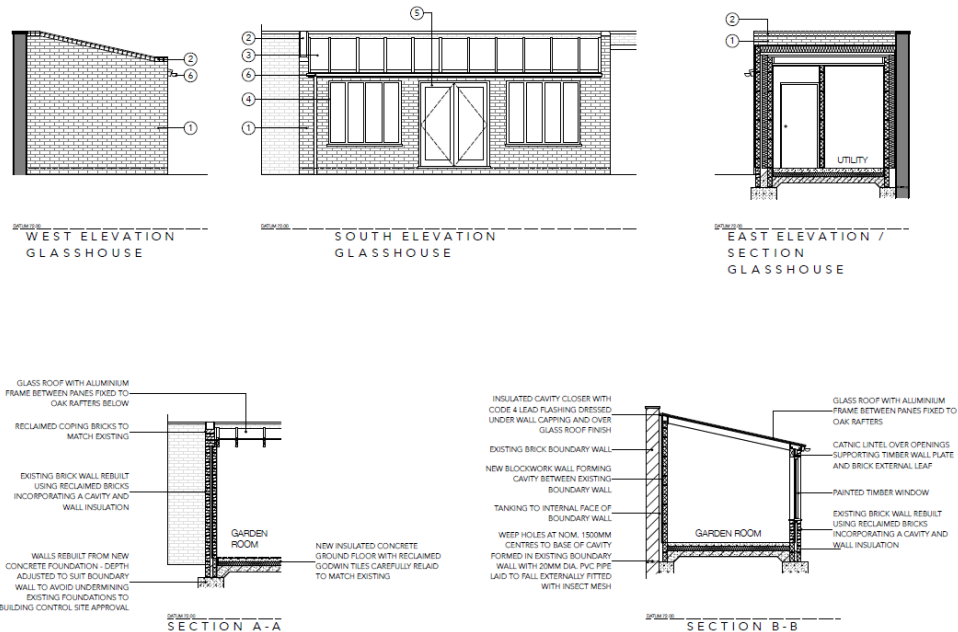
Site photo of partially reconstructed Glass House (July 2020)

- 6.38 The Heritage Statement submitted sets out that the proposal is carefully designed to be similar to that of the original Glass House, with the exception of some modern interventions to improve the thermal efficiency of the building, with the tile floor to be re-laid in a similar manner and for it to be reconstructed of reclaimed brick.

AS PROPOSED
GLASS HOUSE - ELEVATIONS

MATERIAL KEY

1. RECLAIMED BRICKWORK FROM ORIGINAL GLASS HOUSE
2. RECLAIMED COPING BRICKS TO MATCH EXISTING
3. NEW GLASS ROOF WITH OAK RAFTERS
4. PAINTED TIMBER WINDOWS
5. PAINTED TIMBER DOORS
6. ALUTEC TRADITIONAL HALF ROUND GUTTER AND DOWN PIPE (GREY)

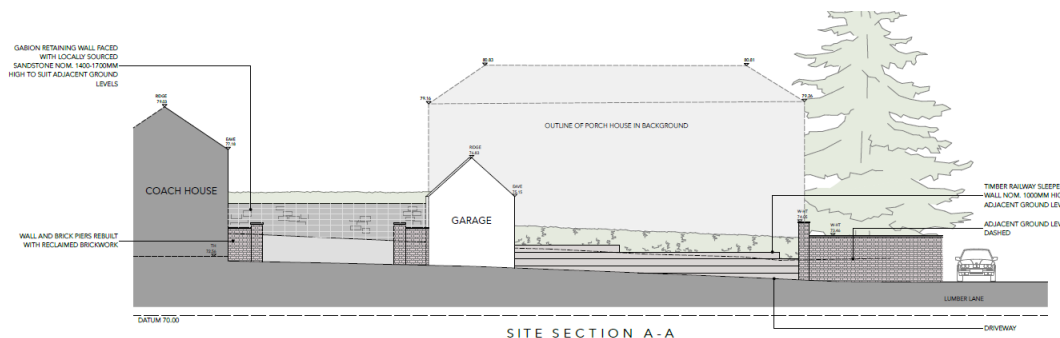


Proposed elevations for Glass House

6.39 Whilst the demolition of the glasshouse is plainly regrettable whatever the circumstances of it occurring, be it through ambiguity (in the previous decision), a misunderstanding or otherwise, the facts of the case are that its loss has occurred. The Council's enforcement and conservation officers assessed the matter at the time it happened and no enforcement action has been taken. These matters are not for consideration at this stage and the current applications are not an appropriate forum to revisit these matters. These events took place prior to the submission of the current applications and in this sense the harm has already occurred. It is irreversible as the historic fabric of the building has been lost irrespective of the determination of these applications and this matter can't be undone. The proposal however is for the re-instatement of the building as part of the dwelling, with the incorporation of the Glass House in the dwelling something that is already approved. Officers conclude that this is an acceptable resolution to the situation, as the building will be reinstated (with a condition being recommended to secure this matter). It should be noted at this stage the Council has not initiated any other mechanism for the reinstatement of the building and a pre-occupation condition would fulfil this role, giving certainty to the matter. As such whilst there are plainly no benefits from this unfortunate situation at this juncture, there is equally also not considered to be harm from the re-instatement of the building, with the effects considered to be neutral in heritage terms.

6.40 In relation to the installation of a pedestrian gate (point 11 on the site plan landscaping key), the installation of a new metal sliding gate (point 12), the rebuilding of existing brick piers (point 13), the retrospective erection of timber railway sleeper wall (point 9) & gabion retaining wall (point 8). The pedestrian gate is considered to be acceptable it is a feature which is in keeping with the wider appearance and setting of the site, thus is not a harmful alteration. The installation of gabion wall and timber railway sleepers, are both materials that are not found elsewhere on the site however the hues and tones of the materials are natural in their appearance and do not try to mimic historic features providing a clear delineation of the modern curtilage that is not an intrusive or dominant feature, equally

they are not considered to be harmful in this regard. The rebuilding of the piers as an entrance way from the shared driveway with the Coach House to the new dwelling is not considered to be detrimental, neither is the new metal sliding gate at the entrance to the approved dwelling, equally causing no harm and being acceptable in design terms.



Site section as proposed, showing points 8, 9, 11, 13 (as referenced above)

- 6.41 To bring the above assessments of the heritage aspects together, individually and cumulatively the proposed alterations to the approved development 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. Thus, the proposal is considered to accord with Policies LD4, LD1, SS6 and SS1 of the Core Strategy and policy BL7 of the NDP. Under the framework there is no need to undertake the test prescribed in paragraph 196 as no harm has been identified. Further paragraph 200 outlines that proposals that preserve those elements of the setting that make a positive contribution should be treated favourably.

Design / Appearance / Amenity

- 6.42 In regards to the design of proposed developments, the LPA has a statutory duty under Section 39 of the Planning and Compulsory Purchase Act 2004 to have regard to the desirability of achieving good design.
- 6.43 When considering the design and landscape impact of a proposed development, Policy SD1 of the Core Strategy is significant as it requires development proposals to create safe, sustainable, well integrated environments for all members of the community. In so doing, all proposals should take into account the local context and site characteristics. Moreover, new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. Where appropriate, proposals should also make a positive contribution to the architectural diversity and character of the area, including through innovative design. They should also safeguard the residential amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing. Specifically regarding landscape matters, Policy LD1 requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design scale, nature and site selection of the development, as well as the protection and enhancement of the setting of settlements and designated areas. Development proposals should conserve and enhance the natural, historic and scenic beauty of important landscapes and features (specifically designated assets) through the protection of the area's character and by enabling appropriate uses, design and management. New landscape schemes along with their management should ensure development integrates appropriately into its surroundings and maintains tree cover. In wider terms, policy SS6 sets out that development proposals should conserve and the enhance environmental

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

assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity, heritage assets, and especially those with specific environmental designations. All proposals should be shaped through an integrated approach to planning to ensure environmental quality and local distinctiveness.

6.44 The NDP sets out its criteria for the design of new housing at policy BL1, the criteria are as follows:

- I. incorporating locally distinctive features - although new innovative design or features will not necessarily be resisted where they fit sensitively within the particular village frontage and street scene;
- II. incorporating eco friendly initial designs that include orientation of buildings, the provision of energy and water conservation measures, cycle and recycling storage, broadband infrastructure and renewable energy infrastructure such as photovoltaic panels or other sustainable renewable energy solutions wherever possible;
- III. making proportionate provision for open green spaces which are linked where possible to the wider natural environment and accessible to the public for recreational use;
- IV. retaining important features such as tree cover, ponds, orchards and hedgerows and adding to the natural assets of the parish where opportunities are available;
- V. where possible, garages must be built in direct association with the houses whose inhabitants may be expected to use them. They must be of a sufficient size to accommodate modern cars. Proposals for rear or separate parking courts will not be permitted unless alternative provision is impracticable. Sufficient off street parking must be provided to accommodate space for visitor parking for each household;
- VI. an appropriate size of garden space should be provided in proportion to each new dwelling;
- VII. on site measures that support energy conservation, such as tree planting and other forms of green infrastructure to provide shade and shelter, the inclusion of sustainable drainage systems, the maximum use of permeable surfaces and minimising the use of external lighting to that which is necessary wherever possible;
- VIII. assisting offsite measures such as supporting infrastructure to promote sustainable travel and enabling a sustainable drainage system to serve a wider range of properties where appropriate;
- IX. minimising construction traffic and reducing waste;
- X. including, where possible, dwellings that meet standards for lifetime homes

6.45 Further policy BL3 is considered to be applicable in this regard as it relates to new housing developments and sets out that; development should be in keeping with the scale, form and character of its surroundings; should not impact adversely on the amenity of neighbouring properties including loss of daylight, loss of car parking or mature vegetation or landscape screening; be in character with existing dwellings; and have a safe and suitable access to the public highway.

