

Agenda

Planning and regulatory committee

Date: **Wednesday 15 March 2023**

Time: **10.00 am**

Place: **The Kindle Centre, Belmont Road, Hereford, HR2 7JE**

Notes: Please note the time, date and venue of the meeting. Please access the following link for the live webcast of the meeting:
[Planning and regulatory committee - Wednesday 15 March 2023 10.00 am](#)

For any further information please contact:

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Agenda for the meeting of the Planning and regulatory committee

Membership

Chairperson	Councillor Terry James
Vice-chairperson	Councillor Paul Rone
	Councillor Paul Andrews
	Councillor Polly Andrews
	Councillor Dave Boulter
	Councillor Sebastian Bowen
	Councillor Clare Davies
	Councillor Elizabeth Foxton
	Councillor John Hardwick
	Councillor Tony Johnson
	Councillor Mark Millmore
	Councillor Jeremy Milln
	Councillor Felicity Norman
	Councillor Ann-Marie Probert
	Councillor Yolande Watson

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 - 24
To approve the minutes of the meeting held on 8 February 2023.	
5. CHAIRPERSON'S ANNOUNCEMENTS	
To receive any announcements from the Chairperson.	
6. 214619 - LAND TO THE NORTH-WEST OF WESTHIDE, WESTHIDE, HEREFORDSHIRE, HR1 3RQ	25 - 70
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7. 222295 - AGRICULTURAL BUILDING, ADJACENT BERRINGTON BOWER, MARDEN, HEREFORD, HEREFORDSHIRE, HR1 3EY	71 - 88
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8. 222316 - LAND AT FOXHALLS FARM, SOLLERS HOPE, HEREFORDSHIRE, HR1 4RN	89 - 102
Erection of an agricultural workers dwelling, including a new garage and associated works.	
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10. DATE OF NEXT MEETING	
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The Public's Rights to Information and Attendance at Meetings

In view of the continued prevalence of covid-19, we have introduced changes to our usual procedures for accessing public meetings. These will help to keep our councillors, staff and members of the public safe.

Please take time to read the latest guidance on the council website by following the link at www.herefordshire.gov.uk/meetings and support us in promoting a safe environment for everyone. If you have any queries please contact the Governance Support Team on 01432 261699 or at governancesupportteam@herefordshire.gov.uk

We will review and update this guidance in line with Government advice and restrictions. Thank you very much for your help in keeping Herefordshire Council meetings a safe space.

YOU HAVE A RIGHT TO: -

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

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Members of the public are advised that if you do not wish to be filmed or photographed you should let the governance services team know before the meeting starts so that anyone who intends filming or photographing the meeting can be made aware.

The reporting of meetings is subject to the law and it is the responsibility of those doing the reporting to ensure that they comply.

The council may make an official recording of this public meeting or stream it live to the council's website. Such recordings form part of the public record of the meeting and are made available for members of the public via the council's web-site.

Public transport links

The Kindle Centre is located on the Asda Supermarket site off Belmont Road in Hereford, approximately 1 kilometre from the City Bus Station. Bus stops are located along Belmont Road.

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 Terry James (Chairperson)	Liberal Democrat
Councillor Paul Rone (Vice Chairperson)	Conservative
Councillor Paul Andrews	Independents for Herefordshire
Councillor Polly Andrews	Liberal Democrat
Councillor Dave Boulter	Independents for Herefordshire
Councillor Sebastian Bowen	True Independents
Councillor Clare Davies	True Independents
Councillor Elizabeth Foxton	Independents for Herefordshire
Councillor John Hardwick	Independents for Herefordshire
Councillor Tony Johnson	Conservative
Councillor Mark Millmore	Conservative
Councillor Jeremy Milln	The Green Party
Councillor Felicity Norman	The Green Party
Councillor Ann-Marie Probert	Conservative
Councillor Yolande Watson	Independents for Herefordshire

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 service director, regulatory, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- (f) the application, in the reasonable opinion of the service director, regulatory, 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 service director, regulatory, 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 chairperson'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 chairperson 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: Those registered to speak in accordance with the public speaking procedure are able to attend the meeting in person to speak or participate in the following ways:

- *by making a written submission (to be read aloud at the meeting)*
- *by submitting an audio recording (to be played at the meeting)*
- *by submitting a video recording (to be played at the meeting)*
- *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 and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

Minutes of the meeting of Planning and regulatory committee held at The Kindle Centre, Belmont Road, Hereford, HR2 7JE on Wednesday 8 February 2023 at 10.00 am

Present: Councillor Paul Rone (vice-chairperson)

Councillors: Paul Andrews, Polly Andrews, Dave Boulter, Sebastian Bowen, Elizabeth Foxton, John Hardwick, Mark Millmore, Jeremy Milln, Felicity Norman, Ann-Marie Probert, Nigel Shaw, Kevin Tillett and Yolande Watson

In attendance: Councillors Jonathan Lester and William Wilding

Officers: Lead Development Manager, Development Manager - North Team, Development Manager - Majors Team and Legal Representative

64. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Clare Davies, Terry James and Tony Johnson.

65. NAMED SUBSTITUTES (IF ANY)

Councillor Kevin Tillett acted as a substitute for Councillor James.
Councillor Nigel Shaw acted as a substitute for Councillor Johnson.

66. DECLARATIONS OF INTEREST

Councillor John Hardwick declared an other interest in respect of agenda item no. 6, application 220370, Woodfields Fruit Ltd; the applicant was a known associate.

Kevin Bishop declared an other interest in respect of agenda item no. 7, application 221177, Sheepcotts; the applicant was a known associate.

67. MINUTES

RESOLVED: That the minutes of the meeting held on 18 January be approved.

68. 220370 - WOODFIELDS FRUIT LTD, WOODFIELDS WESTON UNDER PENYARD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7PG

The principal planning officer gave a presentation on the application.

In accordance with the criteria for public speaking; a statement was read on behalf of Weston-under-Penyard Parish Council; a statement was read on behalf of Mrs Reynolds, local resident, in objection to the application; and Mrs Joseph, the applicant's agent, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. In summary he explained that the application impacted on existing rights of way across the site; if the application was approved footpaths should be diverted. Residents in the local Dairy Cottages had complained of noise from the site; the relocation of the welfare block would not

reduce the level of noise experienced by local residents. The green buffer zone was supported but there was concern workers would congregate in the area during warmer weather and cause noise, affecting local residents. The proposed barbecue area should be enlarged and covered to encourage the workers to congregate away from the Dairy Cottages. The noise management plan needed to include more detail of the monitoring that would take place and whether staff would be available to deal with complaints from local residents when they occurred. There was concern regarding waste water on the site; the smell of sewage was evident in summer. The state of the road to the site was in a poor condition.

The committee debated the application.

The local ward member was given the opportunity to close the debate. He explained concern regarding: the re-siting of the welfare block, noise from which would have an impact on local residents; the possibility of overflowing sewage; the increase in the number of caravans in the application; and the requirement for a diversion of public rights of way on site.

A motion that the application be deferred and a delegation be provided to offices to finalise the noise management plan was proposed by Councillor Felicity Norman and seconded by Councillor Sebastian Bowen. The motion was put to the vote and was lost by simple majority.

A motion that the application be approved in accordance with the case officer's recommendation but with a time limited period of 5-years for the permission, after which time a review of the effectiveness and implementation of the noise management plan would be undertaken, was proposed by councillor Nigel Shaw and seconded by councillor Paul Andrews. The motion was put to the vote and was carried by a simple majority.

RESOLVED:

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

1. Time

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. Approved Plans

The development shall be carried out strictly in accordance with the approved plans and materials:

- **Location Plan: Drg No 1418/5**
- **Proposed Site Plan: Drg No 1418/1/B**
- **Plan of existing footpaths**
- **Landscape Strategy: Drg No: 21300.101 D**
- **Proposed staff welfare unit and Cold Store Rev B**

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.

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:

- i) A method for ensuring mud is not deposited onto the Public Highway
- ii) 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 Policy Framework

4. Development shall not begin until an implementation programme setting out details of the:

- phasing of the caravan siting (relocation of caravans from Rock Farm and existing caravans on site)
- erection and occupation of the welfare building
- implementation of the noise management plan

shall be submitted work submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the 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

Pre Occupation Conditions

5. Resiting / Removal of existing mobile homes

Prior to the occupation of the 30th mobile home hereby approved the mobile homes as detailed on location plan shall be removed and land reinstated as detailed on landscaping plan (21300.101 rev D).

Reason: To define the terms of permission as presented and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

6. PROW/Siting of mobile homes

Prior to occupation of any of the caravans/mobile homes hereby permitted and while awaiting the public right of way diversion order the caravans shall be sited as shown on plan 1418/1 rev B (proposed site plan).

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.

7. Cycle Parking Provision

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 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.

8. Travel Plan

Prior to the first occupation/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.

9. Landscape Biodiversity Management Plan

Before the development is first occupied, a landscape biodiversity management plan and maintenance plan for a period of 10 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

10. Ecology Plan

The ecological protection, mitigation, compensation and working methods scheme and the Habitat Protection and Biodiversity Enhancement Plan, as recommended in the two reports by J Lomas both dated May 2020 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policy LD2

- 11. The caravans / seasonal workers mobile homes hereby permitted shall be permanently removed from the site within 5 years of commencement of the start of this permission (the applicant shall notify the Local Planning Authority in writing no less than 14 days before the commencement of the development to determine the date of commencement as detailed in condition 4) and the land shall be restored to its former condition in accordance with details to be agreed in writing with the Local Planning Authority beforehand.**

Reason: To enable the Local Planning Authority to retain effective control over the site and to reassess noise and disturbance of the site workers accommodation having regard to the requirements of policies SD1 of the Herefordshire Local Plan Core Strategy and SB1 of the made Weston Under Penyard NDP and the guidance contained within the National Planning Policy Framework.

- 12. Occupation restriction**

The occupation of the caravan/ mobile homes hereby approved shall be limited to persons solely employed in agriculture and associated activities on land owned or farmed by Woodfield Farms Ltd and BH Savidge and Son.

Reason: Planning permission has only been granted having consideration for the needs of the agricultural enterprise operating at Woodfield Farms Ltd and to maintain control over the scale of the accommodation provided in order to clarify the terms of this planning permission to conform with Policies RA3, RA4 and RA6 of the Herefordshire Local Plan Core Strategy, the and the guidance contained within the National Planning Policy Framework.

- 13. Occupation**

Each caravan will have a maximum capacity for up to four people.

Reason: To safeguard the character and amenities of the area and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 14. Occupation**

No more than 236 no. people shall be resident on the application site.

Reason: To safeguard the character and amenities of the area and to

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

15. Noise Management

The operation / use of the premises shall be undertaken in accordance with the details contained within the Noise Management Plan submitted with this application (the Site Management noise Plan submitted Referenced as Woodfields campsite noise management plan dated October 2022).The Noise Management Plan shall be reviewed, and the review recorded in writing (acknowledging any complaints, concerns, actions or training recorded) that have arisen) annually thereafter by 1 March in each successive year. Any alteration to the Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority before being implemented. The noise management plan shall be implemented in line with timings submitted and confirmed within the phasing plan (condition 4).

Reason: To ensure that there is sufficient and adequate noise mitigation in place, and that there is flexibility to address concerns as they arise, in the interests of amenity in accordance with the requirements of policy SD1 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework

16. Colour of caravans

The caravans located on the edge on the site next to the Northern site boundary shall be painted with an Ardenne (RAL 7022) or Olive Green (BS12B27 or RAL 1000 30 20) colour and the roofs repainted with an Anthracite (RAL 7016) colour prior to occupation and thereafter maintained as such.

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.

17. Removal of Caravans

In the event that the caravans hereby permitted become redundant for purpose the caravans and all other associated development shall be removed and the land re-instated to its original condition within nine months.

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 and RA3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

18. Lighting

At no time shall any external lighting, except low power (under 550 lumens), 'warm' LED lighting in directional down-lighters on motion operated and time-limited switches, that is directly required in relation to the immediate safe use of the approved worker accommodation be installed or operated in association with the approved development and no permanently illuminated external lighting shall be operated at any time, without the written approval of this Local Planning Authority.

Reason: To ensure that all species and local intrinsically dark landscape

are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3.

19. Drainage

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

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

20. Drainage

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following document: Flood Risk Assessment and Drainage Statement document reference: 4640-peny-ics-xx-rp-c-07.001 dated 31 January 2022

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

21. Landscape Implementation

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan: Landscape Strategy Proposals. All planting, seeding or turf laying in the approved landscaping scheme shall be carried out in the first planting season following the occupation of the first caravan or the completion of the development, whichever is the sooner.

Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

Reason: To ensure 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.

22. Implementation of one permission only

This permission shall be implemented only in lieu of and not in addition to, the planning permission 200444 granted 15 October 2020.

Reason: To define the terms of this permission, having regard to submitted information and in the interests of amenity and the impact upon landscape character of the area having regard to policies SS6, LD1 and SD1 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework

23. No conversion of Welfare Block to habitable accommodation

The building hereby approved shall only be used for the stated purpose and shall at no time be converted to, or used as, habitable accommodation. Reason: Having regard to Policy RA3 of the Herefordshire Local Plan – Core Strategy, Policy H2 of the Weston under Penyard Neighbourhood Development Plan and the National Planning Policy Framework the local planning authority are not prepared to allow the introduction of a separate unit(s) of residential accommodation in this rural location.

Reason: Having regard to Policy RA3 of the Herefordshire Local Plan – Core Strategy, Policy H2 of the Weston under Penyard Neighbourhood Development Plan and the National Planning Policy Framework the local planning authority are not prepared to allow the introduction of a separate unit(s) of residential accommodation in this rural location.

INFORMATIVES:

- 1. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com**
- 2. The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water to establish the location and status of the apparatus. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times**
- 3. It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.**
- 4. It is the responsibility of the developer to arrange for a suitable outfall or discharge point. It cannot be assumed that the highway drainage system can be used for such purposes.**
- 5. In connection with Condition 8 the applicant is advised that advice on its formulation and content can be obtained from the Sustainable Travel Officer, Herefordshire Council Transportation Unit, PO Box 236, Plough Lane, Hereford HR4 0WZ**
- 6. The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.**

7. **A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under Section 257 of the Town and Country Planning Act 1990 provided that the Order is made before the development is carried out. If the right of way is obstructed before the Order is made, the Order cannot proceed until the obstruction is removed.**
8. **The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as all Bat species, Great Crested Newts, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained.**

There was an adjournment at 11:13 a.m.; the meeting reconvened at 11:25 a.m.

Cllr Yolande Watson joined the meeting at 11:25 a.m.

Kevin Bishop left the meeting at 11:25 a.m.

69. 221177 - SHEEPCOTTS, ULLINGSWICK, HEREFORDSHIRE, HR1 3JQ (Pages 11 - 12)

The development manager north team gave a presentation on the application and updates/representations received following the publication of the agenda as provided in the update sheet and appended to these minutes.

In accordance with the criteria for public speaking Mr Tompkins, the applicant’s agent, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. In summary, he explained that he was unable to support the application due to the size and scale of the development and its impact on the landscape. The judgement as to whether the development was outstanding, as defined paragraph 80(e) of the National Planning Policy Framework (NPPF), was a subjective determination for the committee to make. The application was felt to be contrary to core strategy policies SS1, SS2, LD1, RA3 and also contrary to the Neighbourhood Development Plan.

The committee debated the application.

The local ward member was given the opportunity to close the debate, he explained that due to the size and scale of the development, its impact on the Landscape was unacceptable.

A motion that the application be approved in accordance for the case officer’s recommendation was proposed by Councillor John Hardwick and seconded by Councillor Dave Boulter. The motion was put to the vote and was lost by simple majority.

A motion that the application be refused for those reasons set out below was proposed by Councillor Yolande Watson and seconded by Councillor Jeremy Milln. The motion was put to the vote and was carried by a simple majority.

The proposal represents new residential development in the open countryside. By virtue of its design and scale it is not considered to be of outstanding design or in keeping with the character of the locality, leading to adverse harm upon the character and appearance of the area. As such, the proposal does not comply with the principles of Paragraph 80(e) of the National Planning Policy Framework and is not considered to be representative of sustainable development, contrary to Policies SS1, SS2, SS3, SS7, RA2, RA3, LD1, LD3 and SD1 of the Herefordshire Local Plan – Core Strategy and Policy OPG2 of the Ocle Pychard Group Neighbourhood Development Plan.

As a result of the scale of development proposed, the scheme will result in the loss of good to moderate agricultural land, contrary to Policies SS7 and RA6 of the Herefordshire Local Plan – Core Strategy.

RESOLVED – that planning permission is refused for the following reasons:

The proposal represents new residential development in the open countryside. By virtue of its design and scale it is not considered to be of outstanding design or in keeping with the character of the locality, leading to adverse harm upon the character and appearance of the area. As such, the proposal does not comply with the principles of Paragraph 80(e) of the National Planning Policy Framework and is not considered to be representative of sustainable development, contrary to Policies SS1, SS2, SS3, SS7, RA2, RA3, LD1, LD3 and SD1 of the Herefordshire Local Plan – Core Strategy and Policy OPG2 of the Ocle Pychard Group Neighbourhood Development Plan.

As a result of the scale of development proposed, the scheme will result in the loss of good to moderate agricultural land, contrary to Policies SS7 and RA6 of the Herefordshire Local Plan – Core Strategy.

The meeting ended at 12.47 pm

Chairperson

221177 - ERECTION OF 1 NO. DWELLING OF OUTSTANDING DESIGN AND ASSOCIATED WORKS INCLUDING ACCESS, LANDSCAPING, OUTBUILDINGS, INFRASTRUCTURE, LAKE CREATION AND OTHER ENGINEERING WORKS AT SHEEPCOTTS, ULLINGSWICK, HEREFORDSHIRE, HR1 3JQ

For: Mr & Mrs Perry per Mr Matt Tompkins, Lane Cottage, Burghill, Hereford, Herefordshire HR4 7RL

ADDITIONAL REPRESENTATIONS

Officers are aware that committee members have received direct email correspondence from two objectors asking them to refuse planning permission. The correspondence does not raise any new issues. It reiterates views previously expressed that the proposal does not accord with Paragraph 80 of the NPPF, that it will not significantly enhance landscape setting, that the application states that the proposal will have a minor to moderate negative effect when viewed from a nearby bridleway and therefore cannot be considered to enhance the landscape setting and that it will increase light pollution.