6.46 The framework is a key material consideration for the proposal , it includes a chapter focused on achieving well-designed places (chapter 12), which sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, as good design is a key aspect of sustainable development. Decision-making (as directed at paragraph 127 of the framework) should ensure

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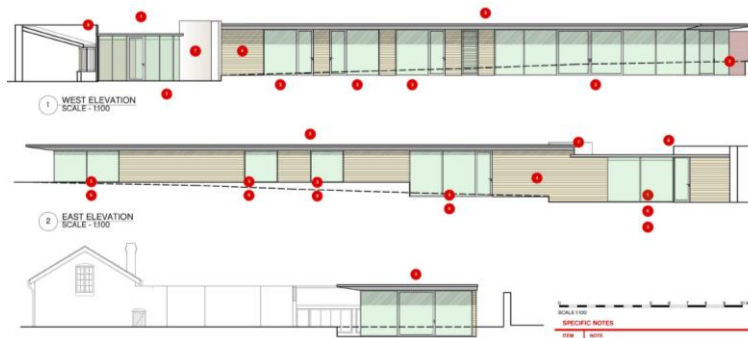
developments will: function well and add to the overall quality of the area over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character including the surrounding built form and landscape setting (whilst not preventing innovation or change); establish or maintain a strong sense of place creating attractive and distinct places to live and visit; with a high standard of amenity for existing and future users that doesn't undermine quality of life or community cohesion and resilience. Additionally paragraph 98 of the framework sets out that decisions should protect and enhance public rights of way, including taking opportunities to provide better facilities for users.

6.47 The framework is clear at paragraph 130 that "planning permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides." The government has confirmed by way of a Written Ministerial Statement (on 1st October 2019) that "in the absence of local design guidance, local planning authorities will be expected to defer to the illustrated National Design Guide"; the National Design Guide is therefore considered to be a material consideration for consider what achieves good design in proposed developments. Equally design shouldn't be concocted as a reason for refusal when proposals accord with the design expectations of the framework, material considerations and development plan. Additionally at paragraph 131, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

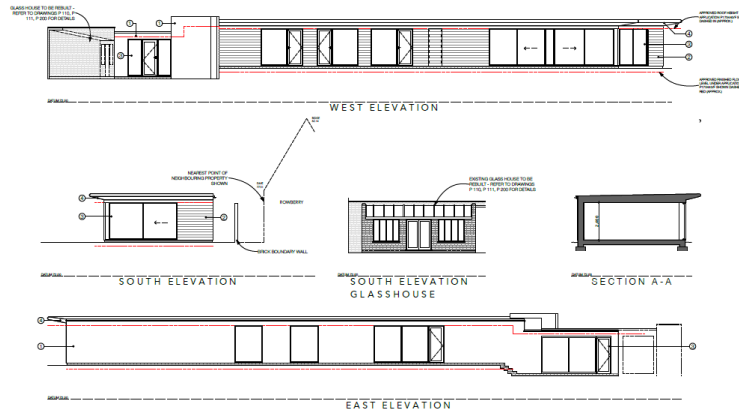
6.48 Specifically in relation to alterations and amendments to applications, the framework instils a principle that any amendment must be of an equal design quality to the approval and not a lesser one; this is clear at paragraph 130:

"Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)."

6.49 The proposal includes amendments to the design of the dwellinghouse, including increasing the roof height of the dwelling and altering the fenestrations around the southern end of the dwelling by reducing the amount of glazing. Excerpts of both the approved elevation plans for the dwelling and the proposed elevations are included below for reference in this regard.

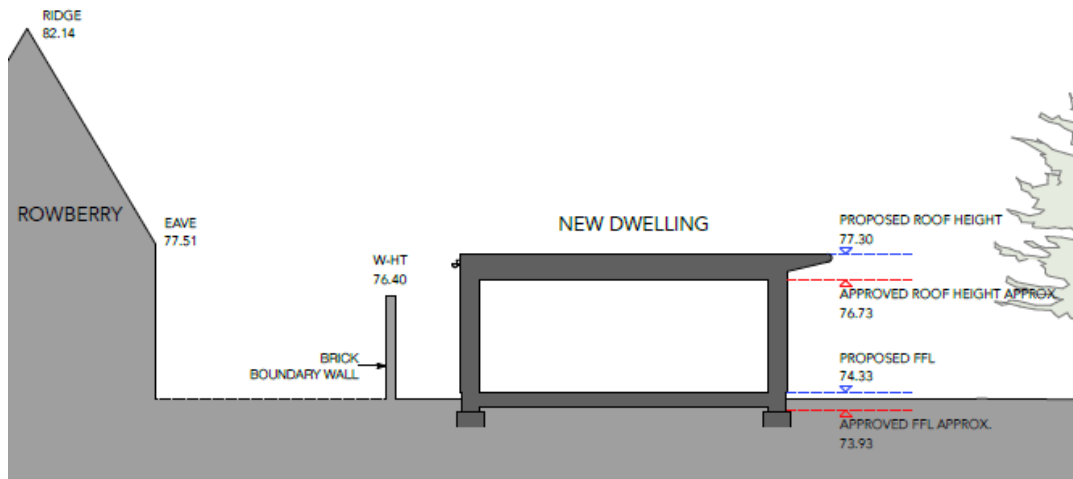


Elevations of dwelling as approved



Elevations of dwelling as proposed

- 6.50 The proposed alterations to the proposed dwellinghouse are not considered to diminish the quality of the development, with it continuing to retain the modern and sleek design vernacular that it had when originally approved. The red outline on the above plan shows the nature of the alterations to the roofline and whilst the roof would be slightly higher, the strong horizontal emphasis of the building would plainly be retained. The design is still regarded as being of a good quality with it being considered to raise the design quality in the area, as per paragraph 131 of the framework. The amendment to the outbuilding to raise the roof by approximately 20 centimetres is considered to be non-material and very minor in nature, with it not altering the overall appearance of the subservient outbuilding. The addition of the plant room is equally minor and wouldn't be discernible given the overall built form of the dwelling and its location to the rear. In the terms of paragraph 130 of the framework, the quality of the design will not be diminished by these alterations to the design.
- 6.51 Ensuring that existing and future residents have a high standard of amenity is an important consideration. The site of the dwelling is adjoined to the east by the existing dwelling (Rowberry), which it should be noted does not run parallel to the boundary wall of the site, with the southern gable of the dwelling being closer to the boundary wall than the northern end of the dwelling (see site plan for reference). The south-western corner of Rowberry would be approximately 3 metres from the approved dwelling (at its closest point).



Section plan as submitted showing the approved and proposed heights of the dwelling (figures shown are in metres above datum) and the adjoining dwelling - Rowberry

6.52 The height of the roof of the dwelling would increase by approximately 0.57m (as shown above) and due consideration is given to the amenity of the adjoining dwelling which enjoys a private amenity space to the west of the house adjoining the application site. For context one is referred to the site photos below.



Site photo looking towards the adjoin dwelling - Rowberry



Site photos in the garden of Rowberry, showing the east boundary wall of the application site (in red brick).

- 6.53 Whilst the proposal does increase the roof height of the dwelling, it is a mono-pitched roof and not a dual pitched roof and it is separated from the adjoining dwelling by a walkway to the rear of the approved dwelling and then a brick boundary wall. Due to the separation distances and the flat roofed nature of the roof, officers do not consider that the amendments would result in overshadowing, overbearing or an undue impact on the amenity of the adjoining dwelling.
- 6.54 It should be noted at this juncture that views from a dwellinghouse or private piece of land are generally considered to be a private interest, which does not form a material planning consideration as the planning process is concerned with land use in the public interest.
- 6.55 The application does include the addition of two roof lights to the dwelling and one to the outbuilding, these would be over the respective shower-rooms / en-suites. The roof-lights are not considered to give rise to any amenity or privacy concerns.
- 6.56 In considering the impact on amenity from the proposed plant room, it is considered that the location of the plant room, in the north east corner of the site would not give rise to any noise or nuisance concerns given the separation distances from neighbouring dwellings.
- 6.57 It follows that in terms of design, appearance and amenity the proposal is considered to be acceptable and accords with the provisions of the development plan in this regard, including policies SD1, LD1, LD4, SS6 and RA2 of the Core Strategy, policies BL1 & BL3 of the NDP and paragraph 130 of the framework.

Habitat Regulations Assessment

- 6.58 The application site lies within the catchment for the River Lugg, which comprises part of the River Wye Special Area of Conservation (SAC), a European site covered under the Habitats Directive & the Conservation of Habitats and Species Regulations 2017 ('Habitats Regs.' henceforth). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value.

Policy context

- 6.59 The Core Strategy requires under policy SD4 that development should not undermine the achievement of water quality targets for rivers within the county, in particular with the treatment of wastewater. Further the Core Strategy at policy LD2 sets out that development proposals should conserve, restore and enhance biodiversity; explicitly development that is likely to harm sites and species of European importance will not be permitted. This is reflected in the framework at paragraph 177, in that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a SAC, unless an appropriate assessment has concludes the proposal will not adverse effect the integrity of the habitats site. Further paragraph 11 d) i. (when read with footnote 6) of the framework includes adverse effects to habitat sites as clear reason for refusing development proposals, with there being no need to undertake the pre-weighted test of d) ii (i.e. any harm significantly and demonstrably outweighing the benefits of the proposal).

HRA Process

- 6.60 Under the Habitats Directive (which is transposed into UK legislation in the Habitat Regs.), Herefordshire Council (as the 'competent authority') has a statutory duty to assess if a proposal is likely to have "a significant effect" whether in combination or alone, this must take place before granting planning permission (or any consent, permission, other authorisation, including any variation or modification to the consent or permission (i.e. section 73 applications, discharge of conditions & non-material amendments), Regulation 61, Habitat Regs.). This initial assessment is known as the 'screening stage' which considers if there is a possibility of a 'likely significant effect' on the integrity of the SAC, this considers both the effect of the proposal and the in-combination effect; this is considered to be a notably low threshold which acts as a trigger, (thus ruling out only cases where there is no doubt or no real risk of significant effects). At the screening stage the proposal must be considered without regard to any mitigation, any integrated or additional avoidance or reduction measures when considering at the HRA screening stage whether the plan or project is likely to have an adverse effect on a European Site, these may only be considered as part of an appropriate assessment. Any proposal that has the mere possibility of a 'likely significant effect' (LSE) on the integrity of the SAC triggers an 'Appropriate Assessment' of the proposal.
- 6.61 Once an 'Appropriate Assessment' (AA) has been triggered by the screening stage, the competent authority may only grant consent if it can be demonstrated 'beyond reasonable scientific doubt' using the 'best scientific knowledge in the field' that the proposal will not adversely affect the integrity of the SAC, this assessment should utilise 'best scientific knowledge in the field' as well as considering mitigation and in-combination effects.
- 6.62 The AA must consider the implications on the European site in view of the site's conservation objectives; in cases where there is considered to be an effect on a site but it will not undermine the conservation objectives, the proposal cannot be considered to have a LSE on the European site; as the procedures are designed to maintain designated habitats and species 'at a favourable conservation status'. However if the European site's conservation status is not considered to be favourable, then the proposal must 'maintain' / 'restore' the condition and not worsen it, (as clarified by Ouseley J at para 26 in Royal Society for the Protection of Birds and Lydd Airport Action Group v Secretary of State [2014] Env. L.R. 30) thus after mitigation any effect is considered to impact the integrity of the site and the assessment can not demonstrate there are no LSE on the SAC.

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- 6.63 The AA is considered to be a pre-weighted test, with the onus being on the proposal to demonstrate no LSE; thus if doubt remains when using the 'best scientific knowledge in the field' as to the absence of adverse effects, the proposal fails to satisfy the AA and consent must be refused. For the purposes of an appropriate assessment the competent authority must consult Natural England (the 'appropriate nature conservation body') and have regard to any representations they make, as per Sec 63 (3) of the Habitat Regs.
- 6.64 For proposals that are considered to result in an adverse LSE on the SAC at the AA stage and where there are no alternative solutions, the only provision for consenting to the proposal is where there is shown to be a 'Imperative Reason of Overriding Public Interest' (IROPI henceforth). The IROPI must relate to human health, public safety or beneficial consequences of primary importance to the environment, these may be of social or economic nature; however IROPI is not considered to be applicable in this instance due to the diminutive scale and thus benefits of the proposal; with IROPI generally being reserved for projects such as nuclear power stations or wind turbines. Thus if a proposal fails to satisfy an appropriate assessment, the proposal is not considered to be permissible. Ultimately if a proposal passes the IROPI stage, only then may any off-setting be considered in the assessment of the project and not before.

Screening Stage

- 6.65 The applications are for alterations to the design and other incidental aspects of the approved dwellinghouse, with the alterations not amending or increasing the drainage characteristics of the approved development (either in terms of the drainage arrangements or the foul water generation from the dwelling, as the number of bedrooms remains the same); thus as the design of a roof or the size or quantum of window openings would not have any material effect on the drainage consequences of erecting the dwelling it cannot possibly result in a likely significant effect upon the SAC. Based on advice received by the LPA in relation to 'Section 73' applications, in cases such as this, if an application is made under Section 73 to carry out development without requiring compliance with a condition which has nothing whatsoever to do with drainage or any sort of discharge of water, then it cannot possibly result in an effect upon the SAC (as relates to the current Phosphate considerations) and can be considered as 'screened out' from requiring any further HRA considerations or requiring an appropriate assessment.
- 6.66 In policy terms the applications are considered to accord with policy LD2 of the Core Strategy and the provisions of paragraph 177 are not triggered in this instance, with the presumption in-favour of sustainable development still applying.

Other Matters

- 6.67 The application is considered to remain acceptable in highway terms, as noted by the comments from the highways engineer, thus according with policy MT1 of the Core Strategy and the provisions of the NDP.
- 6.68 The landscaping and tree retention details have previously been considered and agreed by the Local Planning Authority and whilst details are included on the site plan, there is not considered to be a change in this regard. The proposal is considered to be acceptable in terms of policy LD1 and LD2 of the Core Strategy and the policies of the NDP including BL1.

6.69 It should be noted that regardless of the emotions that can be aroused by aspects of development taking place without planning permission, the decision maker must approach a retrospective application seeking to legitimise a development that has already (partially or otherwise) taken place in exactly the same way as a 'normal' application for proposed development. Thus the fact that a development is retrospective, partially retrospective or entirely prospective; is not in itself a material consideration for the determination of an application.

Conditions

6.70 In relation to application reference 201757 which is made under Section 73 of the TCPA, this type of application are commonly said to be seeking to vary or remove conditions to which an existing permission is subject. However, that is not strictly the case. If such applications succeed, a completely new permission is created that stands alongside the original and the applicant is able to choose which is implemented, this has become evident through case law on the matter. Lord Carnworth held in Supreme Court (in Lambeth LBC v SSHCLG [2019] UKSC 33) that it is strongly desirable for all of the conditions of previous consent(s) to be restated to ensure clarity in the reading of the decision without the need to refer back to previous decisions in the future in a common sense manner.

6.71 It is noted that the more recent consent (ref: 170440) only imposed two conditions, with one referencing the original consent (ref: 160398). In light of the Lambeth judgment officers have reinstated all the relevant conditions having regard to the original consent, policy changes and material considerations. Given that Section 73(2)(a) TCPA allows for variations to be granted subject to conditions differing from those subject to which the previous permission was granted; in this way the Council may impose the condition that it feels meets the six tests set out under paragraph 55 of the framework. Conditions must be; necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. It is noted that the development plan policies for the area have changed since the original grant of planning permission, notably with the NDP being made and so any policies that require additional conditions for compliance under that aspect of the development plan are considered to meet the test of being reasonable.

6.72 The application site is noted to be within the historic curtilage of a listed building and whilst it is a new build dwelling with the framework being clear that restrictions to permitted development rights should be not be used unless there is clear justification. In this case officers consider that it is necessary and justified to remove domestic permitted development rights given the sensitive location of the site given the heritage assets in the locale and this is included as a condition accordingly. Further the visibility splays previously denoted on the approved scheme were never secured for implementation by way of a planning condition, accordingly a condition is recommended. In other respects conditions attached hereto have been framed to have regard to the details already approved and discharged pursuant to the extant approvals.

Planning Balance and Conclusions

6.73 The NPPF has at its heart a presumption in favour of sustainable development which is echoed in Core Strategy policy SS1. Sustainable development is considered to consist of three key elements, which are interdependent and need to be pursued in mutually

supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- a) An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting

6.74 Though the three objectives of sustainable development are not criteria against which every decision can or should be judged, with decisions planning any active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

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

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

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

6.77 It follows that in terms of the Section 73 application to vary the condition of the planning permission, the proposal is considered to accord with the provisions of the development plan which benefits from the statutory presumption in its favour, however the Council is unable to demonstrate a five year housing land supply and so the policies most relevant for determining the application must be considered to be out-of-date. In this regard they are considered to be policies SD1, LD1, LD4 and SS6 of the Core Strategy and policies

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

BL1, BL3 & BL7 of the NDP; with paragraph 14 not considered to be applicable in this instance due to the NDP being over two years old. However the above mentioned policies are considered to be highly consistent with the provisions of the framework and so officers still attribute significant weight to the policies (as per paragraph 213 of the framework). In the tilted balance that follows in presumption in favour of the development, no harm has been identified above and so the proposal is considered to be acceptable in the terms of the framework and the development plan.