OFFICER COMMENTS

The matters referred to in the correspondence are dealt with in detail in the appraisal section of the officers report

CHANGE TO RECOMMENDATION

No change to the recommendation

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	15 March 2023
TITLE OF REPORT:	<p>214619 - THE INSTALLATION OF GROUND MOUNTED SOLAR PHOTOVOLTAIC ARRAY, TOGETHER WITH ASSOCIATED INFRASTRUCTURE, SECURITY FENCING, CCTV, LANDSCAPING, ONSITE BIODIVERSITY NET GAIN AND PERMISSIVE RIGHTS OF WAY AT LAND TO THE NORTH-WEST OF WESTHIDE, WESTHIDE, HEREFORDSHIRE, HR1 3RQ</p> <p>For: Ersun (Westhide SPV) Ltd per Mrs Clare Hillier-Brown, 1 Naish Farm, Broadway, Chilcompton, Radstock BA3 4ST</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=214619&search-term=214619
Reason Application submitted to Committee - Redirection	

Date Received: 20 December 2021 Ward: Hagley Grid Ref: 357629,244313
Expiry Date: 30 September 2022
 Local Members: Cllr Jonathan Lester & Cllr Paul Andrews

1. Site Description and Proposal

SUMMARY

- 1.1 This application was submitted on the 20th December 2021 and seeks permission for a solar generating facility on land to the North West of the small settlement of Westhide. Throughout the application process the proposal has been amended to respond to comments and representations received during consultations. On its original submission the scheme presented would have had a generating capacity of 34.6 megawatts (MW). However, the proposal now for consideration is a solar development generating facility with a capacity of 25.1 MW from 45,684 individual solar panels.

SITE DESCRIPTION

- 1.2 Westhide is a small rural parish located between the Hereford to Worcester Road (A4103) and the Bromyard Road (A465), 6 miles northeast of Hereford. The village of Withington is located approximately 2 miles north-east of Westhide and the small village of Ocle-Pychard (Burley Gate) to the north. The Church of St Bartholomew is in the centre of the parish with residential properties clustered around it. The Wellington Neighbourhood Development plan identifies 33 existing dwellings within the parish. The route of the former Herefordshire and Gloucestershire canal forms the northern boundary of the parish, with the elevated Westhide Wood and Shucknall Hill forming the southern boundary.

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

- 1.3 The application site extends to 152.5 acres (61.7ha) of agricultural land located to the north of the C1131 highway between the village of Withington and small settlement of Westhild. The site consists of a network of 8 arable fields bounded by hedgerows and woodlands. There are several mature trees within the fields and hedgerows, as well as ponds. The site is bound to the north-west and north-east by the disused Herefordshire and Gloucestershire Canal, and to the west by woodland. To the east and south lies further agricultural land.

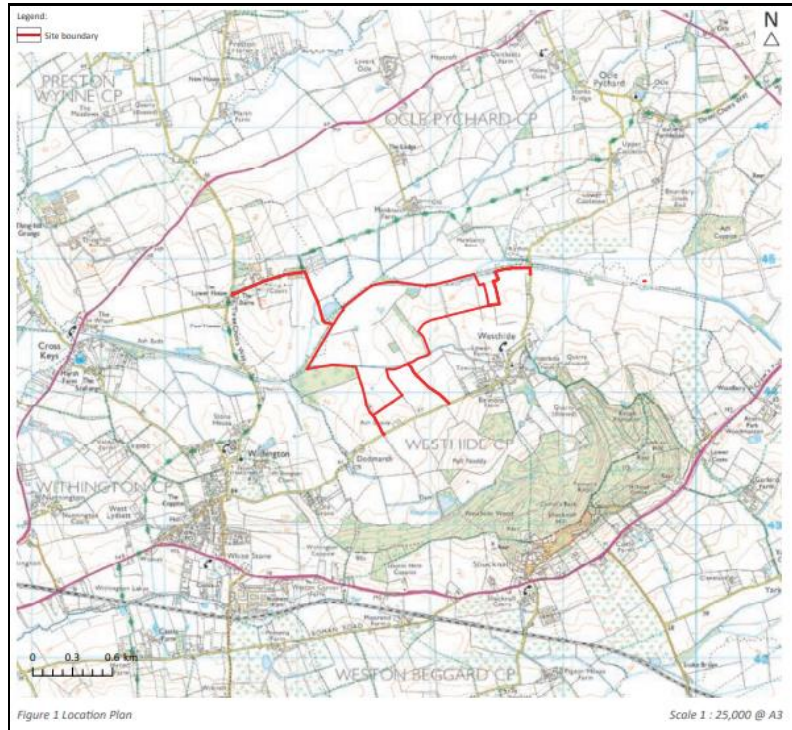


Figure 1 from the LVIA submitted in support of the application



Aerial image of application site and surrounding area taken from Google Earth

- 1.4 The local landscape is considered to be low lying with the topography of the site consisting of a gentle slope in a northern direction down towards the canal route. The land rises to the south on

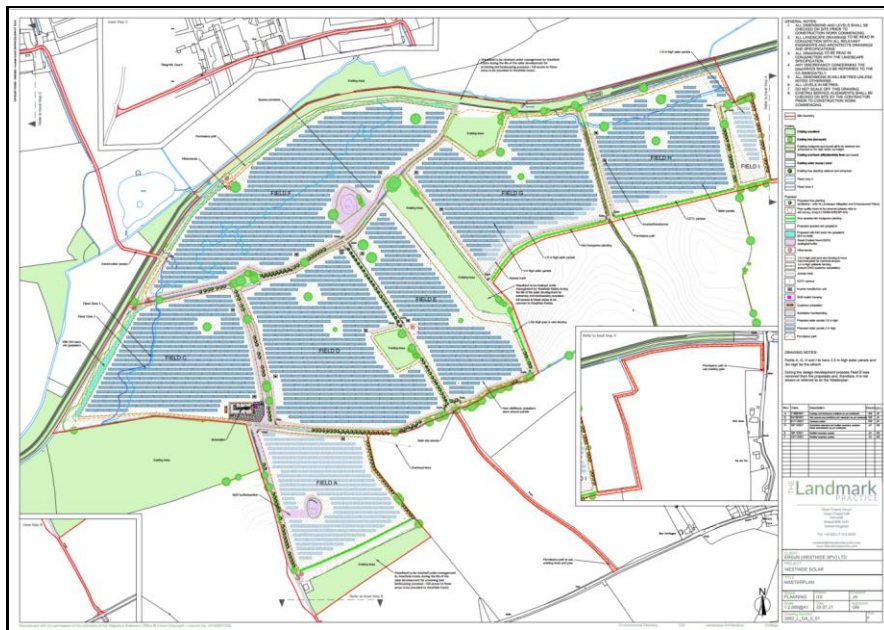
Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

the opposite side of the C1131 towards the local high point of Westside Wood and Shucknall Hill. The primary watercourse is the River Frome, which is located 2.5km to the south of the site.

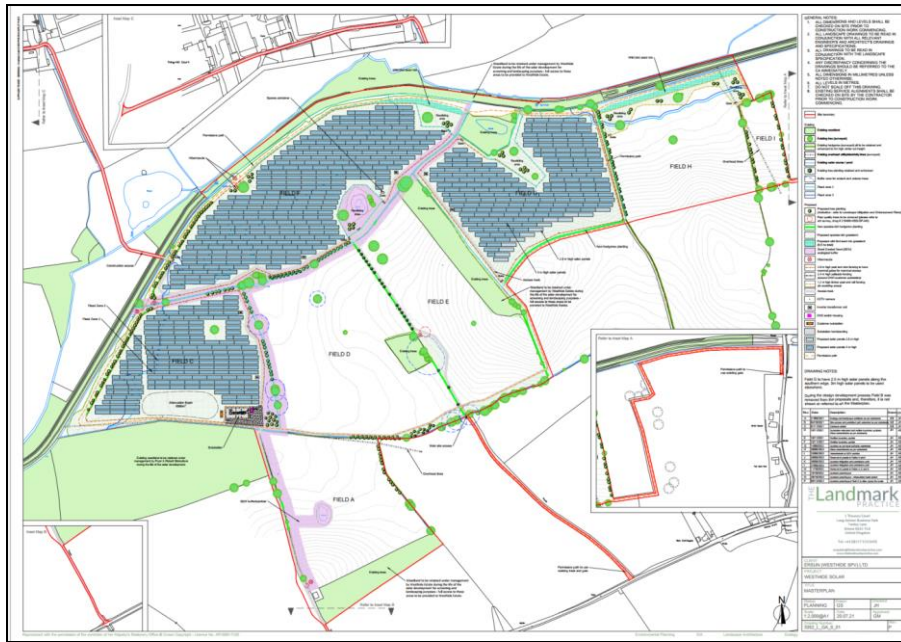
- 1.5 The nearest Listed Buildings to the site are those in the settlement of Westside, approximately 400m south-east of the site, which includes the Grade I listed Church of St Bartholomew and the Grade II listed Post Office. Withington Conservation Area lies approximately 600m to the south-west, which also contains a number of listed buildings.
- 1.6 There are only a few PRoW near to the site, the closest being PRoW OP10 at the residential property of The Kymin, 260 m to the north-east, which connects with the Three Choirs Way to the north. The Three Choirs Way travels around the western and northern edges of the site at a distance of 360m - 440m from the site boundary. At Westside, to the south-west, there are two PRoW which run from the village up to higher ground to the south-east towards Shucknall Hill.
- 1.7 Most of the site is identified within the Environment Agency flood map as Flood Zone 1, which is an area having low probability of flooding. However, the northern extent of the site which adjoins the former canal route is within Flood Zone 2 and 3.

PROPOSAL

- 1.8 The proposal consists of a solar generating facility with a capacity of 25.1 MW comprising 45,684 individual solar panels (arranged in several arrays) and associated infrastructure including security fencing, CCTV cameras, and internal access track, underground cabling, inverters, substation and environmental enhancement measures. For clarification purposes the change in the scale of the proposal which has occurred during the application process is shown in the two master plans below. The first showing the proposal on its original submission, and the second the amended scheme under consideration.

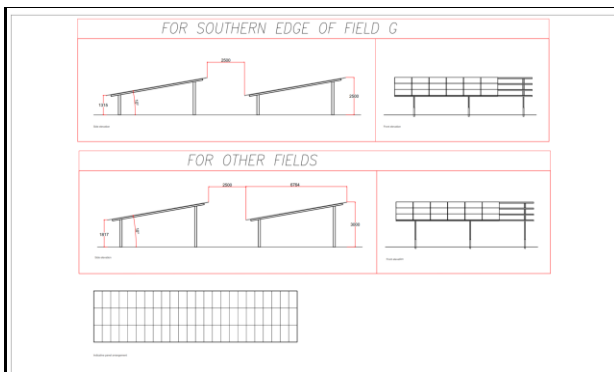


SUPERSEDED Masterplan – 3352 L GA) 01 Rev F

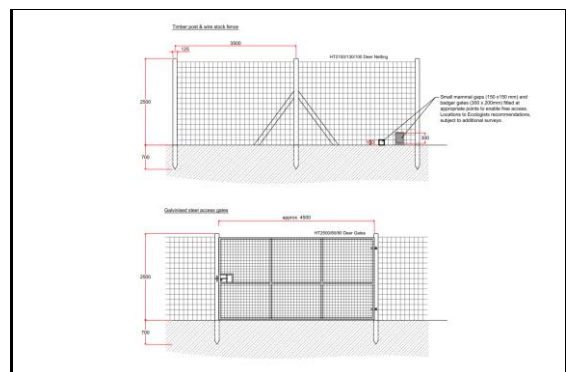


AMENDED Masterplan – 3352 L GA 0 01

- 1.9 The proposed amendments removed panels from fields A,D,E and H and were made largely to address concerns raised in respect of the use of the Best and Most Versatile Land (BMV). These fields are now to be retained for arable use, however are still identified within the application site due to proposed landscape mitigation and biodiversity enhancement.
- 1.10 The scheme now presented is for the installation of panels across 3 fields (fields C, F and G). Each of the fields will be fenced individually with 2.5m high security fencing. A 6000m² attenuation basin is included in field C with a depth of 1.5m to restrict the surface water runoff from the site before being discharged into the nearby ditch/watercourse.
- 1.11 Also within field C is the proposed substation compound, covering an area of 46 x 24m and containing a transformer, high level disconnecter and control room. The compound is to be surrounded with a 2.4 m high security fence and an additional 2m high stock proof fence. The infrastructure within the compound does not exceed 5.6m high. A DNO relay/control room is located outside of the compound which will measure 6 x 2.4m and have a height of 2.5m
- 1.12 The electricity to be generated from the solar photovoltaic arrays will be fed directly into the National Grid via the Hereford substation at Dormington. The solar scheme would generate around 26,385MWh of electricity every year which equates to the amount of electricity used by 9,098 typical, medium – usage households. The baseline route of cabling for the connection falls outside of the planning process, however the applicant has confirmed that the route avoid the local road networks and villages and will consist of underground trenches and connections to existing electricity poles.



PV Mounting System – 3352 P DT 3 01 Rev B



Fence & Access details – 3352 P DT 3 02

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

- 1.13 The solar panels will be mounted in rows across the site in an east – west orientation to face south at 10 degrees from the horizontal to maximise efficiency. The panels will be mounted on a galvanised steel frame. The height of the panels will be 3m, other than at the southern edge of field G where the height of the panels will not exceed 2.5m.
- 1.14 A total of 5 inverters are now proposed, all positioned within the centre of the site, and measuring 2.8 x1.5m with a height of 2.3m. The Inverters consists of an electrical converter which changes the direct current electricity captured by solar panels into alternating current, which is the standard flow of electricity required for electrical circuits.
- 1.15 In addition to the fencing, it is proposed that 3m high security poles are, installed inside and around the site. The CCTV system operates by infrared which will avoid the need for floodlighting. The development will not require any external lighting during the operational phase.
- 1.16 A new access route is proposed for construction traffic only via the farmstead of Thinghill Court to the northwest for the site. Construction of the development is expected to take 25 weeks. Construction traffic will access the site via the A465 and the C1130, egressing via Thinghill Lane onto the A465, forming a one –way routing arrangement. The proposed track leads from the existing agricultural facility at Thinghill Court and runs across 3 fields to join an existing access point to the north of the site across the former canal. There will be an inconsistent flows of vehicle movements during the construction period, however, on average there is expected to be 55 two way movements per day. Once operational, the development will generate 2 vehicle movements a month, with vehicles accessing the site from the south directly from the C1103
- 1.17 The application has been supported by the following documents:
- Agricultural Land Classification Report
 - Arboriculture Report containing
 - Biodiversity & Ecology measures compliance checklist
 - Construction Traffic Management Plan
 - Design and Access Statement
 - Ecological Appraisal
 - Flood Risk Assessment
 - Heritage Desk Based Assessment
 - Landscape and Visual Impact Assessment
 - Landscape Mitigation and Enhancement
 - Natural Assets & Environmental Net Gain Report
 - Noise Impact Assessment
 - Planning Statement
 - Statement of Community Involvement
 - Site Location Plan
 - Masterplan
 - PV Mounting System Detail
 - Fence & Gate Detail
 - CCTV Detail
 - Access Track Detail
 - Topographical Survey
 - Transformer Substation Detail
 - Inverter Detail
 - Spares Container Detail

Environmental Impact Assessment

- 1.18 An EIA screening request was submitted to the Council on the 23rd April 2021. The Council's Screening Opinion which was issued on 21st July 2021 states that:

The development does not fall within the development type listed in Schedule 1. Whilst the type of development is listed in Schedule 2, 3 (a) and exceeds the threshold in terms of site area, the proposal falls just below the threshold set out in the Planning Practice Guidance and does not fall within a "sensitive area" as set in Regulation 2(1). For the reasons set out below the proposed development as outlined within the submission is not considered to give rise to significant environmental effects on the surrounding environment.

- 1.19 The Screening Opinion confirms that the solar farm would not be EIA development and an Environmental Statement was not required.

2. Policies

2.1 Herefordshire Local Plan Core Strategy (CS)

Herefordshire Local Plan Core Strategy 2011 – 2031

SS1	-	Presumption in favour of sustainable development
SS4	-	Movement and transportation
SS5	-	Employment provision
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
SC1	-	Social and community facilities
E4	-	tOURISM
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

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

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

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

2.2 **Withington Group Neighbourhood Development Plan (WNDP)** Plan was Made on the 11 October 2019. The following policies are considered to be relevant:

Policy P6	-	Transport and Traffic
Policy P7	-	Conserving Historic Character
Policy P8	-	Herefordshire and Gloucestershire Canal
Policy P13	-	Renewable Energy

The WNDP 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/directory-record/3122/withington-group-neighbourhood-development-plan>

2.3 **National Planning Policy Framework (NPPF)**

2. Achieving sustainable development
4. Decision-making
6. Building a strong, competitive economy
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
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

The NPPF can be viewed here:-

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

2.4 Other Material Planning Considerations / Legislation of key relevance to the development proposal are listed below:

- National Planning Policy Guidance (on-line resource) (NPPG)
 - Renewable and low carbon energy
- UK Government Solar Strategy 2014
- Revised (Draft) National Policy Statement for Energy - Business, Energy and Industrial Strategy Committee (parliament.uk)
- Written Ministerial Statement on Solar Energy: protecting the local and global environment made on 25 March 2015
- Commercial Renewable Energy Development and the Historic Environment Historic England Advice Note 15 (February 2021)
- The Town and Country Planning (Environmental Impact Assessment) Regulations 2017
- Planning (Listed Buildings and Conservation Areas) Act 1990

3. **Planning History**

3.1 No applications relevant to this site.

4. **CONSULTATION SUMMARY**

Statutory Consultations

4.1 **Historic England – No objection**

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

Thank you for your letter of 19 January 2022 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.

4.2 Environmental Agency – No objection

Thank you for referring the above application which was received on the 20 January 2022. We have no objection to the proposed development and would offer the following comments for your consideration at this time.

Flood Risk: The site is (partially) located in Flood Zones 2 and 3, which are the medium and high risk zones respectively and are defined for mapping purposes by the Agency's Flood Zone Map. At this location the Flood Map is based on a national, generalised flood mapping technique called JFLOW as no model is present for this watercourse. Whilst slight encroachment into Flood Zones 2 and 3 it should be noted that the majority of the site falls within Flood Zone 1, the low risk Zone.

The watercourse that runs to the north and west of the site is classed as an 'ordinary watercourse' and therefore falls under the jurisdiction of your Council as the Lead Local Flood Authority and also the and River Lugg Internal Drainage Board.

Flood Risk Assessment (FRA): As stated above the Environment Agency has no model for the watercourse and so the Flood Risk Assessment (FRA), undertaken by Nijhuis Industries (dated December 2021), has included modelling produced from hydrographic surveys of the channel and structures, ground elevation data, and flow data estimated from the Flood Estimation Handbook 13.

In this instance the FRA, and associated modelling, has used a climate change allowance of 40%. However it should be noted that the Sustainable Places Team (West Midlands Area) have recently developed area specific climate change guidance. In that guidance we recommend that 'Essential Infrastructure', such as proposed, consider the 'Higher Central - 2080's' allowance which would result in a figure of 49% as oppose to the 40%. Whilst the FRA proposes a 40% uplift this is considered acceptable, in this instance, based on the limited and negligible flood risk, as detailed below. The model outputs show flooding will be confined to the northern and western areas of the site, as per the Flood Risk Map for Planning, and that flooding depths would reach a maximum of 220mm in a 1 in 100 year plus climate change (40%) flood event.

The FRA explains that the solar panels will be set at a minimum of 800mm above ground level, significantly above the modelled 1:100-year (40% climate change allowance) flood depth of 220mm.

Infrastructure will be raised by narrow-legged metal frames or plinths/stilts and given the limited extent of the site with Flood Zones 2 and 3, there will be a negligible reduction in floodplain storage capacity. The vulnerable infrastructure such as inverters, substation and containers are situated outside 1 in 1:000 year flood event (Flood Zone 1).

Note: The FRA refers to installation of security fencing with mesh spacing "as large as reasonably practical to ensure free flow of flood water through the fence and reduce the possibility of debris build up affecting flow routes." We would recommend a minimum spacing of 100mm which is in line with conditions for fences along main rivers which the Environment Agency regulates.

4.3 Natural England: No objection

Comments received on the 12/9/2022

Under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) Natural England is a statutory consultee on development that would lead to the loss of over 20ha of 'best and most versatile' (BMV) agricultural land (land graded as 1, 2 and 3a in the Agricultural Land Classification (ALC) system, where this is not in accordance with an approved plan.

From the description of the development this application is likely to affect 27.5 ha of BMV agricultural land. We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas.

However, during the life of the proposed development it is likely that there will be a reduction in agricultural production over the whole development area. Your authority should therefore consider whether this is an effective use of land in line with planning practice guidance which encourages the siting of large scale solar farms on previously developed and non-agricultural land. Paragraph 174b and footnote 53 of the National Planning Policy Framework (NPPF) states that:

*Planning policies and decisions should contribute to and enhance the natural and local environment by:
recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.'*

Footnote 53: Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. We would also draw to your attention to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2015) (in particular paragraph 013), and advise you to fully consider best and most versatile land issues in accordance with that guidance.

Local planning authorities are responsible for ensuring that they have sufficient information to apply the requirements of the NPPF. The weighting attached to a particular consideration is a matter of judgement for the local authority as decision maker. This is the case regardless of whether the proposed development is sufficiently large to consult Natural England.

4.4 River Lugg Internal Drainage Board – No objection

Full comments can be viewed through link below, summery given.

<https://myaccount.herefordshire.gov.uk/documents?id=530389b5-61c2-11ed-9060-005056ab3a27>

Summary

This site lies within the drainage district. CONSENT will be required from the IDB

- Consent will be required for any surface water discharges into the existing watercourses that bound or run through this site. The application states that the extent of the impermeable areas introduced across the site by the proposed development is extremely small. It makes the assumption that runoff from the panels will infiltrate in the sheltered rain shadow underneath the down slope modules and assumes the impermeable area to be only the legs of the solar panel arrays. This underestimates the impact of the solar panels on the existing greenfield condition. The SuDs design proposed is not adequate to restrict the surface runoff from the site into the existing watercourses to 1.4l/s/Ha or greenfield runoff. The Herefordshire SuDs handbook states that runoff will be discharged into concentrated areas and will not shed evenly across the ground's surface as per the natural greenfield scenario. Instead, the runoff would most likely saturate the receiving area of ground more quickly and create concentrated overland flow channels. The proposed drainage strategy for the site needs to manage this risk.
- The applicant will need to ensure that a 9m easement is maintained along the side of the watercourses that bound and run through this site. Adequate provision for access to maintain these watercourses will need to be made.
- The proposed construction access routes cross the watercourses to the north and south of the site. Consent will be required should any works be required to strengthen / modify / replace the culverts / bridges at these locations.
- We would recommend that this is a PLANNING CONDITION of any PLANNING DECISION. Reason: requirements of Land Drainage Act 1991 (as amended)
- PLANNING CONDITION for Larger Development: Should on-site SuDS or flow restriction be proposed as part of any larger development the IDB requests that those restricted flow measures or attenuation are put in place before occupancy and within 3 months of development progressing onsite. Reason: not to increase flood risk downstream of sites during temporary works / development
- ANY surface water discharge into ANY watercourses in, on, under or near the site requires CONSENT from the Drainage Board.

4.5 Herefordshire & Gloucestershire Canal Trust - Mixed

Response received on the 4th May 2022

This is a response to the consultation issued by Herefordshire County Council in respect of planning application number P214619/F. The Herefordshire & Gloucestershire Canal Trust Ltd is in the process of restoring the canal between Hereford and Gloucester. The route of the canal is protected from development under the terms of Herefordshire Council Policy E4 and the canal route runs within the red line area of this application. It is surprising that this is not mentioned in the archaeological report from Cotswold Archaeology in 2021. The access route crosses the canal route and we would expect that provision is made for the canal when restored. Since it is in the red line area we would also expect recognition and since it forms the boundary to the proposed development we would also consider that landscape benefits on the canal corridor should be part of the scheme.

So while we can say that in principle we are not against any solar farm, in this case insufficient thought seems to have been given to canal aspects and the help the restored canal can give to the flooding issues raised and the biodiversity improvement that the canal can also bring to the development. We would hope that given that the land will not be inconveniencing anyone (as it is on the boundary to the solar farm) that positive support towards canal restoration can be implemented, in particular regarding land ownership and ongoing access to the canal site for the general public.

Internal Council Consultations

4.6 Transportation Manager – No Objections

Comments received on the 21/11/2022

The local highways authority has no further comments.

Comments received on the 28/7/2022

The local highway authority has no further comments.

Comments received on the 28/6/2022

The local highway authority has noted the new routing within the Construction Management Plan and therefore has no objection to the application subject to the below conditions.

Conditions: CAB (2.4m x 91m to the north-east and 2.4m x 121m to the south-west for both access points off the C1131), CAD (5m), CAE, CAT and a Highway Condition Survey.

Comments received on the 8/2/2022

The local highway authority has the following comments:

- It is understood from the information provided, the Construction Traffic Management Plan in particular, that construction of the site would take in the region of 25 weeks and construction traffic would be routed off the A465 and into the farmstead adjacent to Thing Hill Court. It is realised that for this short stretch (circa 900m) of the C1130 the construction traffic will have a significant impact on users of the lane, however, this is a temporary situation.
- The access into the construction compound from the C1130 is via bridleway WT21. The acceptability of this will be at the discretion of the PRoW team.
- The delivery of a transformer is required to travel through the village of Withington via a low loader, however, it is only one trip to the site and one trip leaving the site. Other than this one large load there will be minimal construction traffic accessing the site from the south via the C1131.
- Plans demonstrating the swept paths of the vehicles necessary to deliver the equipment to the site have been provided and are considered to be acceptable.
- Plans demonstrating visibility splays at the required access points have been provided and are considered to be acceptable. However, given the intensification of traffic, albeit on a temporary basis, at the C1130 junction with the A465 plans demonstrating the maximum achievable visibility splay at this location should be provided.
- Once the site is operational there will be minimal traffic visiting the site (2 visits per month via 4 x 4 or small van). It is likely that the solar farm will generate less traffic than the sites current use as agricultural/arable land and is unlikely to see the peaks and troughs in activity usually associated with agricultural activities.
- The first 10m of the access track off the public highway should have a bonded surface such as tarmac.
- It is noted that the proposals provide a number of permissive paths around the perimeter of the site. It is likely that these routes will be popular with dog walkers, particularly if hard/consolidated paths are provided. Given the remote location dog walkers may drive to the site therefore the LHA would like to see 2 – 3 parking spaces provided at the access point off the C1131 to ensure the lane remains clear.

Once the above amendments/additional information has been provided the LHA will be able to comment in full.

4.7 Landscape Officer – No objection

Comments received on the 18 March 2022

Visual Impact (The wider landscape)

I have visited the site, and assessed the development information, and confirm there is some visual impact, with some views that are shielded by trees that are outside of the site, and are out of the control of the applicant. This is important to note, as it may influence the extent of mitigation that occurs within the site to ensure permanent screening.

The solar panels are located on topography that is rolling, with low lying areas, which in the most part ensures the solar panels are mostly obscured from views from a number of receptors. The perimeter fencing (with CCTV etc.), however can be a visual eye-sore at close range, but are reasonably transparent in distant views, and this needs to be taken into consideration, where applicable.

The substation is located in a position that is away from main public views, however this does not preclude the importance of minimising the visual impact of a large scaled industrial item in the landscape. There could be more done to conceal the substation, and take into account its position near important veteran trees of rarity (Refer to figure 2).

The proposed landscape masterplan does add a number of trees and hedgerows to assist in the visual mitigation process. This will take time, but nonetheless will eventually assist in reducing the visual impact of the development. The main comment in relation to the trees is that there should be larger groupings of trees within the site, and not just to perimeters. The climate change and carbon management should be addressed holistically, in addition to the solar panels.

In principle I have no objection (with improvements) to the development as it is located in a landscape, and topography that can accept this new land use, in addition with new trees and hedgerows. The scheme as it stands does have holes, and potential new openings may occur if external trees and hedgerows are diminished. Therefore all efforts should be made to counter this possibility with substantial tree planting within the site boundary. This may require that some solar panels are omitted, or wider margins are needed to ensure that the right trees can be planted in the right places. It may require a rethink about where trees go. For example, looking from Westhide and the roads, the planting of trees in the foreground, or away from the solar panels to assist in reducing visual impact may be required.

Landscape impact (Localised landscape)

There are some specific concerns that relate to the localised conditions that are not about views, but about proximity and potential impacts on specific landscapes.

Black Poplar

The site has a selection of important trees (that have been identified on the Tree Survey), and have value due to their age and rarity). It is essential these are protected, and given ample space so they can be appreciated for their importance. For example, the substation is located very close to a group of Black Poplar, and this infrastructure needs to be relocated further away (Refer to figure 2).

Access roads and footings

There are a number of new access roads, tracks and footings for the construction and servicing of the solar panels. These do, and will inevitably impact the ground and root structure (and possibly branches) of trees. In some circumstances, the path may need to be moved, or protective/mitigation methods required. Refer to BS 5837 (2012) Trees in Relation to Design, Demolition and Construction.

Opportunities to create substantial landscapes and biodiversity enhancement

The following outlines (Refer to figures 1-3) where I consider some of the improvements to the development can be made. There will be others, and I suggest that the overall scheme is reviewed with these principles in mind.

1. Relocate substation to protect and give space for important trees.
2. Go beyond actual 'root protection areas' to respect what could be considered a reasonable distance for the solar panels to be away from the tree (see detail, figure 2).
3. Give trees adequate space and aim to maintain well defined landscape areas, that can be fenced planted with trees and 'rewilded'.
4. Remove solar panels to create the opportunity to create one single large habitat area. The reduction of solar panels is minor, compared to the opportunity to make a lasting woodland or 'rewilding' area.
5. As Above
6. As per 4 and 5.
7. Again, a minor loss of solar panels, will ensure a larger ecological area, that can link with green infrastructure.
8. 8. Retain enclosed field, and plant oak woodland, or retain as a special area for wildflower meadow.

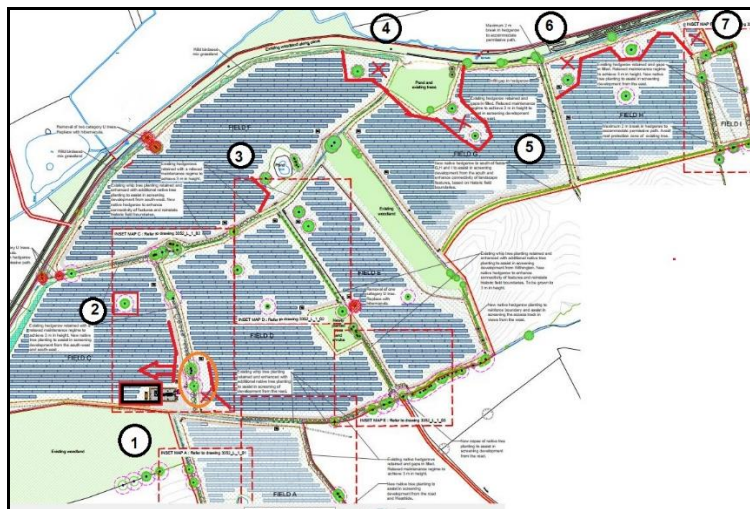


Figure 1: Remove and relocate solar panels and infrastructure to create more defined and substantial opportunities for landscape habitats.

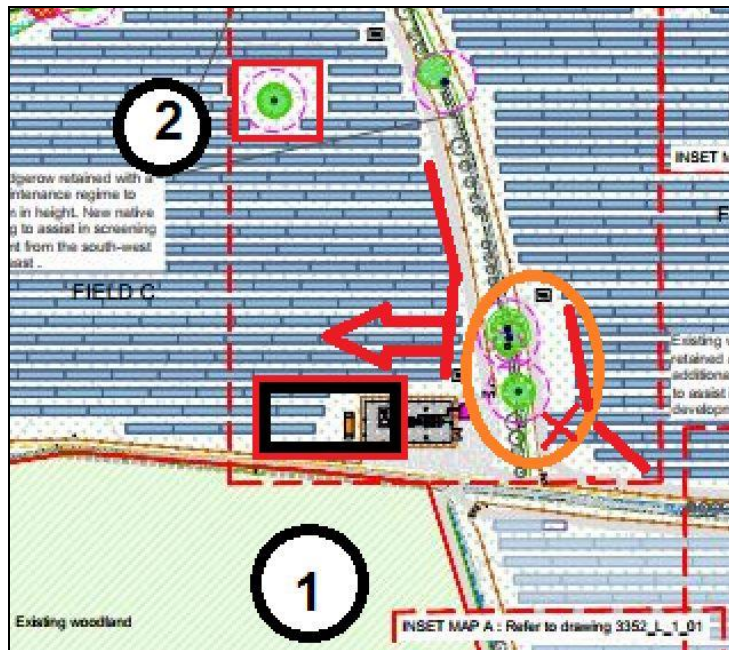


Figure 2: Relocate substation to protect and give space for important trees.



Figure 3: Detail

Summary of improvements and considerations

- Relocate substation away from the important Black Poplars
- Ensure substantial protective zones around all Black Poplar, and all important trees is provided.
- Protect existing tree roots from footings, vehicles and infrastructure.
- Avoid small areas of solar panels that compromise the establishment of larger meaningful landscape ecosystem with trees, for 'rewilding' and to enhance green infrastructure.
- Avoid Small Island of one tree that is surrounded by a sea solar panels. Where possible, link trees to create landscape clusters, and enable the opportunity to plant new trees, along the existing trees.
- Ensure the perimeter fencing is the appropriate colour to reduce visual impact, and can be buffered with trees and hedgerows.
- Fence off areas for 'rewilding' and habitat creation.
- Plant woodlands.
- Review views looking onto the site, and establish if the mitigation is relying on existing trees and vegetation that is outside of the site boundary, and determine what the impact would be if this would be removed. The intent is to ensure that all mitigation is achievable as part of the development.

Long term management and maintenance strategy - Condition

The site will be 'locked' for many years, and the landscape will need to be managed and maintained accordingly. A management and maintenance condition is required with a long term time period (The life of the development).

Comments received on the 7 June 2022

I refer to the additional Aboricultural Report (Addendum), dated 01/06/2022, in relation to ancient and veteran trees.

I am satisfied that this information has highlighted there are additional veteran and ancient trees, and that extra protection will be given for all veteran and ancient trees on the development site, in accordance with government guidance.

However, for the trees near the proposed substation (specifically mentioned in my previous comments), I would like to think that the minimum requirements would not be an indicator of distance of the substation away from the trees. Given that there is sufficient space to relocate the substation, it would more appropriate to move this at a distance that would give sufficient space in context to the surroundings, and provide the trees with a reasonable setting (Refer to figure 1).

Overall my comments from the 18/03/2022 still stand.

Figure 1: Relocate substation to protect and give substantial space for the veteran trees.



Comments received on the 26th July 2022

The amended Landscape Mitigation and Enhancement Plan, is an improvement and addresses previous comments including the moving of infrastructure away from important veteran trees; providing better green infrastructure linkages, and more space for biodiversity.

In accordance with NPPF 174, a and b, I would like to raise concern regarding the landscape change of use and the impact this has on the landscape; soil; beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including economic and other benefits of the best and most versatile agricultural land.

Comments received on the 10/2/2023 – supportive subject to conditions

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

Overall the amended plans are supported and provide the required level of detail on the proposed landscaping and enhancement. However, it is recommended that should the application be recommended for approval conditions are included requiring final hard and soft landscaping to be conformed and further enhancement provided as outlined in the comments below.

The amended Landscape Mitigation and Enhancement Plans appears to be light in some areas in terms of the perceived biodiversity enhancement. Irrespective of the overall Biodiversity Net gain (BNG) that comes mostly from temporary change from arable to non-arable land, the areas available for long term, in perpetuity benefit requires justification and understanding of predicted outcomes. For example, a 'rewilding' approach (Refer to figures 1 and 2) is proposed (i.e. left to re-colonise, with some additional tree planting). According to the BNG this has a low condition rating, and may take considerable time to establish. However, a 'woodland' approach (Refer to figure 3) that reinforces the existing woodland corridor may be 'quicker', and potentially establish a more predicted outcome. This is not to say either option is less or more viable, it is a question of clarifying the proposed approach.

Regarding the 'rewilding' is there an understanding of what this may look like? The potential for the existing oaks to seed and regenerate has potential, but what else?

Does the band or zone of wild bird seed mix impact or influence the spread of seed from the existing woodland corridor?

The proposed planting of Black Poplar, appear to be at the upper end of the wet zone and in drier zones. Would it be better to plant the Black Poplar closer to the wetter areas, and consider reinforcing the line of existing oaks?

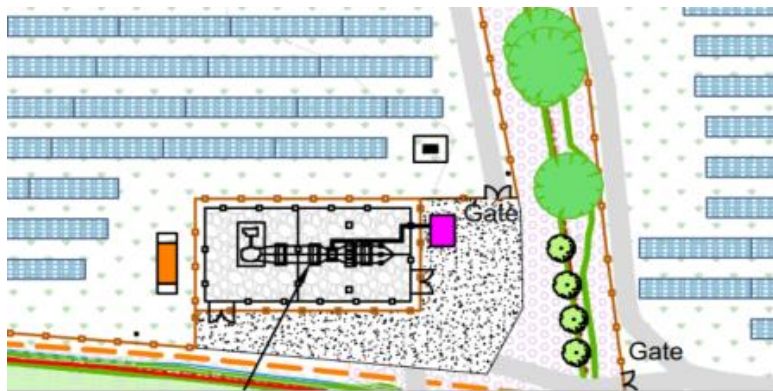
Regarding hedgerow management, it is stated in the Landscape and Ecological Management Plan (LEMP), 2.17, that hedgerows are to be relaxed to achieve a 3metre height. It is important to highlight that the hedgerow management cycle needs careful consideration to avoid an overgrown or tree lined outcome. There needs to be long term strategy to understand how the mitigation evolves, and how the hedges are maintain in a healthy manner. If the hedgerow are left to grow to act as screening, there is risk that the understorey becomes woody and 'see-through'.

4.8 Tree Officer:

Comments received on the 27 May 2022

In the main the project has, in my opinion, low arboreal constraints.