6.78 Turning to the Listed Building Consent application, special regard has been given to the preservation and conservation heritage assets; the representations received and consultation responses from the Building Conservation Officer, with no harm being identified. It follows that the tests of chapter 12 of the framework (paragraphs 195 and 196) are not applicable as no harm has been identified and the application is considered to be acceptable subject to conditions.

6.79 Accordingly both applications are recommended for approval subject to conditions, as outlined below.

RECOMMENDATION

That planning permission (201757) and listed building consent (201758) be granted subject to the following conditions and any other further conditions considered necessary by officers named in the scheme of delegation to officers.

201757

That planning permission be granted subject to the following conditions:

- 1. The development shall be carried out strictly in accordance with the approved plans and documents:**
 - **Location Plan – E001 Rev A**
 - **Existing Site Plan – E003 Rev A**
 - **Proposed Site Plan – P003 Rev C**
 - **Proposed Floor Plan – P100 Rev C**
 - **Proposed Roof Plan – P101**
 - **Proposed Elevations – P200 Rev E**
 - **Proposed Site Sections – P010 Rev D**
 - **Proposed Canopy Details – P400**
 - **Proposed Glass House Floor Plan – P110 Rev A**
 - **Proposed Glass House Roof Plan – P111 Rev A**
 - **Proposed Glass House Elevations – P210 Rev A**
 - **Proposed Glass House Door Details – P501**
 - **Proposed Glass House Roof Details – P502**
 - **Proposed Glass House Window Details – P500**
 - **Discharge of Conditions letter dated 23rd August 2016 – Ref 160390 and associated details.**

except where otherwise stipulated by conditions attached to this permission.

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

2. Efficient use of water

Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per optional technical standards contained within Policy SD3 of the Herefordshire Local Plan Core Strategy shall be submitted to and approved in writing by the local planning authority and implemented as approved.

Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy and the National Planning Policy Framework

The soft and hard landscaping as detailed on drawing number P003 Rev C shall be completed prior to the first occupation of the development hereby permitted. 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: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy, Policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan and the provision of the National Planning Policy Framework.

3. Landscaping Implementation

The soft and hard landscaping as detailed on drawing number P003 Rev C shall be completed prior to the first occupation of the development hereby permitted. 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: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. 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 2.4m metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 26 metres to the south and 33 metres to the north along the nearside edge of the adjoining carriageway (Lumber Lane). 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, policy BL12 of the Bartestree with Lugwardine Neighbourhood Development Plan and the provision of the National Planning Policy Framework.

5. Removal of Permitted Development Rights

Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015,(or any order revoking or re-enacting that Order with or without modification), no development which would otherwise

be permitted under Classes A, B, C, D, E and H of Part 1 and of Schedule 2, shall be carried out.

Reason: In order to protect the character and amenity of the locality, to maintain the amenities of adjoining properties, to preserve the setting of nearby heritage assets and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, policy BL1 & policy BL7 of the Bartestree with Lugwardine Neighbourhood Development Plan and the provision of the National Planning Policy Framework.

6. Works in accordance with approved tree protection details

All construction works on site shall be undertaken in accordance with the previously approved measures (as per the discharge of conditions letter dated 23rd August 2016 – Ref 160390 and associated details), to prevent damage to those trees/hedgerows that are to be retained. In this condition ‘retained tree/hedgerow’ means an existing tree/hedgerow that is to be retained in accordance with the approved plans and particulars.

Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. The commencement of development in advance of these measures may cause irreparable damage to features of acknowledged amenity value.

7. Reinstatement of Glass House

Prior to the first occupation of the dwellinghouse hereby approved, the glasshouse (as identified on drawing number P003 Rev C); shall be rebuilt in its entirety and photographic evidence submitted to and agreed in writing by the Local Planning Authority, the building shall be maintain as such henceforth.

Reason: To ensure the glasshouse is re-instated and maintained to preserve heritage assets and their setting, to accord with policy LD4, LD1 & SS6 of the Herefordshire Local Plan – Core Strategy 2011-2031, policy BL7 of the Bartestree with Lugwardine Neighbourhood Development Plan and the provision of the National Planning Policy Framework.

8. Setback for gates

Any new access gates/doors shall be set back 5 metres from the adjoining carriageway edge and shall be made to open inwards only.

Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, policy BL12 of the Bartestree with Lugwardine Neighbourhood Development Plan and the provision of the National Planning Policy Framework.

9. Parking details

The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details on Drawing Number P003 Rev C.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy BL12 of the Bartestree with Lugwardine Neighbourhood Development Plan and the provision of the National Planning Policy Framework.

10. Cycle Storage

Within 8 weeks of the first occupation of the development hereby approved a scheme for the provision of secure cycle parking within the curtilage of the dwelling shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The cycle parking shall be installed and made available for use within a time scale to be agreed with the local planning authority.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan and the provision of the National Planning Policy Framework.

11. Construction working hours

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

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

12. Drainage matters

All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through a soakaway system within the development boundary; unless otherwise agreed in writing by the Local Planning Authority

Reason: For clarity and in order to comply with Conservation of Habitats and Species Regulations (2017), Herefordshire Local Plan - Core Strategy policies LD2, SD3 and SD4, Policy BL1 of the Bartestree with Lugwardine Neighbourhood Development Plan and the provision of the National Planning Policy Framework.

Informative:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework

201758

That Listed Building Consent be granted subject to the following conditions:

1. CE7 – Time limit for implementation
2. C07 –

- Location Plan – E001 Rev A
- Existing Site Plan – E003 Rev A
- Proposed Site Plan – P003 Rev C
- Proposed Floor Plan – P100 Rev C
- Proposed Roof Plan – P101
- Proposed Elevations – P200 Rev E
- Proposed Site Sections – P010 Rev D
- Proposed Canopy Details – P400
- Proposed Glass House Floor Plan – P110 Rev A
- Proposed Glass House Roof Plan – P111 Rev A
- Proposed Glass House Elevations – P210 Rev A
- Proposed Glass House Door Details – P501
- Proposed Glass House Roof Details – P502
- Proposed Glass House Window Details – P500
- Discharge of Conditions letter dated 23rd August 2016 – Ref 160390 and associated details.

3. No works in relation to any of the features specified below shall commence until a sample panel of all new facing brickwork is provided on site at a minimum size of 1m x 1m and showing the proposed –

Glass House:

Brick type, size, colour, texture, bond pattern, mortar mix, joint thickness and finish profile.

Confirmation of the materials and methods shall be approved in writing with the Local Planning Authority and carried out accordingly.

Reason: To safeguard the architectural and historic interest and character of the listed building, in accordance with policy LD4 of the Herefordshire Local Plan - Core Strategy, Policy BL7 of the Bartestree with Lugwardine Neighbourhood Development Plan and the National Planning Policy Framework.

Decision:

Notes:

Background Papers

Internal departmental consultation replies.

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	4 NOVEMBER 2020
TITLE OF REPORT:	<p>201645 - PROVISION OF 2 NO. ADDITIONAL ROOFLIGHTS ON NORTH ELEVATION OF BARN AT 3 HIGH STREET, WEOBLEY, HEREFORD, HR4 8SL and;</p> <p>202284 - APPLICATION FOR VARIATION OF CONDITION 2 OF PLANNING PERMISSION 184664 - TO ACCOMMODATE 2 NO. ADDITIONAL ROOF WINDOWS ON NORTH ELEVATION OF BARN 3 HIGH STREET, WEOBLEY, HEREFORD, HR4 8SL</p> <p>For: Mr & Mrs Starnes per Mr. Laurence Ray, Waterloo, Ledgemoor Road, Weobley, Hereford, Herefordshire HR4 8RJ</p>
WEBSITE LINK:	<p>https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201645&search-term=201645</p> <p>https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202284&search-term=3%20high%20street%20weobley</p>
Reason Application submitted to Committee – Re-direction	

Date Received: 28 May 2020

Ward: Weobley

Grid Ref: 340329,251550

Expiry Date: 9th November 2020

Local Member: Councillor Michael Jones

1. Site Description and Proposal

- 1.1 Weobley is a large village located some 10 miles north-west of the city of Hereford. The entirety of the village falls within the boundaries of Weobley Conservation Area. The historic centre of the village is an extremely well preserved remnant of what was a larger medieval town. The historic town of Weobley contained a church, market and castle. Many very old buildings following the original street layout remain, particularly at the centre of the village which is focused around the Rose Garden. High Street is one of these streets, situated between the site of the former castle to the south and the market place to the north.
- 1.2 Number 3 High Street is a brick built house of circa 1700 origins which is Grade II listed. On its eastern side there is an adjoining barn which is of slightly later origins and listed at Grade II in its own right. The barn is constructed of brick upon a coursed rubble plinth with elements of timber framing. Both buildings front onto the C1093 High Street to the north whilst the unregistered Garnstone Park lies to the rear. The site of Weobley Castle, a designated Scheduled Ancient Monument, lies a short distance away to the south. Both buildings are within the Weobley Conservation Area.
- 1.3 Planning Permission and Listed Building Consent was granted in 2019 for a scheme of works relating to both Number 3 and the adjoining barn (Full details of these applications can be found at Section 3.1 of this report). The works included a scheme of alterations to the existing dwelling at Number 3 in order to support its refurbishment as a family home. In relation to the barn, the

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

scheme provided for this to be converted into habitable space so that it could be used as extended residential accommodation to the adjoining dwelling at Number 3.