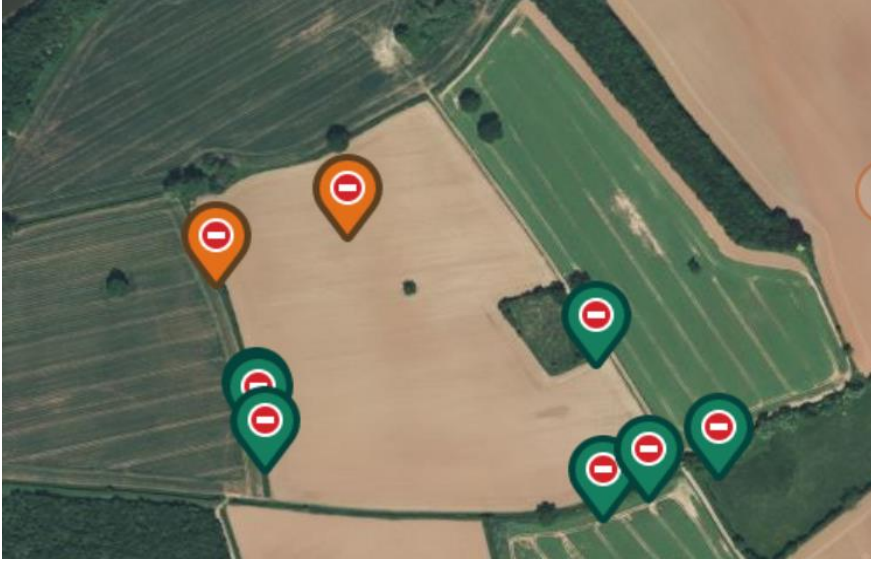
However it does contain a collection of veteran/ancient Black poplars, where some are affected by the infrastructure.



Veteran/Ancient trees are afforded greater protection in planning with larger root protection areas. Whereas tree protection areas are configured by multiplying the stem diameter by 12, the veteran/ancients are multiplied by 15.

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

This isn't the only veteran tree on the site, in fact there are a total of 8 (2 Ancient/6Veteran)



The extended rooting areas were not taken into account in the original tree survey and these need to be addressed and mitigation measures should be proposed where rooting areas are encroached or justification provided where any encroachments are considered acceptable.

In summary, the substation and compound need to be moved to avoid T27, also the planned hard standing needs to avoid tree roots of all affected trees. The two ancient trees (orange markers) are not visually impressive, both are partially failed, but they're arguably the most important trees on and all infrastructure should avoid them above and below ground.

The tree survey and design layout needs amending to reflect the needs to be protect ancient and veteran trees. In doing this the applicant will better demonstrate they are compliant with policies LD1, LD2 & LD3

4.9 Ecologist – No Objections

Comments and HRA received on the 28/7/2022 – summary given below full comments can be found through link below

<https://myaccount.herefordshire.gov.uk/documents?id=4ef211d0-1319-11ed-905c-005056ab11cd>

Summary

Habitats

The site is 62ha of arable farmland made of 8 fields, mature hedgerows with trees and drainage ditches at the base, areas of woodland and scrub, field ponds, trees including veteran black poplars, buildings and bare ground

Biodiversity Net Gain

The proposed solar panels will sit in areas of species rich grassland surrounded by species rich hedgerows and hedgerows with trees. The vast majority of existing hedgerows will be retained and enhanced with new hedgerow planting also proposed. The existing ponds will be retained and enhanced and areas of wild bird seed mix will be provided. Existing trees, including the veteran black poplars, will be retained along with landscaping buffers and linking habitat between ponds. The landscaping proposals are set out in the Landscape and Ecological Management Plan and on the Landscape Mitigation and Enhancement Plan. The biodiversity unit baseline and the proposed biodiversity value of the site post development is set out in the submitted defra metric and in the Biodiversity Net Gain Report. Monitoring of the approach to Biodiversity Net Gain is set out in the Landscape and Ecological Management Plan.

The proposed development will result in a net gain in biodiversity units of 134.39% in habitat units and 61.95% in hedgerow units. The scheme will, therefore, deliver significant net gain for biodiversity and appropriate long term management and monitoring has been set out in the submitted documents. I note the amendments to the layout which have been made since my meeting with the developer team, including the relocation of the substation to provide further buffering for the black poplar trees. I am supportive of those changes to the proposed layout which are reflected in Revision I of the site masterplan. I have provided recommended conditions at the end of this response.

Conclusion of HRA

The scheme will not result in loss or disturbance of habitats or the killing/injury/disturbance of species within the SSSI and SAC either directly or indirectly.

Conclusion:

3 potential effect pathways have been identified by which the proposal has the potential to impact upon the River Lugg SSSI and the associated River Wye SAC but all potential pathways have been screened out without the need to consider mitigation measures and therefore an Appropriate Assessment is not required.

No legal barrier has been identified under the Habitat Regulation Assessment process that would prevent planning permission being granted in this case.

Comments received on 6/1/2023

Summary given below, full comments can be viewed through the link below:

<https://myaccount.herefordshire.gov.uk/documents?id=88fa142f-aec9-11ed-9068-005056ab11cd>

Impacts upon Designated Sites and Habitats Regulations Assessment

I have previously completed a Habitats Regulations Assessment matrix for the larger scheme which has been provided separately to the case officer. Natural England have commented on that HRA and have not objected on the basis of the original larger scheme. The area of solar panels has now been reduced but all ecological mitigation and reasonable avoidance measures remain part of the reduced scheme. On that basis I am satisfied that a new HRA and consultation with Natural England are not required for this amended and reduced proposal.

4.10 Land Drainage Engineer – No Objection

Comments received on the 12/7/2022 – full comments can be viewed through the link below

<https://myaccount.herefordshire.gov.uk/documents?id=1dafc66b-037b-11ed-905a-005056ab3a27>

Overall comment

We recommend that the following information is submitted prior to planning being granted:

- Submission of a revised surface water drainage strategy, which takes into account the above comments.

Comments received on the 13/9/2022 – full comments can be viewed through link below

<https://myaccount.herefordshire.gov.uk/documents?id=0c6b0f94-440c-11ed-905e-ef11b64ce433>

Overall comment

We recommend that the following information is submitted prior to planning being granted:

- Submission of a revised surface water drainage strategy, which takes into account the above comments.

We note the many culverts on existing watercourse surrounding the site. Should culverting of any of the watercourses be required for access to the Site, the Applicant will need to apply for Ordinary Watercourse Flood Defence Consent - Flooding – Herefordshire Council.

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

Comments received on 4/1/2023 – summary given below full comments can be viewed through link below.

<https://myaccount.herefordshire.gov.uk/documents?id=1ac24918-8d0a-11ed-9066-005056ab11cd>

In principle, we have no objections to the proposed development. The Applicant should ensure that all SuDS details approved under this application on the Conceptual Surface Water Drainage drawing (Rev P08) are accurately transferred onto construction drawings.

We note the many culverts on existing watercourse surrounding the site. Should culverting of any of the watercourses be required for access to the Site, the Applicant will need to apply for Ordinary Watercourse Flood Defence Consent from the River Lugg Internal Drainage Board - <https://www.shiregroup-idbs.gov.uk/idbs/river-lugg-idb/asset-management/planning-consents/>.

4.11 **Archaeological Advisor – No objection**

I note in particular the submitted heritage desk based assessment provided by Cotswold Archaeology, an assessment I am largely in agreement with. In general, especially since much of the land involved has been under long – term intensive agriculture, I am of the view that in terms of the development as a whole, there are limited implications as regards archaeology. Appreciable loss of potential archaeological levels has already occurred overall.

Nevertheless, in the central part of the site, some survival of the ‘high status’ Roman farmstead first recorded in 1927 [i.e. HER 1034] is expected. It is anticipated that the area covered by this farmstead will be very small in relation to the development as a whole, but it is nevertheless an issue that will need to be addressed, in order that the aims of Core Strategy LD4 are fulfilled.

The advised future survey/ mitigation work carried out in relation to this development must consider the possibility that nearby HER 30824 (referring to place-name evidence sometimes indicative of Roman remains) relates to a separate feature - rather than simply confirming the known ground evidence. To cover this possibility, there is a need for some comparatively extensive archaeological investigations to be required under condition.

4.12 **Historic Buildings Officer – No objection**

The proposal is for the installation of a solar farm with associated infrastructure and four access points on 61.7 ha of land. There are no designated assets on the site itself, however the site is surrounded by listed buildings and scheduled monuments. The submitted Heritage Desk based Assessment identifies 27 listed buildings and 2 Scheduled Monuments in a 1 KM area.

In preparing this document I have used the following documents.

Policy and Documents

- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Historic England – Historic Environment Good Practise Advice in Planning – Note 3 The setting of Heritage Assets.
- Historic England – Historic Environment Good Practise Advice in Planning – Note 2 Managing Significance in Decision-Taking in the Historic Environment.
- Historic England Commercial Renewable Energy Development and the Historic Environment – Historic England Advice Note 15
- National Planning Policy Framework 2021
- Herefordshire Local Plan Core Strategy 2011 – 2031

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

I note the Heritage Desk based Assessment prepared by Cotswold Archaeology dated November 2021, which addressed the setting of designated assets within a 1 Km study area. I acknowledge that the report has been prepared in accordance with the national Planning Policy Framework 2021 and historic England' Historic Good Practise Advice in Planning 2 – Managing Significance in Decision- Taking in the Historic Environment.

I note the reference in the document to NPPF 2019, and I am aware that the NPPF was revised in 202. Nonetheless the wording is the same it is the paragraph numbers that differ in the 2021 document.

I acknowledge the assessment of the 14 buildings individually mentioned on page 33 of the report and the individual assessments on pages 37 – 55 and noting the contents of the report, I would concur with the conclusions and would not consider that the proposal would have a significant harmful impact on the setting of the listed buildings. I would raise no objection to the proposal on the grounds of the setting of individual listed buildings. However these comments are in respect of individual listed buildings only and not an assessment of the wider landscape.

4.13 **Environmental Health Officer (Noise and Nuisance) – No objections**

Comments received on the 26/1/2023

The noise assessment report produced by Inacoustic has now been revised to account for the reduction in size of the original solar farm proposal. The report assesses the potential impact of noise generated by the 6 proposed inverter/transformers and substation at the nearest noise sensitive receptors.

The solar farm proposal has been reduced in size from 14 inverter/transformers and the distance between any noise-generating equipment and sensitive receptors increased. The revised plans make a significant positive change on the potential impacts to the area and specifically at The Kymin, from the reduction in number of inverters/transformers, increased distances and topography.

There is a difference of opinion between that of this department and Inacoustic regarding night time background levels.

All of the measured time history graphs provided in Appendix B show a significant increase in background levels every night and at every location, starting around 0300 hours, but it is difficult to specify the exact times due to the scale of the graphs. Given the time of year of the assessment (summer), it is likely that this is due to bird song and is therefore not truly representative of the background level throughout the year. The data in the measured time history graphs shows that for a significant part of the night (approximately 2100 - 0200 hours), the background level is around 23 dBA.

Given the data, we feel it is a more representative figure to use in this case. However, if you substitute the background noise level of 23dBA for night time, the proposal is still shown to have a 'low impact' at the nearest receptors, using the methodology found in BS4142:2014.

We have considered the objectors reports and also visited the site at different times to assess the noise and are satisfied that the solar development is acceptable from a potential nuisance perspective.

Comments received on the 27/9/2022

Further to comments made by this Department on 8th February and 26th August 2022 and in response to further information received, please can the applicant address the following concerns:

An initial indicator assessment carried out by Environmental Health shows lower background noise levels than outlined in the Noise Impact Assessment carried out by Inacoustic, dated 8th December 2021. As these measurements form the basis of the noise assessment, please can the applicant advise as to the level of confidence they have in these figures and carry out additional work if required.

This work is in addition to information requested by this Department on 26th August 2022

Comments received on the 8/2/2022

This proposal is for a solar farm and a noise assessment report has been supplied which assesses the potential impact of noise generated by the 14 proposed invertors at the nearest noise sensitive receptors.

The report includes measurement of background noise levels and assesses the potential impacts using the methodology set out in BS4142. The report suggests a maximum sound power level to be generated during the day and at night of 86dB LWA and 80dB LWA respectively with noise mitigation to be provided by way of either the use of low noise invertors or noise reduction kit comprising of external acoustic baffles to the air inlets and outlets.

Our department has no objection to this proposal subject to the following condition:

Prior to the commencement of the development the applicant must provide further design details of the proposal which include noise mitigation at source in accordance with the noise assessment report dated 8th December 2021. These to be agreed by the local authority.

4.14 Environmental Health Officer (Land Contamination) – No objection

I refer to the above application and would make the following comments in relation to contaminated land and human health issues only. Given what's proposed, I've no comments to make.

4.15 Public Rights of Way (PRoW) – No objection

5. Representations

5.1 Westhide Group Parish Council (WGPC) – objection (received 15 October 2022)

The WGPC objects to this application as it conflicts with the WGPC Neighbourhood Plan - NDP policy P.13 and the Herefordshire Core Strategy PSD2 - 2, 3, and 4.

However there are improvements/amendments which could be made to overcome this objection.

1. The reduction of the site by the omission of fields A,D,E,I and H, these being of the highest agricultural land quality (mainly grade 1 and 2.)
2. Submission of details of the connection to the national grid or ensure all placed underground.
3. Details of the inverters and updated acoustic report.
4. A legal agreement relating to landscape retention (woodland) being maintained by third parties, including Westhide Estates.
5. A legal agreement requiring traffic routing.
6. Requirement of construction and vehicular movements to be restricted to Mondays to Friday 8am to 6pm. (No construction or activity during construction on weekends and bank holidays)

Without these further changes and details the WGPC retains its objection for the following reasons.

1. The scheme covers a substantial area of the countryside and in association with the nearby Ocle Pychard strawberry 'farm' polytunnels will have a profound visual impact.
2. There are no proposals for the transmission of the generated power to the national grid either by underground or overhead cables.
3. The scheme is very large affecting the residential and visual amenity, with no direct community benefit.
4. The site curves around the northern edge of Westhide and the submitted drawings fail to clearly illustrate the relation of the site to the dwellings. The majority the houses in Westhide will have a view of panels in addition for some also seeing the Ocle Pychard polytunnels. Both these are alien features in a 'green' countryside.
5. The site is made up of 40% good – very good agricultural land. The best and most productive land should be preserved for agricultural production.
6. During the construction stage there will be considerable noise generated by the use of pile drivers to insert metal supports.
7. Whilst the acoustic report indicates that background noise levels from the equipment (inverters) will be relatively low there is concern that this statement is not yet substantiated since no specific equipment has been proposed. The consultants indicate that additional baffles or specific low noise inverters have been assumed. (The submitted plans only show an empty box design.)
8. The routing of construction traffic to and from the A465 and along the C1130, with no vehicular movements through Withington (with the sole exception for the transformer) is offered, but there is concern over the enforceability. It will also be necessary to ensure that existing traffic operating from the Thinghill Court farm site is not diverted through Withington.

Should the Planning Authority be minded to approve the application the WGPC would ask for.

1. Full details of the proposed invertors and noise assessment to be submitted and approved before development commences
2. Specific landscaping conditions relating to the retention of existing trees, the size of new trees, and the replacement of trees lost throughout the lifetime of the project. Any new tree screen planting to be undertaken the season before construction of the panels commences.
3. Construction traffic only to use the A465 and C1130 up to the proposed entrance at Thinghill Court, with specific proposals to ensure the safe continued use of the public right of way/bridleway WT23.
4. A further condition to ensure existing traffic generated by the farm complex is not diverted through Withington
5. A section 106 agreement, or similar legal agreement, detailing any offered/proposed community benefits. (It is unclear as to whether the Planning Authority has a standard community benefit policy regarding contributions from green energy providers – noting that other authorities have policies detailing fixed benefits, including financial contributions.)

5.2 Ocle Pychard Group Parish Council: Objection

Comments received on the 15 November 2023

Ocle Pychard Group Parish Council wish to make no further comment on this application, other than those made already.

Comments received on the 20 July 2022

Ocle Pychard Group Parish Council wish to continue to object to this application - with particular note being given to the fact that none of the parishioners concerns regarding noise pollution or flooding have been dealt with.

Comments received on 16 February 2022

Ocle Pychard Group Parish Council wish to OBJECT to this application for the following reasons:

- There are significant concerns that the run-off from the panels into the local water courses will increase flooding in an already vulnerable area.
- The report by the River Lugg Internal Drainage Board was noted as agreeing with this concern.
- Noise pollution from the inverters has not been fully investigated and conclusively answered. Professional reports have been made available that suggest the developer's assessments may not be as rigorous or accurate as needed.
- There will be a significant impact on the residential amenity of the parishioners living nearby – both visually and due to noise pollution.
- The area has recently seen development in the form of a large polytunnel installation. Any further development of this scale would represent a lack of proportionate development being focused on a small rural community.
- It is queried whether the actual output figures of this venture are high enough to counter the over-riding impact this development would have on the area in terms of long term noise pollution; flooding risk and decreased residential amenity

5.3 Withington Parish Council - Objection

Comments received on the 28 March 2022 – can be viewed in full through link below
<https://myaccount.herefordshire.gov.uk/documents?id=de0c3349-b016-11ec-baf1-0050569f00ae>

We would like to make it clear that it is the view of the parish council that:

1. Should the development go ahead, there should be a legal obligation to compensate The Westhide community for the life of the project (initially 30 years), with additional payments made should there be any extension to this.
2. Payment should be linked to the output and therefore profitability of the site, and should be index linked for the life of the scheme.
3. There should be no conditions associated with the payments, and the annual amount should be paid to a community management committee or sub-committee of the parish council to decide how best to utilise the funds to benefit the local community.

Comments received on the 8th July 2022 – can be viewed through link below
<https://myaccount.herefordshire.gov.uk/documents?id=fa76b26a-076f-11ed-905c-005056ab11cd>

Comments received on the 21 December 2022

Withington Group Parish Council (WGPC) welcomes the opportunity to further comment on this application and having read all the submissions and revisions our position has not changed.

The WGPC objects to this application as it conflicts with the WGPC Neighbourhood Plan - NDP policy P.13 and the Herefordshire Core StrategynSD2 - 2, 3, and 4.

Drainage:

Currently only an attenuation pond is proposed, with no landscaping indicated. The location is known to contribute to flooding in the area with the run off from these fields sweeping down to flood dwellings below. It has not been clarified what effect heavy rainfall landing on the solar panels and running down them rather than being absorbed by a wider area of land might have.

Application Boundary:

Whilst the area that the solar panels are to be situated in has been reduced, the application boundary has not been changed. The PC wondered if this might not be to accommodate further development in the future?

Community Fund:

The Parish Council feels strongly that this should be for the life of the project and not time limited and that it should be either linked to inflation or to the price paid for the electricity generated.

Construction.

In the Parish Council's original objection requests were made to limit the hours of construction to Monday-Friday (no weekends or bank holidays due to the noise and disruption installation will cause to residents). This request still stands.

In conclusion, the Parish Council OBJECTS to this scheme for the following reasons:

1. Contrary to policies SD2 - 2.3, and 4 and NDP policy P13
2. Impact on visual intrusion and cumulative impact of Solar Panels and polytunnels
3. Likelihood of significant noise intrusion on residential properties as no details of final equipment to be installed in the substation have been received.

The credibility of the meta data provided by the developer is still of concern and the PC await feedback from Herefordshire Council as to their view on this.