- 1.4 A number of changes to the fabric and external appearance of the barn were approved in order to facilitate its change of use to residential purposes. This included the replacement of the corrugated roof with slate and the provision of four new roof lights in order to support the conversion of its first floor to a 'function space' / living area. The approved elevation plans are shown in Figure 1 and show the majority of the roof lights to be provided on the barn's southern (rear) elevation. On the principal northern elevation, which fronts onto the High Street in a prominent location within the village centre, a single roof light was permitted.

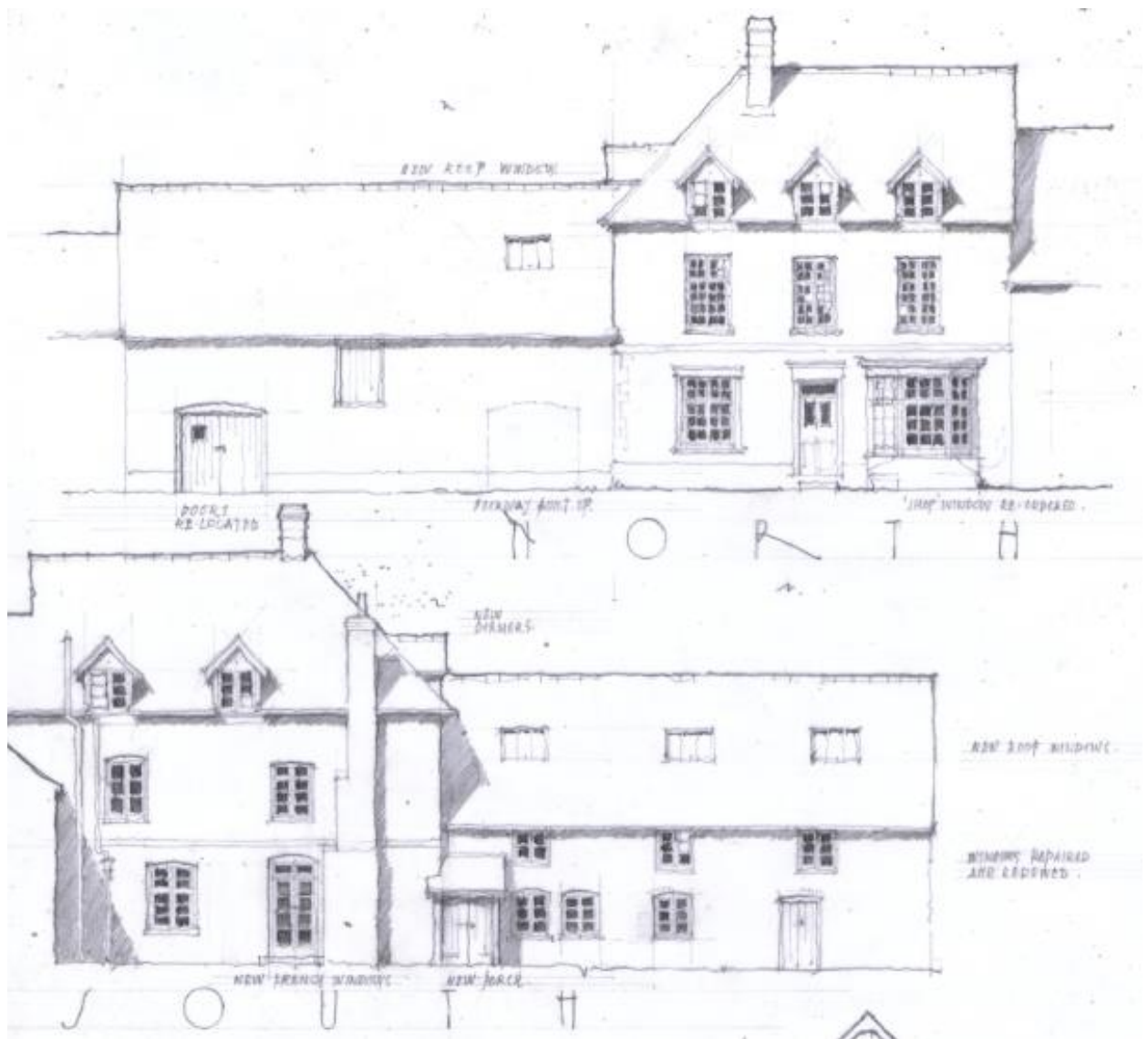


Figure 1: North and South Elevation Plans approved pursuant to P184664/F and P184665/L

- 1.5 The current applications have been made retrospectively and seek to regularise the provision of two additional roof lights which have been installed on the northern elevation without the benefit of the necessary consents. An application for Listed Building Consent has been submitted under reference 201645/L, whilst an application to vary the approved planning permission utilising the provisions of Section 73 of the Town and Country Planning Act (1990) has been submitted under reference 202284/F. The proposed alternative plans are shown at Figure 2, with the additional roof lights identified by the red circles.

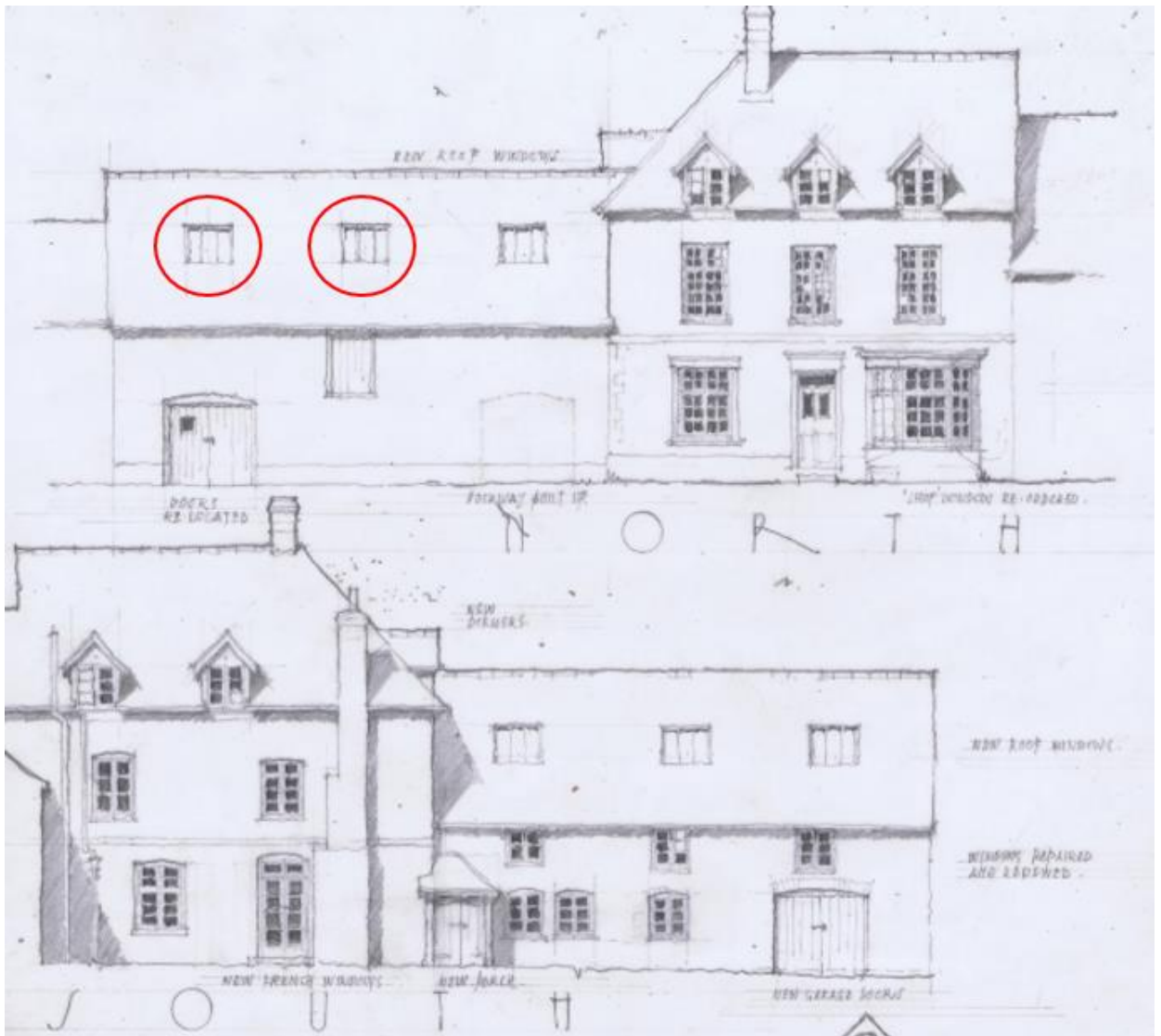


Figure 2: North and South Elevation Plans as currently proposed

2. Policies

2.1 Herefordshire Local Plan – Core Strategy (2015)

The following policies are considered to be of relevance to this application:

- SS1 - Presumption in Favour of Sustainable Development
- SS6 - Environmental Quality and Local Distinctiveness
- RA5 - Re-use of Rural Buildings
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- LD4 - Historic Environment and Heritage Assets
- SD1 - Sustainable Design and Energy Efficiency

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework (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 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

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

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

2.2 Weobley Neighbourhood Development Plan (made 11th October 2019)

The following policies are considered to be of relevance to this application:

- WE01 – Promoting sustainable development
- WE07 – Protecting heritage assets
- WE08 – Development within Weobley conservation area
- WE09 – Conserving the landscapes and scenic beauty of the parish
- WE10 – Enhancement of the natural environment
- WE12 – Sustainable design
- WE15 – Housing development in Weobley village
- WE020 – Weobley village centre

The Weobley Neighbourhood Development Plan policies and relevant supporting documents can be viewed on the Council's website through the following link;

https://www.herefordshire.gov.uk/directory_record/3116/weobley_neighbourhood_development_plan

2.3 National Planning Policy Framework (NPPF)

- Chapter 1. Introduction
- Chapter 2. Achieving sustainable development
- Chapter 4. Decision-making
- Chapter 12. Achieving well-designed places
- Chapter 15. Conserving and enhancing the natural environment
- Chapter 16. Conserving and enhancing the historic environment

The National Planning Policy Framework can be viewed through the following link;

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

3. **Planning History**

3.1 The following applications for planning permission and listed building consent are considered to be relevant to the current proposal;

- **P184664/F** (Planning Permission) - Proposed alterations to the dwelling house, conversion of loft, and change of use of adjoining barn to provide additional living accommodation – Approved with Conditions 2nd April 2019
- **P184665/L** (Listed Building Consent) - Alterations to the dwelling house, conversion of loft, and change of use of adjoining barn to provide additional living accommodation - Approved with Conditions 2nd April 2019

- **P201580/AM** (Application for Non-Material Amendment) - Non Material Amendment to permission ref 184664 - Provision of 2 no. additional roof windows on North Elevation – Refused 7th July 2020.

4. Consultation Summary

4.1 Statutory Consultations

4.1.1 Historic England - No bespoke comments

Thank you for your letter of 19 June 2020 regarding the above application for listed building consent. On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.

4.2 Internal Council Consultations

4.2.1 Conservation Manager (Historic Buildings) – Objection

Initial Comments 21st July 2020

The applicants were already advised in pre-planning application P181738/CE that the proposal to insert three rooflights into the north, high street facing elevation of the barn would be too great an impact on a principle elevation. Excessive new openings in barn conversions are actively discouraged, particularly on street-facing elevations and pitches. They create a visual impact and alter the essential character of the building. The scheme here was already viable as a conversion without these additional rooflights, so the harm caused cannot be justified.

Further Comments 1st September 2020

No. 3 High Street is an early C18 house with later alterations. It was listed as a grade II heritage asset in September 1966 (list entry number 1301306). The attached barn, of a similar date, was individually listed at the same time (list entry number 1081905). Constructed of painted brick on a coursed rubble plinth, the central bay was once open, indicating its function as a threshing barn. This central bay was later infilled presumably coinciding with a change in use. It is believed at different points in history the barn has served as a storage facility, a garage and possible at one point, domestic accommodation on the upper levels. Despite these changes of use, the barn has retained its agricultural character and appearance, particularly on the north, street-facing elevation which had remained relatively unchanged since the central threshing bay was infilled. Permission was obtained in 2018 to replace the existing roof with natural slate and move the existing garage door from the western bay to the eastern. At the time of writing, these changes had been carried out.

Weobley was a C11 village which gained prosperity during the later medieval period due to the burgeoning wool trade and other commercial industry. This prosperity is reflected in the large number of surviving timber-framed buildings which date to this period. Weobley was designated as a conservation area in 1977. It is mainly characterised by its historic core and the surrounding countryside.

Policy:

Below are relevant paragraphs from the National Planning Policy Framework (NPPF) outlining the approach taken to understanding and assessing harm in heritage assets:

- 190. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal;

Significance here is the agricultural character and appearance of the barn, reflecting past agricultural practices and the evolution of Weobley

- 192. In determining applications, local planning authorities should take account of:
 - a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.

The council supports and adaptive reuse of the barn as part of a dwelling.

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

In this case the harm constitutes as less than substantial harm.

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

In this instance the additional of two roof lights to the northern roof pitch cannot be justified as the level of natural light achieved through the existing windows on the south elevation, and the provision of four new rooflights granted in 2018 is deemed sufficient.

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

Similar as above, an optimum viable use for the barn as an extension of a residential dwelling was secured through the original permission. The additional roof lights have caused additional harm and do not deliver any new benefits over the previously approved scheme to justify this.

COMMENTS:

Understanding the significant character and assessing harm:

While assessing the significance of a heritage asset can be subjective, the character is determined by more objective measures including surviving historic fabric, existing features, built form, design, and materials. Traditional agricultural barns are characterised by single volume space, the use of local materials, high solid to void ratio, and random, asymmetric openings and fenestration. The barn at no. 3 High Street is a good surviving example, containing many of these essential characteristics listed, especially when viewed from the principle, north elevation. The south elevation has undergone significant alterations in the past, including the insertion of first

floor windows resulting in the partial loss of agricultural character and appearance in this section. For this reason, retaining the agricultural character of the north elevation is essential.

Roof lights are considered uncharacteristic of most historic buildings, but particularly agricultural buildings. An uncharacteristic feature describes something anachronistic and out of place, a feature which typically would not have existed during the period the structure was built. As the technology which allows rooflights is relatively recent, they are generally considered uncharacteristic in most historic properties. This is especially true for agricultural buildings where the need for natural light was limited. Further, the accommodation of three rooflights rather than one contributes to a planned and symmetrical character of the openings. As stated above, an important character of agricultural buildings is random, asymmetric fenestration which came about because openings were created on an ad hoc basis when needed and not for aesthetic reasons. For these reasons, new rooflights in this context are considered less than substantial harm.

The need to convert agricultural buildings is recognised and facilitating natural light is an essential part of that conversion. That is why four roof lights were permitted in the consent granted in 2018. Three were allowed to the rear/south pitch due to the loss of character sustained when the first floor windows were installed. A further rooflight was allowed to the north pitch in keeping with the character of random fenestration.

CONCLUSION:

The four rooflights granted in 2018 and the existing first floor windows are considered sufficient in terms of the level of natural light achievable for its viable use and conversion. Any additional rooflights would result in unjustifiable harm.

4.2.2 Conservation Manager (Ecology) – No Objections

Having reviewed the requested update information (Brindle and Green letter dated 25th August 2020) from the ecologist responsible for managing the protected species at this site and 'holding' the relevant European Protected Species Licence issued by Natural England, I am satisfied that there are no parts of the proposed variation of plans/designs that will impact protected species and the LPA Ecology has no further comments and no objection to the proposed plans being approved.

On a separate matter to Protected Species considerations above - the development lies within the River Lugg SAC catchment and this variation is subject to a required updated HRA screening assessment in respect of this designated nature conservation site.

Based on supplied information there are no aspects of the proposed variations that would create any changes such as to trigger the more detailed appropriate assessment process. This specific variation proposal can be considered as screened out from any further HRA process and there are NO adverse effects on the integrity of the River Lugg (Wye) Special Area of Conservation identified. Conservation of Habitats and Species Regulations 2017, Part 6, section 63(5)

4.2.3 Conservation Manager (Landscape) – No Objections

4.2.4 Transportation Manager – No Objections

5. Representations

5.1 Weobley Parish Council - Support

Weobley Parish Council wishes to support this application and would support approval as it does not have a visual impact on the dwelling.

- 5.2 No letters of representation have been received in respect of the two applications. However, the Applicant has supplied a petition in support of the scheme. The petition has 95 signatories who have signed in support of the following statement provided by the Applicant;

We, the undersigned, wish to offer our support for granting Listed Building Consent application P201645/L and Planning Application 2022840 ('the scheme') and request that the applications and this petition be referred to Planning Committee. We have visited the site and examined the additional rooflights in-situ. We have also examined the application drawings 1541.5B and 1541.5C.

We are aware of the concerns of HCC Planning Department that the proposal to add two additional rooflights to the street facing roof of the barn attached to No. 3 High Street would cause harm to the character of the listed building and the conservation area. We wish to therefore make the following representations to HCC in support of the scheme;

Impact of the scheme on the character of the building and conservation area;

- 1. The additional rooflights are viewed from the High Street are visually unobtrusive*
- 2. Three rooflights are not excessive in terms of their number, size and arrangement over the roof*
- 3. The number of roof windows positively reflects and enhances the form and construction of the barn, whilst blending well with the roof covering of natural slates and the varied skyline of High Street*
- 4. The high quality of the design, materials and workmanship of the scheme provide enhancement to and contribute to the character of the building and the Conservation Area*
- 5. The scheme therefore meets the requirements of the Weobley Neighbourhood Development Plan WE07 (Protecting Heritage Assets: c) to preserve and enhance the character and appearance of Weobley Conservation Area)*

Environmental justification for the additional roof windows

- 6. Restriction of the scheme to the single rooflight on the street facing roof would provide insufficient natural light to the building such that the use of artificial lighting would be required during daytime use of the building*
- 7. Two additional rooflights will remove the requirement for artificial lighting during daytime use of the building and therefore represents long term sustainable design and development as required in the Neighbourhood Plan WE01 (promoting sustainable development) and WE012 (Sustainable Design in order to reduce carbon footprint)*
- 8. The scheme therefore brings a public benefit in terms of reduction in carbon footprint, the return of the building to a viable residential use and this provides justification for the scheme as required by the National Planning Policy Framework, Paragraph 196 (that the benefits of the scheme be weighed against the 'harm' identified by HCC).*
- 9. Having accepted the change of use of the barn to residential use, it seems unreasonable for HCC Planning Department not to permit the provision of adequate natural light.*

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201645&search-term=201645

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202284&search-term=3%20high%20street%20weobley

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

Procedural Note

- 6.1 It is highlighted to Members of the Committee that the proposed works require consent under different regimes and therefore there are two applications which need to be considered. The first is for Listed Building Consent in accordance with the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990, whilst the second is for Planning Permission in accordance with the provisions of the Town and Country Planning Act (1990). The two applications will be considered in turn.
- 6.2 Members are also advised that the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework (NPPF) require a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The 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 – primarily concerned with the protection of heritage assets - have been reviewed and are entirely consistent with the policies and objectives set out with the NPPF. As such, they can be afforded significant weight.

Assessment of Listed Building Consent Application 201645/L

- 6.3 The main issue to consider in determining the application for Listed Building Consent is the impact of the works upon the building's significance and any features of special architectural or historic interest it possesses.
- 6.4 Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 directs that in considering whether to grant listed building consent for works which affects a listed building or its setting, the Local Planning Authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.5 As well as the duties imposed by Section 16, Section 38 (6) of the Planning and Compulsory Purchase Act 2004 directs that any determination made under the Planning Acts must be carried out in accordance with the development plan, unless material considerations indicate otherwise. In this instance the adopted development plan comprises the Herefordshire Local Plan – Core Strategy (CS) and the Weobley Neighbourhood Development Plan (Weobley NDP). The National Planning Policy Framework ('the Framework') is also a significant material consideration.
- 6.6 In assessing applications for works to heritage assets, the advice set out at Paragraph 193 of the Framework is relevant. This reinforces that great weight should be given to the conservation of a designated heritage asset. The more important the asset, the greater the weight should be. Paragraph 194 goes on to advise that any harm to, or loss of, the significance of designated heritage assets should require clear and convincing justification. At paragraph 195, it states that where substantial harm is identified local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 196 goes on to state that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.7 Policy SS6 of the Core Strategy states that development proposals should be shaped through an integrated approach to planning a range of environmental components from the outset, including

the historic environment and heritage assets. In this regard policy LD4 of the CS is also of relevance, which requires amongst other things to ensure that new developments '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'. Policy SD1 also requires that development proposals take into account the local context and site characteristics. Moreover, new development should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials whilst making a positive contribution to the architectural diversity and character of the area. Policy RA5 is also of relevance in so far as it establishes a number of principles applicable to proposals involving the reuse of rural buildings, as is the case here. Under point 1), the policy requires that design proposals should respect the character and significance of the building. The supporting text to the policy provides guidance that this should be achieved by keeping new openings to a minimum; respecting internal features; and avoiding the introduction of non-traditional features. LD1 requires that schemes are positively influenced by the character of the townscape – particularly within designated areas such as Conservation Areas.

- 6.8 The Weobley NDP recognises the rich heritage of the village and contains a number of heritage orientated policies which are relevant to the current application. Policy WEO1 sets out general principles which apply to the pursuit of sustainable development and this includes that proposals should conserve and enhance the environment within the Parish, particularly its heritage assets and Weobley Conservation Area. Policy WEO7 sets out more detailed requirements for the protection of heritage assets, which includes resisting development which adversely affects the features and settings of listed buildings. It also states that proposals will be supported where they preserve and enhance the character and appearance of the Weobley Conservation Area.
- 6.9 As noted above, Listed Building Consent has recently been granted (P184665/L) for a scheme of works to facilitate the conversion of the barn to residential use. This application was approved in April 2019 as it was considered that the scheme of works represented the best option to deliver a viable new use for the barn whilst minimising the level of intervention and harm caused to the listed building. In terms of the treatment of the northern street-facing roof of the barn, a single roof light was approved at the western end close to where the roof meets the adjoining dwelling. This arrangement preserved the majority of the unbroken roof plane to the north side of the barn which is an important element of its agricultural character; whilst in combination with three roof lights approved to the less prominent rear elevation ensured that sufficient natural light could reach the internal spaces of the barn to facilitate a viable conversion.
- 6.10 It should also be noted that the Applicant sought pre-application advice prior to making application P184665/L. As part of the initial enquiry, a scheme was supplied to the Council for comment which included the provision of three roof lights to the northern roof of the barn (in the manner as have now been installed). The Council's Conservation Manager (Historic Buildings) was however not supportive of this arrangement and offered the following advice;
- '... the proposal to insert three rooflights into the north, high street facing elevation of the barn is too great an impact here, one flush fitting conservation rooflight could be allowed.'*
- 6.11 In response to this advice, two roof lights were omitted from the scheme and the single roof light arrangement described above was approved under P184665/L. The two additional roof lights have nonetheless now been installed unlawfully and without the benefit of the necessary consents.
- 6.12 The first issue for the decision maker to consider therefore is whether the provision of the additional roof lights would have an impact upon the significance of the heritage asset over and above the scheme already approved under P184665/L. The barn in this case has significance as a well preserved example of a traditional barn in the centre of one of the county's historic market towns. It has historical value in that the structure is reflective of past agricultural practices and

that it allows for an understanding of how people of the period lived. The vernacular character and appearance of the barn forms part of this historic value in that it is reflective of the building's original function; whilst also having a degree of aesthetic value for the contribution it makes to the historic character of the settlement. The Council's Conservation Manager (Historic Buildings) has provided a detailed assessment of the building's significance, which can be found at Section 4.2.1 of this report.

- 6.13 As above, the additional roof lights have already been installed to the northern elevation of the barn. A photograph of the roof lights in situ, taken from the opposite side of the High Street, is shown at Figure 3 below:



Figure 3: Roof lights in situ when viewed from northern side of High Street

- 6.14 Traditional agricultural buildings are typically characterised by a simple rectilinear form and a high ratio of solid walls to external openings. Where openings do exist, they are reflective of a functional requirement rather than an aesthetic design choice - meaning they are not typically distributed with an outwards appearance of symmetry or uniformity. With regards to the roof in particular, numerous openings are not typical of historic agricultural buildings as they served limited functional purpose for the practices of the period. Consequently, a typical feature of historic barns and an important part of their character are long and uninterrupted roof planes with an absence of external openings. This feature was readily observable in the subject barn prior to the works being undertaken, as depicted in Figure 4 below;



Figure 4: Subject barn prior to conversion showing an absence of openings to the roof slope

- 6.15 The additional roof lights are considered to be uncharacteristic features which are not reflective of the barn's agricultural vernacular. Their installation has led to further disruption of the unbroken roof slope to its prominent northern elevation and their uniformity is not in keeping with the sporadic distribution of openings which typify traditional agricultural buildings of this nature. As a result, the works have demonstrably eroded the agricultural character of the building – which is a key part of its significance – in favour of an appearance which is much more domestic in nature. The Council's Conservation Manager (Historic Buildings) has undertaken a detailed appraisal of the scheme and the specialist advice received confirms that the additional roof lights lead to harm to the character of the building and the significance of the heritage asset. This is consistent with the advice offered at pre-application stage, where it was explicitly advised that they would have too great an impact to be supported. Now they have been installed and can be observed in situ, the Conservation Manager categorises the harm as being 'less than substantial' in accordance with the principles of the Framework.
- 6.16 With clear harm having been identified in this case, the advice set out at Paragraph 194 of the Framework applies. This states that any harm to the significance of designated heritage assets should require clear and convincing justification, Moreover, Paragraph 196 directs that where 'less than substantial harm' is found, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.17 The assessment of public benefit in this case must be made in the context that a scheme for the conversion of the barn has already been approved under listed building consent P184665/L. This earlier scheme delivered public benefit in that it secured a viable alternative residential use for a disused heritage asset which, in turn, secures its long term preservation. Given that a viable use for the barn has therefore already been secured by the earlier consent, Officers do not consider that this is a benefit which can be assigned to the current proposal. It must consequently be considered what public benefit is achieved over the previous scheme which justifies the additional harm that has been caused by the installation of the two roof lights.
- 6.18 In the view of Officers, the additional roof lights do not deliver any public benefits above the previously approved scheme which serve to justify the harm that has been caused. The earlier conversion scheme was perfectly viable and secured a viable new use for the barn without

causing an unacceptable level of harm to its character and significance. It is noted that the Applicant contends the roof lights deliver benefit by providing natural light to the internal spaces of the barn which will reduce demands for artificial lighting; however Officers consider this contention to be largely without merit. The first floor of the barn is formed of one single space (with a gallery floor at the western end) and adequate natural light was already provided by the four roof lights and floor level windows permitted in the previous scheme. It is also pertinent that the vast majority of the windows and roof lights on the permitted scheme face due south; thereby maximising gains from natural sunlight. In the opinion of Officer's therefore, the space is already adequately served by fenestration and little weight can be given to any claim that omission of the two additional lights would lead to unacceptable living standards for occupants. Likewise, the argument that the two additional roof lights would deliver benefits by reducing energy demand through artificial lighting is also considered to be of limited merit. Any savings in this regard would be negligible and not sufficient to outweigh the harm which has been caused to the heritage asset. Overall therefore, it is not considered that any public benefit is delivered by the proposal to justify the harm it has caused.