The WGPC are still awaiting information that has previously been asked for about:

- Validation of the noise survey findings and conditions be in place regarding acceptable noise levels once the scheme is completed and is operational as likelihood of significant noise intrusion on residential properties. No details on equipment to be installed in the substation have been provided.
- Confirmation that all access routes will be accessed and repairs undertaken as necessary to return them to their current condition.
- Full details of how the site will be connected to the grid, including details on how the impact and disruption to residents would be managed, are confirmed before approval is given.
- Limits to times of construction to Monday-Friday (no weekend or bank holidays)
- A unilateral agreement re Community Fund be in place without restriction on what it can be used for
- Planting involves larger more mature trees and hedging, including non-native ever greens to shield the site from view as much as is practicable, all year round.

Until all of the Parish Council's questions have been answered satisfactorily, they will continue to object to this application.

5.4 A total of 31 letters of objections were received to the initial submission. The comments can be summarised as follows: -

- Scale of the development to large
- Detrimental to the character of the rural agricultural landscape]Wide ranging effects of the landscape, intruding on views from several right of way and roads

- Failure to consider cumulative effects with other large scale industrial development including large polytunnel development to the north east. And to the east;
- Detrimental effect upon the setting of the listed buildings within the surrounding area
- Development includes prime agricultural land of Grad 1, 2 and 3a which should be used for food production.
- Lack of details submitted with the application on number of panels and arrays.
- Lack of details on the connection route to the electricity grid
- Development requires a huge volume of HGV traffic on small single track lane
- Impact of construction traffic on Bridleways
- Detrimental to the safety and experience of pedestrians and horse riders during the construction period.
- No reference to noise during construction period
- Development would be intrusive and disturbance the tranquillity of the whole neighbourhood.
- Development will make landscape and area less attractive as a tourist destination and will have a negative impact on the wider rural economy through loss of visitors.
- Development will be a visual eyesore within the landscape
- Development does not offer community benefit
- Concerns development has potential to exacerbate the likelihood of flooding in the area
- Loss of residential amenity and enjoyment of rural peace and quite
- Development will generate noise pollution especially during the night when background levels are low. The Background levels used for the noise assessment understates the impact during late evening.
- Impacts levels in the noised assessment haven not been fully reported for adverse meteorological conditions.
- Noise from the solar farm needs to be contained, concerns over proposed mitigation and impact upon residents mental health
- Position of the Invertors are of concerns in relation to noise
- Proposed planting and wildlife enhancement limited
- Proposal would impact upon the River Wye SSSI
- Negative impact upon the Withington Conservation Area.
- Visual impact is a major concern for local residents
- Development does not relate to any other commercial infrastructure and is wholly inappropriate
- Negative impact upon wildlife and their natural habitats

5.5 A total of 8 **letters of support** have been received. The comments can be summarised as follows:-

- Proposal represents a self-sufficient sustainable green energy scheme
- Site is not overlooked and will not visually affect local residents
- Will provide a 4.5km of permissive footpath around the site
- Site will attract wildlife and provide a link to the tow path of the Herefordshire & Gloucestershire Canal

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=214619&search-term=214619

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 Planning permission is sought for the installation of a solar photovoltaic (PV) farm with associated infrastructure to generate electricity which is to feed into the national grid through the Dormington sub-station which is located 4.4km to the south. The cable route will be across agricultural land and trenched (underground).
- 6.2 The Government recognises that climate change is happening through increased greenhouse gas emissions, and that action is required to mitigate its effects. One action that is being promoted is a significant boost to the deployment of renewable energy generation. The Clean Growth Strategy 2017 anticipates that the 2050 targets set out in the Climate Change Act 2008 to reduce gas emissions by 100% will require, amongst other things, a diverse electricity system based on the growth of renewable energy sources.
- 6.3 The National Planning Policy Framework (NPPF) is a key material consideration in determining the planning application. Chapter 14 of the NPPF deals specifically with meeting the challenge of climate change, flooding and coastal change, sets out its support for renewable energy development. Paragraph 152 of the NPPF states that the planning system should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience. Paragraph 158 in the NPPF indicates that when determining planning applications for renewable energy developments, local authorities should not require applicants for energy developments to demonstrate the overall need for renewable or low carbon energy and also recognise that small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and approve the application if its impacts are (or can be made) acceptable. Paragraph 158 also states that Local Planning Authority (LPA) should 'approve the application if its impacts are (or can be made) acceptable'.
- 6.4 The Planning Practice Guidance (PPG) on renewable and low carbon energy sets out the particular planning considerations that apply to solar farm proposals. It states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. The PPG recognises that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impacts are acceptable.
- 6.5 In considering this application the Council, as the LPA, is required to have regard to the provisions of the Development Plan insofar as they are material to the application, and to any other material considerations. 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."*
- 6.6 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the 'made' Withington Neighbourhood Development Plan (WNDP). The WNDP has a specific policy for renewable energy proposals in policy P13. The policy encourages renewable energy proposals that benefit the community where they meet the following criteria:
- a. *They respect the rural character of the locality;*
 - b. *They do not adversely affect local heritage such as archaeological sites and historic buildings, including their settings;*
 - c. *They will not adversely affect biodiversity;*
 - d. *Local and residential amenity is protected;*

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

e. *Their scale reflects the community's needs.*

6.7 The CS also contains a specific policy for renewable energy in Policy SD2. The policy supports development proposals that seek to deliver renewable and low carbon energy where they meet the following criteria:

- *The proposals does not adversely impact upon international or national designated natural and heritage assets;*
- *The proposal does not adversely affect residential amenity;*
- *The proposal does not result in any significant detrimental impact upon the character of the landscape and the built or historic environment and*
- *The proposal can be connected efficiently to existing national grid infrastructure unless it can be demonstrated that energy generation would be used on –site to meet the needs of a specified end user.*

6.8 Policy SS7 of the CS relates to addressing climate change and promotes the use of decentralised and renewable or low carbon energy where appropriate. However, a key consideration in terms of responding to climate change includes taking in to account the known physical and environmental constraints when identifying locations for development.

Principle of development

6.9 The proposed development is to have a capacity of 25.MWp, and will meet the energy needs of approximately 9,098 homes in the Herefordshire area. The solar farm can be considered a temporary use of the land, with this development indicated as having a 30 year life span. The starting point for the consideration of this application is planning policy, both national and local. As set out above the NPPF is clearly supportive of proposals which generate renewable energy and it recognises the role which planning must pay in reduction in greenhouse gas emissions and renewable energy targets are to be met. Crucially the NPPF advises that applications for renewable energy should be approved if impacts are, or can be made acceptable, unless material considerations indicate otherwise.

6.10 The PPG for renewable and low carbon energy advises that there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, LPA's will need to ensure they take into account the requirements of the technology and, critically, the potential impacts on the local environment. Paragraph 013 of the PPG advises that planning authorities should consider 'the energy generating potential, which can vary for a number of reasons including, latitude and aspect'.

6.11 One of the key determinant of suitability of a site to accommodate solar PV development is its proximity to a point of connection to the local electricity distribution network which must have the capacity to receive the renewable electricity generated by the development. Other key determinates are land availability, technical suitability of the site to deliver the solar farm and its suitability within the planning context. These considerations impose significant constraints on the land which is suitable in practice for solar farm development.

6.12 In consideration of the principle of the development, a number of the representations received highlighted concerns with the distance between the site and the Dormington substation. It is recognised that the further the distance from the grid connection, the greater the challenge of transferring any generated electricity to the grid. Increased cabling can render a project uneconomical as well as causing disturbance to local residents during installation. In response to the concerns raised, the applicant provided details on the grid connection and a site selection & land use report. The report confirms that a grid connection for the site has been secured at the Dormington substation. The Dormington substation is Herefordshire only 132kv grid connection and is the closest to the site.

- 6.13 Solar Farm installations typically requires an underground cable route to be developed to facilitate the connection to the nearby substations, thus requiring additional offsite infrastructure. Although initially the connection route was to be via the local highway network, given the concerns raised by local residents, an alternative route across agricultural land, avoiding nearby settlements is now currently being secured. This route will include existing poles, however some trenched cable routing will be required. The application has confirmed that the key crossings being undertaken using Horizontal Direction Drill methods, specifically for the A4103, the railway line and the River Frome. Planning permission is not generally required for the installation of electricity undertaking.
- 6.14 The site selection & land use report that outlines that during site selection alternative sites within a 3km radius of the site were considered. Factors such as proximity to properties and environmental designations, land grade, potential for visual impacts and access were all considered during the site selection, and led to the application site being chosen. The site has a south facing aspect, with limited views into the site, an undulating topography and not in close proximity to any environmental designations.
- 6.15 In response to increasing awareness of the impacts of climate change, Herefordshire Council declared a climate emergency on 8 March 2019. The proposed development would displace around 6,148 tonnes of CO₂ every year, providing around 26,385MWh of renewable energy per annum to approximately 9,098 homes. The proposed development would therefore contribute to the Councils target of addressing climate change and becoming carbon neutral, as well as complying with the NPPF on climate change objectives. The proposal would therefore provide significant environmental benefits in relation to renewable energy generation that has strong support under both local and national planning policy.
- 6.16 Policy SD2 in the CS and P13 of the WNDP clearly supports proposals for renewable energy installations where they are in appropriate locations having no significant adverse impacts on the amenity of local people, historic features or on the environment. Whilst it is clear that the proposal will contribute to meeting the Governments renewable energy targets and contribute towards the reduction in greenhouse gases, the wider economic, social and environmental benefits of the proposal should be considered against any significant impacts on the surrounding area.
- 6.17 It is recognised that the proposed development, as well as providing a renewable energy source would provide significant biodiversity net gain by improving habitats, creating a range of new and diverse habitats and enhancing connectivity with the surrounding landscape. The submitted Biodiversity Net Gain report identifies that the proposal would result in a 70% net gain for habitat units and 60% gain for hedgerow units.
- 6.18 The application site is within open countryside in a rural working landscape. In light of the above outlined policies and guidance, the proposal in principle is considered to be consistent and in accordance with both National and Local policy with regards to improving sustainability. However, policy SD2 of the CS, sets out a criteria for renewable and low carbon energy development to meet to ensure that the resulting developments are of an appropriate scale and location and do not significantly impact upon the environmental quality of the area. Having regard for this criteria, and the characteristics and constraints of the site, along with the nature of the development being proposed, the following sections will go on to consider whether there are any other material considerations of such weight and magnitude, that might lead to a conclusion that despite the principle of the development being supported, the proposal represents an unsustainable form of development.
- 6.19 The main material planning issues which have been identified are considered to be:
- Loss of agricultural land
 - The visual impact of the development on landscape character and visual amenity;
 - The implications on the biodiversity and specifically the River Wye SSSI;
 - The implications of the proposal for flood risk within the area;
 - The impact of the proposal on heritage assets;

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

- The impact upon the local highways; and
- The impact the proposal has on local residential amenity.

Loss of agricultural land

- 6.20 The Written Ministerial Statement (WMS) of 25 March 2015 relates to the unjustified use of agricultural land and expects any proposal for a solar farm involving the best and most versatile agricultural land (BMV) to be justified by the most compelling evidence. The WMS was linked to the updated PPG on renewables (paragraph 13), which explains that where a proposal involves greenfield land, consideration should be given to whether the proposed use of any agricultural land has been shown to be necessary, whether poorer quality land has been used in preference to higher quality land and to whether the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. This approach is also reflected in the NPPF, which suggests that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.
- 6.21 Paragraph 174 in the NPPF indicates that decisions should recognise the economic and other benefits of best and most versatile (BMV) agricultural land. The PPG defines BMV agricultural land as Grade 1, 2 and 3a indicating that agricultural land quality is a factor when assessing proposals. Grade 3a is identified as being the lowest grade of BMV, while Grade 3b lies outside of the NPPF definition. The consideration of any non-agricultural application is whether the use of any agricultural land is necessary and whether a proposal allows for continued agricultural use. Policy SS7 of the CS also seeks to protect the BMV agricultural land where possible in order to mitigate impacts on climate change. The loss of agricultural land is therefore a material consideration and the weight afforded to that loss will depend on the grade of the land and the extent of the loss set against other material considerations.
- 6.22 A number of representations received highlighted concerns with the effect of the proposed development on the use of BMV, including consideration of the site selection process. The proposed solar farm would occupy the land within the site for a temporary period of 30 years, after which the land would return wholly to agricultural use. However, the temporary nature of the proposal is not enough justification on its own to use the BMV for the proposal, as there will likely be an effect on food production over the 30 year period, which in itself exceeds a generation of change.
- 6.23 The applicants Agricultural Land Classification report submitted in support of the proposal provides a breakdown of the grading of land within the site. The application on its original submission included 12ha of grade 1 land, 11.5ha of grade 2 land and 4ha of grade 3a and 47% of the land classified as grade 3b across the whole 61.7ha. The scheme was significantly reduced during the application process to reflect the concerns raised in representation, especially those relating to the loss of agricultural land. The addendum to the Agricultural Land Classification report identifies that no land classified as Grade 1 or Grade 2 is now covered by solar infrastructure, with land to remain in agricultural production. In the amended scheme 1 ha of grade 3a land is to be covered by solar infrastructure and 23ha of grade 3b land is to be covered, which equates to 96% of the proportion of area covered by solar infrastructure. Overall, the amendments have ensured that land of Grade 1, 2 and most of 3a would remain available for food production, and the proposal would now only result in the loss of 1ha of BMV land.
- 6.24 Natural England are a statutory consultee on development that would lead to the loss of over 20ha of BMV agricultural land. The proposed development on its original submission was likely to affect 27.5ha of BMV agricultural land. Natural England advised in their comments on the 12 September 2022 that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality

likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as the construction of the sub-station, may permanently affect agricultural land this would be limited to small areas of agricultural land.

- 6.25 Natural England have not provided further comments on the application as the amendments have reduced the BMV land to be lost to 1ha of Grade 3a land. It is recognised that during the life of the proposed development it is likely that there will be a reduction in agricultural production over the whole development area and this should be a consideration in the determination of the application and consideration should be given to if the development is an effective use of land in line with the PPG which encourages the siting of large scale solar farms on previously developed and non-agricultural land.
- 6.26 In conclusion, only 1ha of BMV land is not to be used for solar infrastructure, with the remainder of the BMV land in the site to remain in agricultural production. In line with footnote 53 of paragraph 174B of the NPPF, the amended scheme has ensured that only the poorer quality of land is used for the solar infrastructure and taken out of agricultural production. The land will be fully reinstated at the end of 30 years, with the soil having not been subject to the effects of intensive arable farming during this time, thereby allowing a natural soil ecosystem to develop.
- 6.27 The submitted assessment provides a comprehensive site and soil assessment which has been carried out by a suitable qualified professional and provides and demonstrates that the development will not result in the loss of higher grades of agricultural land. On balance, although the LPA recognises that agricultural land is a finite commodity and food security is equally important as energy security, the proposed scheme as amended falls outside of Grade 1, Grade 2 and almost all 3a BMV land across the site. Given the temporary nature of the scheme, with the biological and landscape enhancements proposed, the proposal would not conflict with the objectives of paragraph 174 of the NPPF and policy SS7 of the CS.

Landscape Character & Visual Amenity

Landscape character

- 6.28 Paragraph 174 of the NPPF indicates that the intrinsic character and beauty of the countryside should be recognised. Policy LD1 of the CS seeks to conserve and enhance the natural, historic and scenic beauty of important landscapes and features through the protection of the area's character and by enabling appropriate uses, design and management. National and Local policies do not seek to protect the countryside from development, but rather protect and enhance valued landscapes.
- 6.29 The application site does not form part of any designated landscape, however it is in close proximity to the Withington Conservation Area which is located to the west and the Three Choirs Way, a long distance path which travels around the west and north of the site. The disused Hereford to Ledbury Canal runs along the northern boundary of the site.
- 6.30 The site is within a rural location detached from any settlement. In terms of landscape character the north- western fields are identified within the Herefordshire Landscape Character Assessment (HLCA) as Riverside Meadow. These are area characterised by flat and generally well drained alluvial floodplains which are defined by linear patterns of willow and alter, with tree cover represented by stream side and hedgerow trees. The south and eastern fields in comparison are identified as Estate Farmlands which are characterised by medium to large sized fields with a mixed farming use and planned woodlands. The wider surrounding landscape is predominantly Principle Settled Farmlands which are found in low lying and gently undulating landscapes characterised by hedgerows for field boundaries and mixed farming land use, with the overall landscape strategy is one of 'conservation' and 'enhancement'. The landscape characterised of

the site and immediate surroundings embody the typical landscape characteristic of the character area, and make a positive contribution to the rural landscape character of the locality.

- 6.31 Submitted in support of the application was a Landscape and Visual Impact Assessment (LVIA), which has been undertaken in accordance with the guidelines for Landscape and Visual Assessment Third Edition. An addendum to the LVIA was submitted with the amended plans, which accompanied amended Landscape Mitigation and Enhancement plans and a Masterplan. The LVIA recognises that the nature, scale and form of the development would invariably result in some adverse effects on the existing landscape character. However, recognising the reduction in panels across the site, the limited height of the development, combined with a retention and enhancement of field boundaries and vegetation, the conclusion is the landscape and visual effects would be relatively localised and *minor adverse* or lower. The LVIA concludes that the effect on the landscape character is not regarded as unacceptable and over time will be enhanced through the maturity of the mitigation planting.
- 6.32 Within the representations received it is clear that the site and surrounding landscape is of value to locals due to its rural nature and tranquillity. Representation also references its undisturbed nature and it is clear that the views into and across the site when approaching or leaving the small settlement of Westhild are held in a high regard by residents, as well as views from the grounds of private properties.
- 6.33 The NPPF does not define what constitutes a valued landscape. The LPA accept that all landscapes are valued by someone at some time. However, the application site and the surrounding landscape does not have any demonstrable attributes which would elevate it to a framework valued landscape.
- 6.34 The removal of panels in the fields to the south and east of the site have resulted in the arrays being less prominent and seen at a distance from the nearby private properties in Westhild and the viewpoints to the west of Westhild. The proposal does not change the topography of the site and retains and enhances the structure of the landscape since the arrays are to sit entirely within existing field boundaries. All existing vegetation and hedgerows are to be restored and improved. The conclusion of the LVIA is the effect of the propose development on the magnitude of change to the local landscape character is low adverse, and the landscape effects as minor adverse.
- 6.35 Landscaping mitigation outlined on the Landscape and Ecological Management Plan (LEMP) is still proposed along the boundaries of Fields A, D, C and F to create layers of vegetation which overtime will filter the views. The overall landscape mitigation approach would result in a significant beneficial effect for the landscape character and visual amenity. Trees and hedgerow enhancements ae consistent with the landscape strategy of the HLCA, which ultimately seeks to conserve and enhance the landscape character.
- 6.36 The proposal would introduce a large development of industrial appearance, which will fundamentally change the character of the immediate landscape for the duration of the development. However, given the general topography of the area, the effects of the solar arrays on the overall landscape character would be limited to the immediate landscape setting. Taking all matters into consideration, the significance of the proposed development on landscape character would be moderate.

Visual Impact

- 6.37 The LVIA provides an assessment of the likely views of the development from 13 viewpoints, at both local and medium distance views. The viewpoints were selected in consultation with the Councils Landscape Officer, All viewpoints were restricted to publically accessible locations and were considered to represent visibility from key visual receptor groups. Baseline photographic panoramas were obtained from each viewpoint in the direction of the proposed site and baseline

landscape character and visual amenity were identified before a qualitative appraisal of the likely visual effects was carried out.

- 6.38 All of the representations received refer to the visual impacts from the proposed development. It is acknowledged that different receptors would appreciate and experience the landscape in many different ways, depending on whether they live in, work in, or visiting the area. It is also further acknowledged that the views obtained from the viewpoints are only a snapshot of the site and do not reflect the experience of walkers as they proceed along public footpaths and highways.

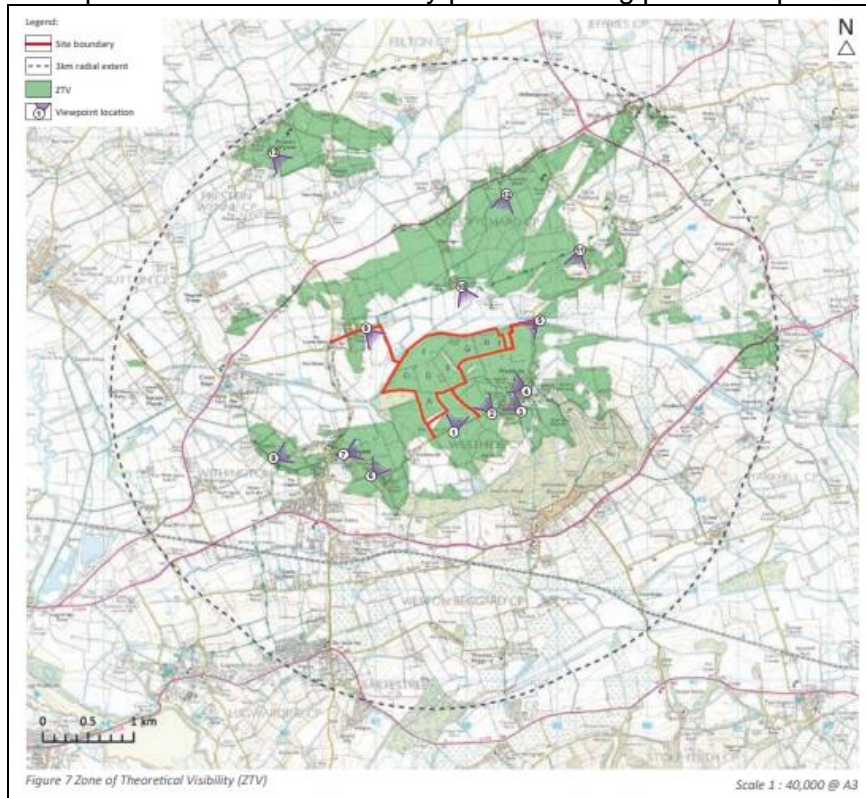
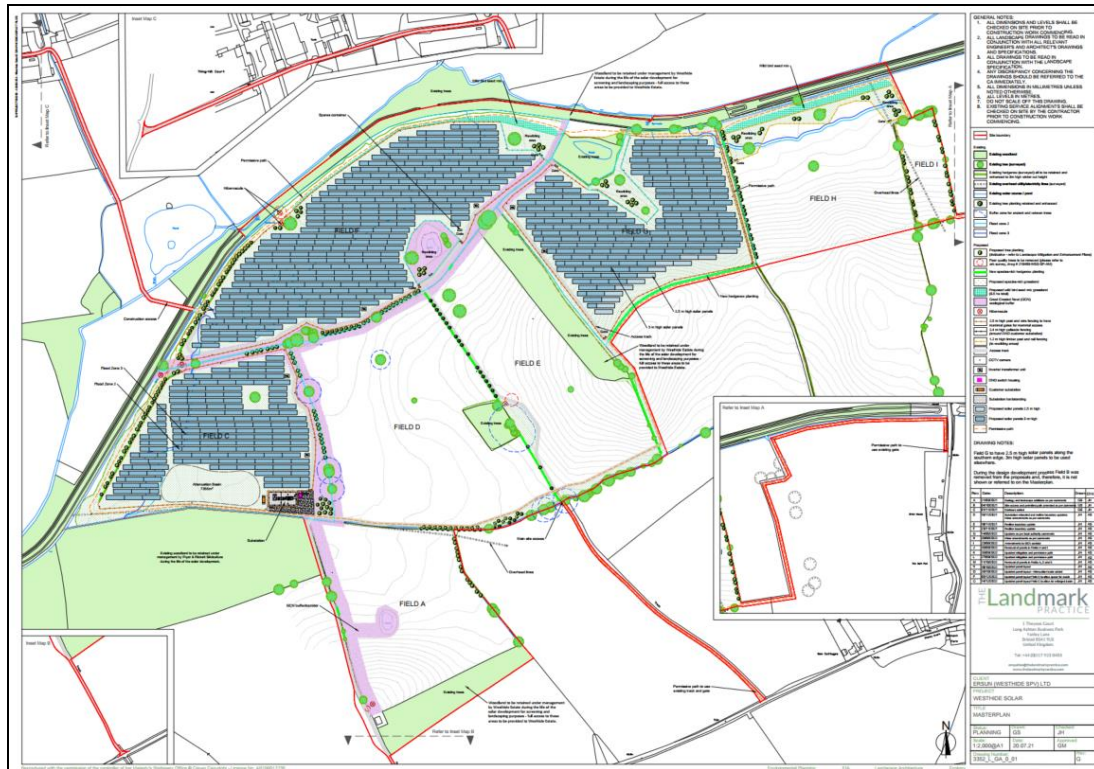


Figure 7 within the LVIA showing zone of Theoretical Visibility and location of viewpoints assessed.

- 6.39 Within the LVIA 13 publicly accessible viewpoints were selected to provide a representative sample and spread of typical view towards the site. Figure 7 above taken from the LVIA identifies the location of the viewpoints. For each of the viewpoints a 15 year assessment of effects has been carried out, and it is considered that this assessment of effects are the most important to access the visual impact of the scheme as it is these which will last the longest and for most of the life of the scheme. That said, it is still important to consider the effects of the scheme visually between years 1 to 15.
- 6.40 For viewpoints 1, 2, 3, 4, 5, 9, 10, 11, 12 and 13, the level of visual effects after 15 years is judged as negligible. In landscape assessment terms, a negligible effect is where the proposed changes would maintain the existing view or where, on balance, the proposed changes would maintain the quality of the view and the development would only occupy limited geographical extent.
- 6.41 For viewpoints 6, 7 and 8 the visual effects are judged as minor adverse during the construction and on completion, however the assessment considers that on the maturity of the magnitude of planting proposed the effects will be reduced to negligible adverse. Typically this is where the proposal would represent a low magnitude of change and the landscape receptor would have low susceptibility to the development, and a high ability to accommodate the specific proposed change.
- 6.42 Views from public footpaths are considered to be limited with small glimpses of the arrays, however proposed planting will help filter these views, and the effects on the landscape character would not be significant. The scheme includes mitigation and enhancement measures across the

site (see plan below) and this has been amended to reflect the reduction of panels and to respond to representations received. All existing hedgerows and tree belts to the perimeter of the site and internally are retained and incorporated into the scheme to maintain landscape character as well as filter and screen views of the development. Hedgerows are all to be gapped up and reinforced and managed to grow. Long term management and maintenance plans will be put in place and new specimen trees within easing hedgerows and around the perimeter are to be incorporated.



Masterplan 3352_L_GA_0_01 Rev O

- 6.43 Overall the amended plans are supported by the landscape officer and the proposed landscape planting and mitigation will ensure that views of the development from public vantage points are filtered and broken up by intervening vegetation, although it is acknowledged that the panes would still be noticeable, especially during the winter. The magnitude of the visual effects would improve over the 15 years and throughout the life span of the development as planting matures. Conditions can secure final hard and soft landscaping and enhancement.
- 6.44 Consideration has been given to the historic route of the Canal on the western and northern boundary. In accordance with the policy E4 of the CS, the proposal not prevent or prejudice the restoration of a continuous route. The proposed landscaping also allows for restoration of the proposed canal route along its boundaries.
- 6.45 It is acknowledged that a number of residential properties would have views across the application site, especially those to the south in Westhide. The amendments have created further distance between the residential properties and arrays. Landscaping mitigation and changes in topography would filter the views. The LVA has assessed visual effects on views from residential properties and recognises that residential receptors have a high sensitivity to changes in the view, however the reduction in panels and removal of arrays from the eastern filters has reduced the magnitude of change.
- 6.46 Cumulative effects of the development on the landscape character and visual amenity have also been assessed within the LVIA (Appendix G). The assessment identified a large polytunnel development at Ocle Pychard to the north, and the recently approved Larport Solar Farm at Dormington which construction is yet to have started. The assessment concluded that cumulative

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visibility of the site with either development are limited due to the nature of the local and form and the layering of vegetation across the study area and will not be seen in combination.

Conclusion on landscape character and visual effects

- 6.47 The proposal would introduce a large development of industrial appearance, which will fundamentally change the character of the immediate landscape for the duration of the development. However, given the general topography of the area, the effects of the solar arrays on the overall landscape character would be limited to the immediate landscape setting. Similarly, there would be harm to the appearance and visual amenity of the area as perceived from a limited number of residential properties and short lengths of public rights of way. It is acknowledged that all the proposed planting and reinforcement of hedgerows will take time to develop and mature. It is inevitable that located in the countryside a solar farm of the scale proposed will have some adverse landscape character and visual impact. However, through a combination of reinforcement of existing vegetation and the introduction of new landscape mitigation, the adverse effects would be limited and localised. As the proposed planting matures, the adverse effects would be reduced and would be acceptable. The 30 year life span of the proposed development is significant, however once the solar farm is decommissioned, there would be no residual adverse landscape effects. The proposed landscaping scheme would leave an enhanced landscape consistent with policy LD2 of the CS
- 6.48 The Landscape Officer has requested that a fully detailed hard and soft landscape scheme to be provided prior to the commencement of the development with a 30 year landscape management and maintenance plan which incorporates both biodiversity and landscape requirements for establishment and care of the land is secured through conditions.

Impact on Heritage Assets

- 6.49 Policy LD4 of the CS requires heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. As a result, and in order to properly consider the effects of development on heritage assets, recourse should be had to the NPPF in the first instance.
- 6.50 Paragraphs 188 - 202 of the NPPF (2021) deal with the approach to decision-making according to the significance of the heritage asset and the degree of harm arising as a consequence of development. Paragraph 199 confirms that great weight should be given to the conservation of designated heritage assets. Paragraph 201 is a restrictive policy and directs refusal where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. This is unless such harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or where all 4 stated exceptions criteria apply.
- 6.51 The application has been supported with a Heritage Desk based Assessment which identifies 27 listed buildings, Wellington Conservation Area and 2 Scheduled Monuments in a 1KM area. The conclusion of the assessment was that the development proposal will not have a significant harmful impact on the setting of the listed buildings. The Councils Historic Buildings Officer (HBO) has confirmed that they concur with the conclusion and would raise no objection to the proposal on the grounds of the setting of listed buildings. Having been on site and spent time in the local area, Officers consider that due to the separation distance and intervening vegetation and topography, the development will not harm the setting of the Wellington Conservation Area. The proposed development would therefore not be in conflict with Policy LD4 of the CS.

Ecology and Biodiversity

- 6.52 In respect of matters of biodiversity and ecology, CS policy LD2 and paragraphs 174-177 of the NPPF apply. These generally require that proposals protect, conserve and enhance the county's biodiversity assets and make adequate provision for protected species.
- 6.53 The application site is on the southern bank of the Little Lugg which joins the River Lugg SSSI and River Wye SAC around 4.5km to the west of the site. As such the application triggers the need for a Habitat Regulations Assessment (HRA) process to be carried out. The Councils Ecologist undertook a HRA prior to the reduction of panels. The assessment identified 3 potential effect pathways which were assessed. These were:
1. Water Quality impacted by run-off from the site carrying nutrients (phosphate and nitrogen), oils and fuels
 2. Harm or loss or disturbance of Species due to construction and operation
 3. Habitat loss or damage due to construction and operation
- 6.54 Following assessment, the Ecologist concluded that all three potential effect pathways can be screened out of having any potential impact upon the River Lugg SSSI and the associated River Wye SAC without the need to consider mitigation measures. As such the Council concluded that an Appropriate Assessment was not required. Natural England were consulted on this conclusion and provided no comments. The Ecologist has concluded that there is no legal barrier under the HRA process for planning permission not to be granted. The Ecologist was consulted on the amended plans and documents and confirmed that a new HRA and consultation with NE were not required due to the nature of the amendments (reduction in size).
- 6.55 Policy LD2 sets out a hierarchical approach to the protection of nature conservation sites and habitats against a context that all development proposals should, where appropriate, restore and enhance existing biodiversity and geodiversity features on site and connectivity to wider ecological networks and create new biodiversity features and habitats.
- 6.56 The application has been supported with an Ecological Appraisal (The Landmark Practice December 2021) and a Biodiversity Net Gain Report (The Landmark Practice October 2022). In terms of ecological impacts, the documents identify that the habitats to be lost to the development are largely the agricultural land which will be fitted with arrays of panels which will have species rich grassland created under and around them as shown on the LMEP. The vast majority of existing hedgerows are to be retained and enhanced with new hedgerow planting. The scheme also includes the provision of native hedgerows, native woodland mix, and native species rich grassland planting under the panels in the long term. The biodiversity assessment for the site shows a 69.89% biodiversity net gain in habitat units, 59.06% gain in hedgerow units. The scheme will therefore deliver significant net gain for biodiversity and appropriate long term management and monitoring has been set out in the submitted documents and can be secured via conditions.
- 6.57 The Council's Ecologist has reviewed the scheme and has not identified any significant harm which would bring the proposed scheme into conflict with policy LD2 of the CS. A range of conditions are recommended to secure implementation of the report's recommendations, as well as to secure further details for measures for biodiversity enhancement to ensure biodiversity and protected species are accounted for. Subject to this, there is no policy conflict found. Natural England have been consulted and raise no objection.

Flood risk and drainage

- 6.58 Policy SD3 of the CS requires all development proposals to include measures for sustainable water management to be an integral element of any new development in order to reduce flood risk; to avoid impact on water quality; to protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

- 6.59 Paragraph 163 of the NPPF requires that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. It also requires that where appropriate, applications should incorporate sustainable drainage systems, unless there is clear evidence that this would be inappropriate. Paragraph 165 states that any major development should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate
- 6.60 The majority of the application site is located within the low probability Flood Zone 1. However, areas of the site along the northern boundary adjacent the watercourse are within Flood Zone 2 and 3, medium to high probability of flooding. Both the Sequential and Exception Test have been conducted in the updated FRA submitted following the revisions to the scheme and initial comments received from the Councils Drainage Engineer. Annex 3 of the NPPF confirms that Solar Farms are to be considered as Essential Infrastructure and therefore not considered inappropriate in 3b subject to consideration of the Sequential and Exception Tests.
- 6.61 The EA and Councils Drainage Engineer have confirmed that the proposed development is classed as 'Essential Infrastructure' and is not considered inappropriate within Flood Zone 3b. However there is still a requirement under paragraphs 162-164 of the NPPF for the exception test to be applied. In accordance with paragraph 163 the application has been supported with a site specific flood risk assessment. The paragraph states that to pass the exception test it should be demonstrated that:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.*
- Both elements of the exception test need to be satisfied for development to be allocated or permitted.
- 6.62 In relation to the first part of the proposed development it is considered to pass the exception test as the development would provide a wider sustainability benefit to the community in the form of renewable energy that outweighs the flood risk.
- 6.63 In relation to the second part, the FRA outlines that it is only the northern fringes of the site which fall into flood zone 3 and 2. An ICM Infoworks model was constructed with a view to quantifying the risk of fluvial flooding during a 1 in 100 year plus + 40% Climate Change event. The model shows that during the 1 in 100 year + CC fluvial flood even the maximum predicted flood depth is 0.22m. With the panels situated a minimum of 0.8m above the ground, and all Inverters, substation and containers located in flood zone 1, the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere. These measures are considered to satisfy the requirements of part 2 of the exception test. The LPA are satisfied that by its design and nature, the development will not increase flood risk in the wider catchment
- 6.64 During the course of the application a revised surface water drainage strategy was submitted to take into account comments raised by the Drainage Consultant. A 10,691m², 1m deep attenuation basin will discharge at the greenfield rate of 22l/s via a 209mm hydrobrake to the southern drainage ditch. A 500mm bund, at ground level, is proposed around the top of the attenuation basin to act as freeboard. The bund will be lowered at the outfall to create a weir overflow. The SuDS layout for the site has been designed to ensure all swales and ditches can be accessed for maintenance. The applicant has confirmed that a 9m easement will be maintained along the side of the watercourses that bound and run through this site.

- 6.65 The concerns raised by Withington Parish Council in connection with the risk of increased flooding within the area from the development are acknowledged. However, the Councils Drainage Engineer has confirmed that based on the recent surface water drainage drawing *Rev P08* the application is compliant with Policy SD3 in terms of sustainable water management and reduces the risk of flooding. No further conflict with policy SD3 of the CS has been identified.

Highways Impact

- 6.66 Policy MT1 of the CS deals specifically with traffic management and highway safety. The policy requires development proposals to demonstrate that the strategic and local highway network can absorb traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network and ensure that the developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space within the site.
- 6.67 During the course of the application following comments from the Councils Highways Engineer and concerns raised in representations, a revised Construction Traffic Management Plan was submitted. The majority of construction traffic for the proposed development is to arrive via the A465 to the north and west of the site where materials will be stored and transported before being transported to the site via smaller vehicles. The proposed construction access route will form a one-way routing arrangement, utilising the C1130 and Thinghill Lane.
- 6.68 The construction access is an existing access point which will not require any upgrade to accommodate the construction vehicles. The Highways Engineer has confirmed the access meets the required visibility in each direction. The development is expected to be constructed over 25 weeks, with approximately 55 two way trips per day on average. Once constructed the development is likely to generate on average 2 visits per month. Overall the Highways Engineer has raised no objection to the proposal and is satisfied with the level of details provided. Subject to conditions no policy conflict with policy MT1 has been identified.

Residential Amenity – noise/nuisance

- 6.69 Policy SD1 of the CS deals with sustainable design and energy efficiency and requires all proposals to safeguard the residential amenity for existing and proposed residents, ensuring new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination. It is also listed in the second criteria of policy SD2 that development proposals delivering renewable energy will not adversely affect residential amenity.
- 6.70 Section 12 of the NPPF *Achieving Well-Designed Places*, is also relevant, in particular paragraph 130 which seeks to ensure development creates a high standard of amenity for existing and future users. Paragraph 185 also highlights the need for decisions to ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) on the living conditions and the natural environment that could arise from the development. This includes identifying and protecting tranquil areas which have remained relatively undisturbed by noise and mitigating against potential adverse impacts resulting from noise from new development.
- 6.71 There are a number of residential properties within 420m – 600m of the site, however all are separated by agricultural land, with hedgerows and vegetation. The main impact from the development on the amenity of existing residential properties in the area could be from the noise and nuisance from the Inverters within the development. A number of representations received highlight concerns in relation to noise from the 6 inverters and substation within the scheme.
- 6.72 It is acknowledged that the residents of The Kymin have commissioned a response by TGSacoustics Ltd to assess the Applicants Noise Impact Assessment by Inacoustics. TGSacoustics do not carry out their own assessment. The report identified a number of concerns with the Applicants Noise Impact Report in connection with the use of model figures for the

operating time and the lack of detail and clarity of data presented. Following the reduction in panels, the residents of The Kymin commissioned a further appraisal of the amended Inacoustics report. This appraisal identifies that the reduction in area has the potential to make a significant change to the residents of The Kymin, which would now be located at a distance of 984m from the centre of the nearest noise source on the site. The assessment identifies that the distance between the nearest inverter and the property has increased, and topography would also assist in reducing noise levels at the property. It is noted that other properties such as New Cottages, Ash Grove and Dodmarch Cottage would be at a closer distance.