- 6.19 In the absence of any public benefit, it follows that the test prescribed by Paragraph 196 is failed. The scheme leads to harm to the significance of the heritage asset which is without clear and convincing justification. Consequently, the scheme is contrary to policies SS6, LD4, RA5, and SD1 of the Herefordshire Local Plan Core Strategy; policies WEO1 and WEO7 of the Weobley Neighbourhood Development Plan and the principles established by Chapter 16 of the National Planning Policy Framework. Approval of the scheme would also be contrary to the Council's duties under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building and the features of special historic interest which it possesses.
- 6.20 Accordingly, it is recommended that listed building consent be refused for the reason set out at the end of this report.

Assessment of Planning Application 202284/F

- 6.21 The second application is made under the provisions of Section 73 of the Town and Country Planning Act (1990) and seeks to vary the approved plans under extant planning permission P184664/F. The proposed amendments are the same as those subject to the listed building consent above and are limited to the addition of the two roof lights to the northern elevation.
- 6.22 The most pertinent matters to consider in determining the application are the effect of the variation upon the character of the listed building and the surrounding townscape, which is designated as a Conservation Area.
- 6.23 In this regard, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority should "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".
- 6.24 Similarly, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states "with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".
- 6.25 These duties are manifested through the policies of the development plan and the guidance of the National Planning Policy Framework. For brevity, the policy context set out at Sections 6.1.4 to 6.1.6 of this report are equally applicable to the associated planning application and therefore they are not rehearsed again.

- 6.26 Of additional note, however, are the policies of the development plan relevant to development within Conservation Areas. From the Core Strategy, policies LD4 and LD1 broadly require that proposals contribute to the character and local distinctiveness of the townscape and wider environment; especially within Conservation Areas. From the Weobley Neighbourhood Plan, policy WEO8 sets out a range of detailed requirements for development within the Conservation Area. Amongst other things, this requires that development should preserve and enhance the designated area by respecting the village's historical evolution and by utilising features which contribute to its character. It also requires that development should contribute positively to the Conservation Area by utilising high quality design which incorporates traditional building features present within the village.
- 6.27 In considering an application which seeks amendments to an extant permission, Paragraph 130 of the Framework is also applicable. This directs that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion as a result of changes being made to the permitted scheme.
- 6.28 As identified in the earlier section of this report, it is considered that the provision of the additional roof lights lead to harm to the character and significance of the listed building which is without justification. The same conclusion applies in respect of the planning application and the proposal is thus contrary to development plan policies SS6, LD4, RA5, SD1, WEO1 and WEO7, as well as the principles established by the Framework, in this regard.
- 6.29 In terms of the impact of the proposal upon the Conservation Area, the subject barn is situated in a prominent location off High Street at the outer edge of the village centre. The barn makes a positive contribution to the character of the Conservation Area and contributes to the significance of the designated asset by reflecting the historic evolution and function of the village. The agricultural character of the barn and its position near the centre of the village is particularly significant here as it reflects a time when agricultural uses more commonly permeated the historic village core. It is important that any proposal ensures that this positive contribution is maintained and that any undue harm to the character of the Conservation Area is avoided.
- 6.30 As already identified, the additional roof lights introduce further non-traditional features to the barn in a manner which domesticates its appearance and erodes its defining agricultural character. This not only harms the significance of building itself, but also diminishes the positive contribution which the barn makes to the character and appearance of Conservation Area within which the building is located. The erosion of the barn's agricultural character means that the historic function of the building is less clearly legible which, in turn, is detrimental to the building's role and value in understanding the historic evolution of Weobley. The scheme therefore fails to preserve and enhance the asset of the Conservation Area in the manner required by policies LD4, LD1 and WEO8.
- 6.31 Moreover, an examination of the site's context shows that roof lights are not a common feature within this part of the Conservation Area. Whilst a few examples are observable on the fringes of the village centre, there is a distinct absence of such features within more prominent and historic central areas such as High Street or Broad Street; which is reflective of the fact that they are not a traditional feature but a relatively modern architectural practice. Their introduction in the quantum that has been installed here therefore appears as a largely alien feature which is incongruous with the historic townscape and roofscape of the village centre, leading to further harm to the Conservation Area. The harm caused in this regard is also exacerbated in the hours of darkness, where the glow of internal lighting increases the prominence of the roof lights with the street scene further. Further tension with LD4, LD1 and WEO8 therefore arises.
- 6.32 Drawing these elements together, it is considered that the proposal leads to harm to the Grade II listed building and to the Weobley Conservation Area. The harm in this regard is considered to be 'less than substantial' in accordance with the principles of the Framework. Paragraph 196 therefore directs that this harm should weighed against the public benefits of the proposal.

- 6.33 As previously, the assessment of public benefit must be made in the context that the proposal is sought as an amendment to the extant planning permission for the conversion of the barn under P184664/F. The original permission has already secured a viable residential use for the barn and therefore this is not considered to be a benefit which can be attributed to the current proposal. Rather, it must be considered what public benefit is achieved by the amendment over the previous scheme which justifies the additional harm that has been caused.
- 6.34 In the view of Officers, the proposed amendment does not deliver any public benefits over and above the previously approved scheme which serves to justify the additional harm that has been caused. The reasons for drawing this conclusion are set out at Section 6.1.5 of this report. The test prescribed by Paragraph 196 of the Framework is thus failed and there is no clear and convincing justification for the harm which has been identified.
- 6.35 Moreover, given that the proposed amendment leads to harm which would not otherwise occur if the scheme were implemented in accordance with the details already approved under the extant permission, the proposal is also in direct conflict with Paragraph 130 of the Framework. This explicitly directs that Local Planning Authorities should ensure that the quality of approved development is not materially diminished between permission and completion as a result of changes being made to the permitted scheme.
- 6.36 Issues of heritage and character aside, the proposed variation does not give rise to any other material planning implications over and above the extant scheme. The alternative proposal has for instance ensured that adequate provision remains for the protection and enhancement of protected species which may be impacted by the conversion and the Conservation Manager (Ecology) consequently does not object to the amendment. The provision of additional fenestration does not give rise to any residential amenity issues and no other adverse comments have been received from relevant consultees.
- 6.37 In summary, the proposed amendment represents a material diminishment to the quality of the approved scheme and leads to additional harm to the significance of the listed building and the Conservation Area which is without justification or public benefit. Consequently, the scheme fails to fulfil the duties imposed by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and is contrary to policies SS6, LD4, RA5, and SD1 of the Herefordshire Local Plan Core Strategy and policies WEO1, WEO7 and WEO8 of the Weobley Neighbourhood Development Plan. Moreover, in light of the unjustified harm to designated heritage assets which has been identified the Framework clearly directs that planning permission should be refused.
- 6.38 As such, the proposal is not considered to be representative of sustainable development and therefore does not benefit from the positive presumption enshrined in the Framework. It is accordingly recommended that planning permission be refused for the reason set out below.

RECOMMENDATION

That Listed Building Consent Application 201645/L be refused for the following reasons

- 1. The installation of two additional roof lights to the northern elevation of the barn introduces further domestic features in a prominent location which erodes the special agricultural character of the barn and is consequently harmful to its historic value and significance as a Grade II listed building. The works do not deliver any public benefits which would outweigh or justify the harm which has been identified in this regard. Having regard to the duties imposed by Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal fails to respect and preserve the buildings historic character and features and is thus contrary to policies SS6, LD4, RA5 and SD1 of the Herefordshire Local Plan Core Strategy; policies WEO1 and WEO7 of the Weobley Neighbourhood**

Development Plan; and the principles established by Chapter 16 of the National Planning Policy Framework.

That Planning Permission Application 202284/F be refused for the following reason

1. The installation of two additional roof lights to the northern elevation of the barn introduces further domestic features which erode the special agricultural character of the Grade II listed building and appear as being out of keeping with the character and appearance of the surrounding Conservation Area. The proposed amendment therefore represents a material diminishment to the quality of the approved scheme and leads to harm to the character of the area and the significance of designated heritage assets which is without justification or public benefit. Consequently, the scheme fails to fulfil the duties imposed by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and is contrary to policies SS6, LD4, RA5, and SD1 of the Herefordshire Local Plan Core Strategy; policies WEO1, WEO7 and WEO8 of the Weobley Neighbourhood Development Plan; Chapter 12 and 16 of 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 and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason for the refusal, approval has not been possible.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 201645

SITE ADDRESS : 3 HIGH STREET, WEOBLEY, HEREFORD, HEREFORDSHIRE, HR4 8SL

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Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