- 6.73 The Councils Environmental Health Officers have spent time on site and carried out a number of their own noise readings. The Officers have identified that the revised plans make a significant positive change on the potential impacts to the area and specifically at The Kymin. The Officers do identify that the background noise levels used within the Inacoustic report are not truly representative of the background level through the year. In the Officers assessment they have substituted the background noise level to 23dBA which having spent time on site they believe is a more representative figure. Using the 23dBA levels the proposal is still shown to have a 'low impact' at the nearest receptors using the methodology found in BS4142:2014.
- 6.74 Overall the Environmental Health Officers have confirmed that based on the information provided to date, the development would have no adverse impact on the residential amenity of nearby dwellings in terms of noise. However, given the concerns raised by local residential and to ensure that there is sufficient and adequate noise mitigation in place, it is recommended that a noise management plan is secured and controlled under a condition. The noise management plan will allow for any complaints or concerns that might arise to be reviewed and recorded in writing annually and will identify what actions have / shall be undertaken. The imposition of such a condition is considered to be reasonable given the concerns that are raised and the lifetime of the development.
- 6.75 The proposed development will not give rise to any emissions or require any lighting. Although it is acknowledged that during the construction period there will be disturbance and an increase in lighting and noise generated from construction traffic. A Construction and Environmental Management Plan has been provided in support of the application and details measures which will be put in place to control these impacts on nearby residential properties. Further conditions can control the working hours and lighting and are recommended.
- 6.76 It is considered that subject to appropriate conditions relating to the controls on noise and operations, the proposal will have a relatively low impact on the amenity of nearby dwellings, and is capable of being compliant with policy SD1 of the CS.

Glint and Glare

- 6.77 The PPG identifies that one of the considerations of large scale solar farms is the impact on the surrounding environment from 'glint and glare'. To be clear, glint refers to a momentary flash of bright light and glare refers to a continuous source of bright light which is typically received by static receptors or from large reflective surfaces.
- 6.78 The application was not supported by any specific assessment on glint and glare. The applicant has confirmed that initial assessments of the site did not identify any need for a study to be carried out on the site due to the topography of the site and distance between the road and properties.
- 6.79 Having spent time on site and within the surrounding area, and having regard for the orientation of the panels, Officers do not consider that there will be any significant impacts in regards to glint or glare on surrounding road users or for resident dwellings within the area. The proposed planting around the boundaries will be secured through a condition which will further prevent glint and glare on receptors. Overall, it is considered that the proposed development will not have an adverse impact upon the residential amenity of existing residents living in close proximity of the

site, or impact upon local road users. No conflict with policy SD1 or MT1 of the CS in regards to glint and glare have been identified.

Community Benefit Fund

- 6.80 The comments received from Withington Parish Council regarding a community benefit fund have been noted. The applicant has confirmed that a voluntary commitment on behalf of the developer to put money into a fund which is available to the Parish Council has been offered and initial discussion have been held. For clarification, any provision of a community financial benefit is not a material planning consideration in determining the planning application for renewable energy. There is no requirement in local and national planning policies for any financial benefit to be offered.

Conclusion

- 6.81 The Government has recognised a climate emergency and as such Government policy is to support the development of renewable energy sources, including solar power, to help ensure the UK has a secure energy supply and reduce greenhouse gas emissions to slow down climate change. The proposal would generate 25.1MW of sufficient to power 9,098 homes each year with clean energy (reducing carbon dioxide by around 6,148 tonnes annually).
- 6.82 There are no physical constraints limiting early development of this site and a grid connection offer is in place. As such, the scheme could make an early and significant contribution to the objective of achieving the Governments statutory Net target set for 2050. This is considered to be a substantial benefit of the scheme, and Officers give significant weight to the generation of renewable energy and the contribution to a low carbon economy and the provision of secure energy.
- 6.83 There are a number of considerations that weigh in favour of the proposed development. Further benefits of the scheme is the provision of a biodiversity new gain of 69.89% in habitat units, and 59.06% gain in hedgerow units. This benefit would endure beyond the operational life of the proposal and would be unlikely to be realised in the absence of the proposed development, given the significant resources required. This attracts significant weight in favour of the proposal and can be secured via conditions.
- 6.84 In addition, the proposal would contribute to the local economy, through the creation of construction-related jobs and the ongoing contribution to the local and wider economy, as well as the wider benefits of reducing reliance on imported fossil fuels. Together with environmental benefits to water, runoff, landscape character, and sequestration of carbon in soils achieved through planting and changes in land use across the appeal site, and the provision of a new section of permissive footpath (including around the perimeter of the site, these matters attract significant weight in favour of the proposal.
- 6.85 Officers recognises the requirement to consider benefits against the adverse impacts of the proposal. Both national and local policies recognise that large scale solar farms may result in some landscape and visual harm. However, both adopt a positive approach indicating that development can be approved where the harm is outweighed by the benefits. The proposal would have some localised harm to landscape character and some visual harm in conflict with the relevant development plan policies. However the imperative to tackle climate change, as recognised in legislation and energy policies, and the very significant benefits of the scheme clearly and decisively outweigh the limited harm. The proposed mitigation is consist with the landscape character and once the development has been decommissioned there would be no residual adverse landscape impact but rather an enhanced landscape consistent with the objectives of the CS.

- 6.86 Through the amended plans, the proposal has secured the use of the poorer quality land, leaving the BMV land in arable production in line with the PPG and NPPF. Despite the reduction of coverage of solar arrays, the amended plans have maintained the level of landscaping and biodiversity enhancement.
- 6.87 Officers are satisfied that the proposal will not contribute to adverse impacts arising from noise, and an appropriate condition is included to capture any further mitigation if the need arises. The development type is considered to be compatible with the flood zone it is sited within, and is acceptable in drainage terms, with no adverse highways impact identified. There would be no material impact upon the residential amenity or living conditions of nearby residents and no concerns relating to potential glint and glare impacts.
- 6.88 As the report and application submission demonstrates, there are environmental benefits in terms of renewable energy and a net gain in habitat biodiversity. The greatest significant benefit of the scheme is considered to be the imperative to tackle climate change, as recognised in legislation and energy policies which clearly and decisively outweigh the temporary and less than substantial harm to the visual landscape amenity in the locality and the nearby designated heritage assets that are discussed above.
- 6.89 To conclude, drawing the above together and taking all material considerations into account as outlined above, it is considered that the proposal would make a material contribution to the objectives of achieving the decarbonisation of energy production which significantly and it is not considered that any adverse impacts would significantly and demonstrably outweigh this benefit. The proposal is therefore considered an acceptable form of development that accords with the objectives of relevant national policy as a whole, and policy SD2 of the CS and Policy P13 of the WNDP. The application is recommended for approval subject to the conditions set out below.

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 The development shall be carried out in accordance with the deposited plans and drawings as stated below:**
Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.
- 3. Within 1 month of the date of first export of electricity confirmation shall be given in writing to the local planning authority of the date of first export to the Grid. The development hereby permitted shall cease on or before the expiry of a 30 year period from the date of the first export of electricity.**
Reason: To limit the long term effects of the development and in recognition of the temporary lifespan of the structures, in accordance with Policies SS1, SS6 and SS7 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 4 If the solar farm hereby permitted ceases to operate for a continuous period of 12 months, then a scheme for the decommissioning and removal of the solar farm and all ancillary equipment shall be submitted to the Local Planning Authority for its written approval. The scheme shall make provision for the removal of the solar panels and associated above ground works approved under this permission. The scheme shall make provision for the re-use and materials recovery of all complements where possible. The scheme shall also include management and timing of all works and a traffic management plan to address likely traffic impact issues during the decommissioning period, and environmental management plan to include details of measures to be taken during the decommissioning period of protect wildlife and habitats, and details of site restoration measures. The approved scheme shall be implemented in full accordance with the approved details

Reason: To ensure a satisfactory form of development, avoid any eyesore from redundant plant, prevent pollution, and safeguard the environment when the materials reach their end of life, in accordance with Policies SD1 and SD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 5 Within 6 months of the cessation of the export of electrical power from the site, or within a period of 29 years and 6 months following the first export date, a decommissioning and site restoration scheme for the solar farm and its ancillary equipment shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal and re-use of the solar panels and all other associated equipment and the subsequent restoration of the site. The scheme shall include details of the management and timing of all works and a traffic management plan to address likely traffic impact issues during the decommissioning period, and environmental management plan to include details of measures to be taken during the decommissioning period of protect wildlife and habitats, and details of site restoration measures. The approved scheme shall be implemented in full accordance with the approved details.

Reason: To ensure a satisfactory form of development, avoid any eyesore from redundant plant, prevent pollution, and safeguard the environment when the materials reach their end of life, in accordance with Policies SD1 and SD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Pre-commencement conditions

- 6 Before any work approved under this permission commences, 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 CEMP should include a plan identifying ecological buffers which should be demarcated on site and not entered except under the supervision of the Ecological Clerk of Works. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework , NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

- 7 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
 - Site compound 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 Policy Framework.

- 8 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 91 metres in a north east direction and 121 metres in a south west direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

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

- 9 No development approved by this permission shall be commenced until a hard and soft landscape scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include a scaled plan identifying:

- 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) Full details of all proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation and irrigation details.

The scheme as approved shall be completed in full not later than the end of the first planting season following the commencement of the development on site hereby permitted.

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.

- 10 No development shall take place until the developer has secured the implementation of a programme of archaeological survey and recording to include recording of the standing historic fabric and any below ground deposits affected by the works. This programme shall be in accordance with a written scheme of investigation which has

been submitted by the applicant and approved by the local planning authority and shall be in accordance with a brief prepared by the County Archaeology Service.

Reason: To allow for recording of the building/site during or prior to development and to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy. The brief will inform the scope of the recording action and the National Planning Policy Framework. The commencement of development in advance of such approval could result in irreparable harm to any identified heritage asset.

Compliance conditions

- 11 Before the development is first brought into use, a Landscape and Ecological Management and Maintenance Plan for a period of 30 years shall be submitted to and approved in writing by the local planning authority. The plan shall incorporate both biodiversity and landscape requirements for establishment and care of the land. The plan approved shall be carried out in full accordance with this approved schedule.

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

- 12 Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan:
- Landscape Mitigation and Enhancement Plan
 - Masterplan

All planting, seeding or turf laying in the approved landscaping scheme shall be carried out in the first planting season following the commencement of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased will be replaced in accordance with the approved Landscape and Ecological Management and Maintenance Plan.

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.

- 13 Before the development is first brought into use, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

The Noise Management Plan shall be reviewed, and the review recorded in writing (acknowledging any complaints, concerns, actions or training recorded that have arisen) annually thereafter by 1 March in each successive year. Any alteration to the Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority before being implemented.

The noise management plan shall be made available for inspection by the Local Planning authority upon reasonable request.

Reason: To ensure that there is sufficient and adequate noise mitigation in place, and that there is flexibility to address concerns as they arise, in the interests of amenity in accordance with the requirements of policy SD1 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework

- 14 Within 3 months of completion of the approved works evidence of the suitably placed installation within the site boundary of at least 15 bird nesting boxes for a site

appropriate range of bird species 5 number Bat roosting features; 12 mammal gates in security fences; one Hedgehog home; four Insect hotels; Reptile Refugia; Amphibian Refugia;} should be supplied to the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reasons: To ensure Biodiversity Net Gain and species and habitats enhancement having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

- 15 Prior to first export of electricity, a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed, in writing, by the local planning authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk in accordance with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Other conditions

- 16 At no time shall any external lighting except low power, ‘warm’ LED lighting in directional downlighters on motion operated and time-limited switches, required in relation to the immediate safe use of the approved development, be installed or operated in association with the approved development and no permanently illuminated external lighting shall be operated at any time, without the written approval of this local planning authority. All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3.

- 17 Any new access gates/doors shall be set back 10 metres from the adjoining carriageway edge and shall be made to open inwards only.

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.

- 18 The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the Landscape Mitigation and Enhancement Plan (Drawing reference 3352_L_GA_0_02 Revision D) shall be implemented upon commencements of construction works and hereafter maintained in full as stated for a period of at least 30 years 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, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policy LD2.

- 19 The SuDS details as shown and illustrated on the Conceptual Surface Water Drainage drawing (Rev P08) shall be implemented before the first use of the development hereby approved and hereafter maintained for the lifetime of the development unless otherwise approved in writing by the Local Planning Authority.**

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

INFORMATIVES:

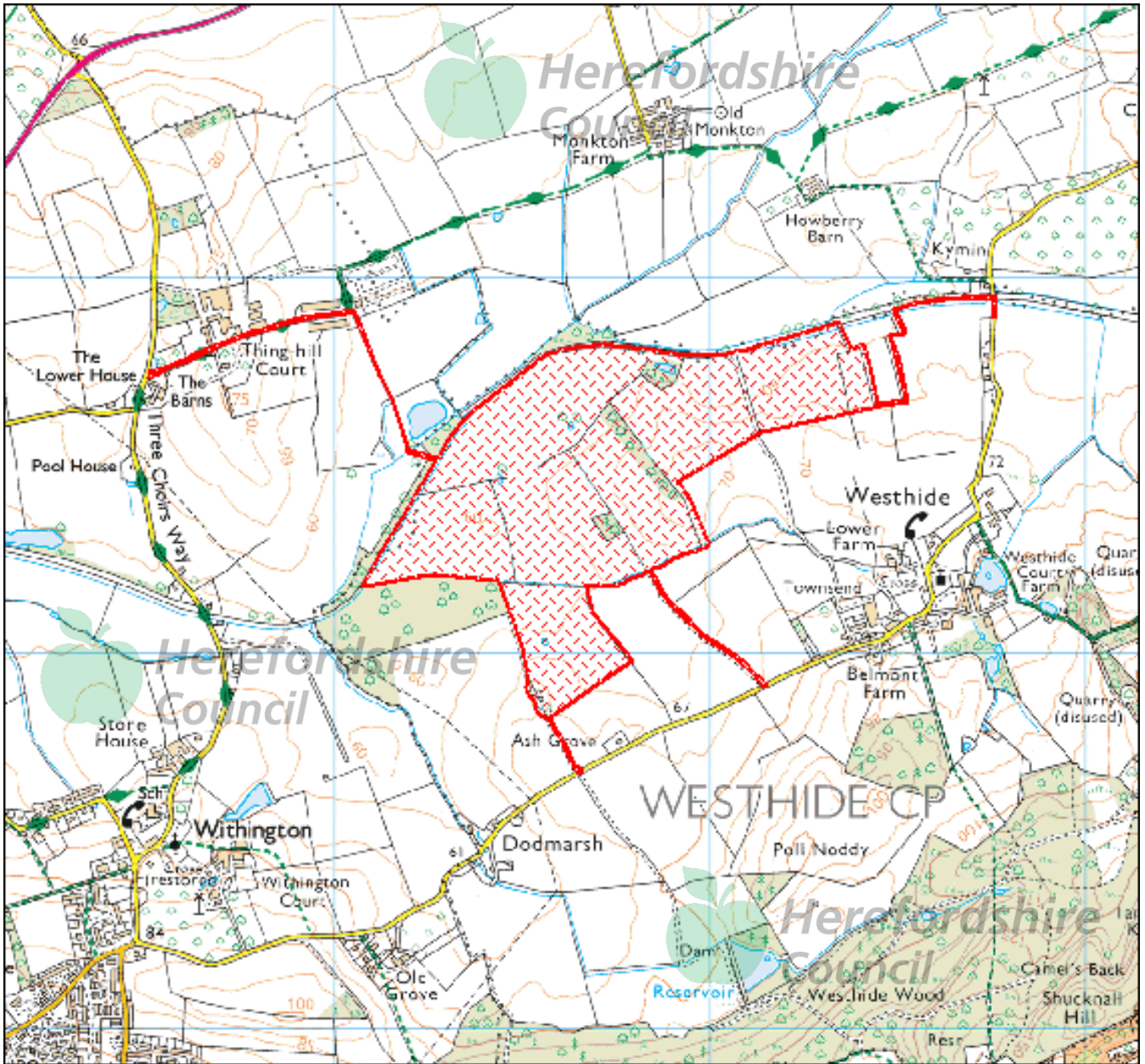
- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2. The Applicant is advised that should culverting of any of the watercourses be required for access to the Site, the Applicant will need to apply for Ordinary Watercourse Flood Defence Consent from the River Lugg Internal Drainage Board - <https://www.shiregroup-idbs.gov.uk/idbs/river-lugg-idb/asset-management/planning-consents/>.**

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 214619

SITE ADDRESS : LAND TO THE NORTH-WEST OF WESTHIDE, WESTHIDE, HEREFORDSHIRE, HR1 3RQ

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Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	15 March 2022
TITLE OF REPORT:	222295 - PROPOSED CHANGE OF USE OF BUILDING TO HOLIDAY LET AT AGRICULTURAL BUILDING ADJACENT BERRINGTON BOWER, MARDEN, HEREFORD, HR1 3EY For: Mr Powell per Mr Matt Tompkins, Lane Cottage, Burghill, Hereford, Herefordshire HR4 7RL
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=222295&search-term=222295
Reason Application submitted to Committee – Redirection	

Date Received: 12 July 2022

Ward: Sutton Walls

Grid Ref: 352652,250046

Expiry Date: 6 September 2022

Local Member: Cllr Kema Guthrie

1. Site Description and Proposal

- 1.1 The application site relates to a small, historic barn of stone construction. It is located to the immediate north of Berrington Cottage, just to the west of the small hamlet of Litmarsh and approximately 1¾ miles north of Marden. The barn, together with the dwelling, are accessed via a private road taken off the C1120 (Marden – Litmarsh – Bodenham road). The building is an attractive example of a stone cowshed and has some architectural and historic value.
- 1.2 This planning application seeks to change the use of the building into a holiday let. There would be no external changes to the building and the existing driveway and access would be utilised without amendment. The existing drainage arrangements would also remain which is a connection to an existing septic tank and associate drainage field.
- 1.3 The barn has been the subject of enforcement action and a subsequent appeal. The current position is that the operational development and associated works undertaken to the barn are lawful; the change of use to residential however is not and requires the benefit of planning permission. It is therefore confirmed that no structural works or external alterations are proposed.

2. Policies

2.1 Herefordshire Local Plan - Core Strategy (CS)

SS1	Presumption in favour of sustainable development
SS6	Environmental quality and local distinctiveness
RA5	Re-use of rural buildings
RA6	Rural economy
MT1	Traffic Management, highway safety and promoting active travel

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

E4	Tourism
LD1	Landscape and townscape
LD2	Biodiversity and geodiversity
LD3	Green Infrastructure
LD4	Historic environment and heritage assets
SD1	Sustainable Design and energy efficiency
SD3	Sustainable water management and water resources
SD4	Waste water treatment and river water quality

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

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

2.2 Marden Neighbourhood Development Plan (MNDP)

M3	General Design Principles
M10	Landscape Character
M11	Flood Risk and Surface Water Run-off

The MNDP was adopted on 6 October 2016, the policies can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/downloads/file/9017/neighbourhood_development_plan.

Marden Parish Council submitted a revised draft Neighbourhood Development Plan to Herefordshire Council on 26 November 2020, however withdrew the plan on 1 October 2021.

2.3 The National Planning Policy Framework (NPPF)

2. Achieving sustainable development
4. Decision-making
6. Building a strong, competitive economy
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

The NPPF can be accessed via the following link:

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

2.4 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy has yet to be made and is due early November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. 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.

3. Planning History

3.1 The relevant planning history can be summarised as follows:

P180027/ENF – enforcement appeal – appeal dismissed and enforcement notice upheld with corrections

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180027

3.2 Enforcement notice P180027/ENF was dismissed concluding that the building had changed use unlawfully and that the rooflights, balcony and flue were harmful to the character and appearance of the building. Moreover, no harm to the amenity of neighbouring properties was found.

3.3 Following the appeal decision, a letter was sent from the Council's enforcement team outlining the following observations and recommendations:

- i. The barn is not being used for residential purposes.
- ii. The balcony has been removed and made good.
- iii. The kitchen /washroom facilities have not been removed, however I do not consider that their provision for use by someone working on the holding to be unreasonable.
- iv. I note that the rooflights have not been removed, though those on the rear have been sealed internally and fitted with slate externally. I note that you think it would be difficult to make the roof watertight if the whole casement was removed from the rear. I do not agree that that would be the case, however as the rear rooflights serve no functional purpose I would agree the spirit of the requirement has been met. In respect of the two rooflights on the front you advised that they are required to help prevent dampness in the building. I have spoken to colleagues in Building Control who advise that the important thing is to ventilate the building, this could be done through ventilation in the first floor doors for example. Therefore the rooflights should be either removed altogether or treated as per those on the rear.
- v. The flue had been removed, though the stove was currently in the building, pending a move to the shed. You asked whether an alternative flue could be provided under permitted development rights. I do not consider that this would be the case, notwithstanding that having removed the stove there is no longer a requirement for a flue.

4. Consultation Summary

4.1 Welsh Water - No objection

4.2 Area Engineer

- Cycle parking should be supplied.
- The first 5 metres of access should be surfaced with bound materials.
- The visibility is incorrectly drawn.
- Given the existing barn and its potential agricultural use it is not considered that the proposed holiday let would result in any intensification of use.

4.3 Environmental Health Officer (noise/nuisance) – No objection

My comments are from a nuisance perspective.

I have visited both Berrington Bower and the neighbouring property, Berrington Cottage with the Planning Officer. I watched the wood burning stove being lit and also when it was in full operation. There was a little smoke on start-up (which is to be expected) but the smoke was barely visible when it was fully alight. The fuel being used was seasoned wood which had been

kept under cover for a minimum of two years. I have been advised that the appliance and flue comply with current building regulations.

Currently there are two external lights – one above the main doorway which is on a sensor and the other situated on the side of the shed, lighting up the pathway. Neither of the lights shine into the neighbouring property.

Our department has no objections to this application but suggest that the following conditions be added should the application be successful:

There shall be no playing of amplified music or the use of fireworks outside at any time. Fire pits must not be used outside at any time.

Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone - E2 contained within the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Light, GN01/21. Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31

Informative - Private Water Supplies: The proposed development may not have access to mains water and be reliant on a private water supply. The applicant is advised that the Private Water Supplies (England) Regulations 2016 (as amended) and the Water Supply (Water Quality) Regulation 2016 are likely to apply. In accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard. If the supply is to be used for shared or commercial purposes including renting, the Private Water Supplies (England) Regulations 2016 specify that the water supply cannot be used until it has been risk assessed by the local authority's private water supplies team (01432 261761) and found compliant. Applicants that are connecting to existing private water supplies or accessing sources of water on land over which they have no control are advised to give careful and specific attention to contractual/civil arrangements including rights of access, maintenance arrangements, provision of alternative water supply are agreed in writing at the outset.

Informative - Wood burning Stove: When the wood burning stove is replaced, the new appliance must meet new EcoDesign standards which came into force on 1st January 2022. Only certain types of wood are suitable for burning and the wood must be dry. This means it should have a moisture content of less than 20%. If the applicant continues to burn his own wood, I suggest that a moisture meter is purchased. Any wood purchased by the applicant should be certified as 'Ready to Burn'. Using fuels that are approved and labelled as 'Ready to Burn' ensures compliance with the Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020 that outlaw the sale of wet wood and house coal, which are the most polluting fuels.

4.4 Ecologist – Initial consultation – Objection

It is noted that the actual works to the building have already been completed and no further ecology comments in this respect are relevant.

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

To obtain Biodiversity Net Gain

Prior to first use of any part of the development works approved under this planning decision notice, evidence of the suitably placed installation within the site boundary or on other land under the applicant's control of a minimum total of TWO bat boxes (or similar features supporting bat roosting) and TWO bird nesting boxes (mixed types) and ONE Hedgehog Home should be

supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

The site is in an area with an intrinsically dark landscape that benefits local amenity and nature conservation, including nocturnal protected species present at the site. A condition to ensure all external lighting is kept to the essential minimum for guest safety and any systems installed compliant with current best practice is requested:

Protected Species and Dark Skies

At no time shall any external lighting, except low power (under 550 Lumens/5 watts and <3000 Kelvin), 'warm' LED lighting in directional down-lighting luminaires on motion operated and time-limited switches be installed or operated in association with the approved development and no permanently illuminated external lighting shall be operated at any time, without the written approval of this local planning authority.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3.

The application site lies within the catchment of the River Lugg SAC and lies within the hydrological catchment of the River Lugg SAC, which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under the Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations')) as being of international importance for its aquatic flora and fauna.

At present the levels of phosphates in the River Lugg exceed the water quality objectives and it is therefore in unfavourable condition. Where a European designated site is considered to be 'failing' its conservation objectives there is limited scope for the approval of development which may have additional damaging effects. The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process.

The competent authority (in this case the Local Planning Authority) is required to consider all potential effects (either alone or in combination with other development) of the proposal upon the European site through the Habitat Regulations Assessment process.

The HRA process must be based on a demonstration of legal and scientific and be undertaken with a 'precautionary' approach.

Notes in respect of HRA

The proposal is for one new self-contained unit of holiday accommodation with associated additional overnight visitor accommodation creating additional foul water and surface water flows (nutrient pathways).

As agreed with natural England new visitor/holiday accommodation is considered additional to any previous residential use and must demonstrate Nutrient Neutrality in its own right.

Welsh Water have confirmed that no mains sewer network is available at this location. The application information advises that the additional foul water created will be discharged to an existing private foul water management system - septic tank. No detailed foul water management report has been supplied to support the application and required HRA scientific and legal certainty that Nutrient Neutrality can be achieved.

A detailed foul water report is requested to provide scientific and legal certainty that the existing Septic Tank has sufficient capacity to manage the increased flows and that the system is fully compliant with all relevant criteria for 'small private foul water treatment systems' as agreed between the LPA and Natural England – including that all discharges (existing and additional) are made to a suitably sized soakaway drainage field that operating effectively and is at least 200m from any other foul water outfall. See: <https://www.herefordshire.gov.uk/nutrient-management/nutrient-management-guidance-developers/2>

If the relevant criteria for small private foul water systems cannot be demonstrated an alternative method of demonstrating Nutrient Neutrality is required – such as legal confirmation that appropriate Phosphate Credits have been purchased.

Once the required additional professional testing, information and report has been submitted the required HRA process can be progressed.

At this time due to legal and scientific uncertainty and phosphate neutrality not secured there is an identified Adverse Effect on the Integrity of the River Lugg (Wye) Special Area of Conservation (a European Site, 'National Network Site' or 'Higher Status' nature conservation site). There is an Ecology OBJECTION raised as the application does not demonstrate compliance with Core Strategy SD4 and SD3 (SS1, SS6 and LD2 also apply); The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'); NPPF; and NERC Act obligations.

Ecologist following further information and re-consultation – No Objection

Notes in respect of HRA

The proposal is for one new self-contained unit of holiday accommodation with associated additional overnight visitor accommodation creating additional foul water and surface water flows (nutrient pathways).

As agreed with Natural England new visitor/holiday accommodation is considered additional to any previous residential use and must demonstrate nutrient neutrality in its own right.

Welsh Water have confirmed that no mains sewer network is available at this location. The application information advises that the additional foul water created will be discharged to an existing private foul water management system - septic tank. The additional drainage information supplied – Townsend Water Engineering dated 3 October 2022 is noted and refers. This additional information confirms that the existing septic tank system has capacity to manage the combined flows from existing residential property and the new holiday accommodation. The septic tank is confirmed as discharging to an existing drainage field sized to accommodate all poetical flows from the size of septic tank installed.

No new private foul water system is required or proposed and all additional nutrient pathways can be managed within the existing system that has been confirmed as operating effectively. No pathways for any nutrients (phosphates) in to the River Lugg SAC hydrological catchment are identified. The buildings already exist creating surface water. Any additional surface water can

be managed through relevant permeable surfaces or local sustainable drainage systems/infiltration features.

As no nutrient pathways are created into the River Lugg SAC, the proposed foul water management scheme is embedded within the application details and can be secured by condition no adverse effects on the integrity of the River Lugg SAC are identified and this application can be screened out at HRA appropriate assessment 'stage 1'.

Recommended Condition:

Habitat Regulations (River Lugg (Wye) SAC) – Foul Water

Unless otherwise approved in writing by the planning authority all foul water, created by the development approved by this permission shall discharge through connection to the existing private, residential septic tank discharging to soakaway drainage field, as identified in the drainage information by Townsend Water Engineering dated 3 October 2022.

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD4.

No ecology objection is now raised. The other previous general ecology comments and suggested conditions remain valid

4.5 Land Drainage – initial consultation – Further information required.

We recommend that the following information is provided prior to the Council granting planning permission:

- Results of infiltration testing undertaken in accordance with BRE365 and confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with Standing Advice;
- A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change;
- Submission of the existing foul water drainage details including percolation test results, location of the drainage field and associated sizing

Land Drainage - Following further information – No Objection

Overview of the Proposal

The Applicant proposes the change of use of a rural building to a holiday let. The site covers an area of approx. 0.2ha. There is a large pond located approx. 120m to the north of the site. The River Lugg flows approx. 715m to the north of the site. The topography of the site is relatively flat with a gentle slope down from south to north.

Site Location

Figure 1: Environment Agency Flood Map for Planning (Rivers and Sea), September 2022



Flood Risk

Fluvial Flood Risk

Review of the Environment Agency’s Flood Map for Planning (Figure 1) indicates that the site is located within the low risk Flood Zone 1. As the proposed development is less than 1ha and is located within Flood Zone 1, in accordance with Environment Agency standing advice, the planning application does not need to be supported by a Flood Risk Assessment (FRA). This is summarised in Table 1:

Table 1: Scenarios requiring a FRA

	Within Flood Zone 3	Within Flood Zone 2	Within Flood Zone 1
Site area less than 1ha	FRA required	FRA required	FRA not required*
Site area greater than 1ha	FRA required	FRA required	FRA required

**except for changes of use to a more vulnerable class, or where they could be affected by other sources of flooding*

Surface Water Flood Risk

Review of the EA’s Risk of Flooding from Surface Water map indicates that the site area proposed for development is not at risk of surface water flooding, however there is a low-risk surface water flow route along the northern site boundary.

Figure 2: EA Surface Water Flood Risk Mapping



Extent of flooding from surface water

● High ● Medium ● Low ○ Very Low ⊕ I

Other Considerations

Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer.

Surface Water Drainage

We understand that the proposed holiday let is an existing agricultural building with an existing surface water drainage system. No increase in impermeable area is proposed as part of the development. The existing system involves a woodland rainwater garden to the north with the approximate dimensions of 70m x 4m x 0.8m (L x W x D). This provides an attenuation volume of 224m³, which has been shown to be sufficient to accommodate a 1 in 100yr + 45% CC event. Therefore, the existing arrangements are adequate for the proposed development.

Should any surface water exceedance runoff occur, given the site topography, it is highly unlikely that any third parties would be affected.

Foul Water Drainage

We understand that the existing agricultural building was refurbished between 2012-2014, whereby a foul water drainage system was installed. We understand that a septic tank with discharge to a drainage field was constructed under the supervision of building control and was deemed acceptable (122301). It is stated that this system has functioned well since construction. The drainage field location is shown as being within the land ownership boundary.

As requested, the percolation test results used to size the drainage field in 2012 have been provided. We understand that 2 trial pits were excavated and found an acceptable average Vp rate of 20.6s/mm. It was calculated that a drainage field area of 20m² would be required. The existing drainage field has actually been constructed to have an area of 45m², which is more than twice the required area. Therefore, we understand that the existing foul drainage system is adequate for the proposed development.

In the unlikely event that foul water re-emergence does occur, we note that the land topography gently slopes south to north, therefore it is highly unlikely that any third parties would be affected in this instance.

Overall Comment

We hold no objection to the proposed development as all existing surface water and foul water drainage infrastructure is adequate and will be retained.

5. Representations

5.1 Marden Parish Council - Objection

1. the requirements of the Appeal Decision made 13 March 2019 by Elizabeth Jones, and Inspector appointed by the Secretary of State, have not implemented in full.
2. a waste water and drainage strategy with details including foul water percolation tests, location of drainage field and associated sizing have not been submitted. Also required are the results of infiltration testing undertaken in accordance with BRE365 and confirmation of ground water levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels in accordance with the Standing Advice. (Ref: Balfour Beatty report, 7/9/22 pg.4.)
3. all of the construction work to date has been done without any formal planning permission.
4. all works are outside the requirements of the NDP: M2, M3, M12 and M14 - Dark Skies.
5. an ecological survey has not been supplied.

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=222295&search-term=222295, however they are also summarised below:

5.3 1 letter of support which can be summarised as follows:

- Marden has a considerable total mileage of well-maintained footpaths and bridleways, including a stretch of the three counties ride. Light touch sustainable tourism should be supported in the parish and to this application should be supported.

5.4 A total of 18 letters of objection have been received and these can be summarised as follows:

- The barn is of no historical significance
- The site has never been used for agricultural purposes.
- The ground is boggy. Many residents have suffered with their septic tanks flooding in times of prolonged rainy conditions.
- Why has a barn got a septic tank?
- Pollutant reach the River Lugg.
- The low lying nature of the land will cause any effluent to seep on to the neighbouring land before reaching ditches.
- Could this application be subject of a restriction to the number of persons using the holiday let at any one time i.e. no tents, mobile homes, persons sleeping on the floor etc.
- Disruption to the neighbouring property.
- External lighting causing pollution.
- The building is outside the settlement boundary.
- The enforcement notice has never been complied with or rescinded
- At appeal of the enforcement notice the Inspector considered that the conversion was harmful to the character and appearance of the appeal building and surrounding area and did not comprise sustainable development. There has been no change in policy. The current proposal will be judged against the same criteria and should fail for the same reasons.
- The application is for a one-bedroomed holiday let, why is there parking for three vehicles?
- The additional cleaning and washing between visitors would increase the waste production.
- Drainage arrangements are unclear.
- Concern of impact upon Berrington water lakes.
- Increased traffic and difficult access on a dangerous bend
- An old tree was felled and some of the hedging has been taken out and replaced by ugly fencing. The fencing is not in keeping within the area.
- What is to stop the holiday let being converted to a dwelling.

- No evidence to demonstrate that the installation of the septic tank or flue was carried out in accordance with Building Regulations
- The applicant is wrong to say that there is no need for an ecological survey
- The approved NDP policies about where new developments should be allowed are being completely ignored.
- An appropriate density in context with the surrounding area is not being retained if this development is permitted; this is ribbon development in an area of High Landscape Value
- Certain SUDS facilities will not be effective because the operation of such systems will be compromised when the water table is close to the surface for most of the year. There will not be sufficient attenuation storage capacity available underground to mitigate against surface water flood risks.
- This holiday-let development will do nothing to encourage sustainable tourism. It is an area with no frequent bus services, and on a busy narrow lane road where walkers, cyclists and horse-riders are at risk from speeding traffic with no roadside footpath available.
- The flue means smoke permeates the interior of the neighbouring property.
- The rooflights mean that the privacy of the neighbouring property is compromised
- Noise from those using the holiday let
- Policy RA5 is not met.
- The proposal will not lead to an enhancement to its immediate setting.
- It will not make a positive contribution to any rural business, enterprise and do little to support the local economy.
- Hedging has to be cut back to provide visibility
- There is little potential for any revenue from a holiday let to make a difference to the economic well-being as there are no nearby restaurants or public houses.

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

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

6. Officer's Appraisal

Policy context and Principle of Development

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows: *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the 'made' Marden Neighbourhood Development Plan (NDP). At this time the policies in the NDP can be afforded weight as set out in paragraph 48 of the National Planning Policy Framework 2021, which itself is a significant material consideration.

Principle

- 6.3 The principle of tourism-related development is addressed under CS policies RA6 and E4. Policy RA6 promotes employment generating proposals which help to diversify the rural economy and includes proposals for sustainable tourism of an appropriate scale. Moreover, Policy E4 seeks to promote Herefordshire as a destination for quality leisure visits and sustainable tourism which capitalises on the county's assets and which helps to diversify the tourism offering within the county. Within the reasoned justification to Policy E4 it is stated that "some small-scale tourism development may be appropriate in rural areas". Policy RA5 concerns the re-use of rural buildings.
- 6.4 The MNDP does not contain any relevant policies relating to the provision of tourist accommodation. However, it is noted that the site lies outside of the Litmarsh settlement boundary as defined by the MNDP. Therefore, given the location of the site outside of the designated

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

settlement for growth, it falls to be assessed against the relevant policies of the development plan which pertain to the open countryside.

- 6.5 In this instance, the proposal would represent a small-scale tourism development which would result in the delivery of modest economic growth and expansion of the tourism offering within the County. The accommodation could be offered for short-term occupancy by families, walkers and cyclists, permitting access to the quiet roads and public rights of way found in the surrounding area. Furthermore, environmental benefits arise by virtue of the proposed re-use of a redundant rural building of permanent and substantial construction. For these reasons, the principle of the development proposal complies with Policies RA5, RA6 and E4 of the Core Strategy.

Relevant Enforcement background

- 6.6 In reviewing the Inspector's decision letter following the appeal against an Enforcement Notice, it was determined that the building provided residential accommodation and had been used as such. Paragraph 15 of the letter is important stating

"From the evidence currently available, on the balance of probabilities, I conclude that a material change of use of the barn as alleged has taken place. Planning permission is required but has not been granted. Thus, there has been a breach of planning control as alleged and the appeal on ground (c) fails."

- 6.7 The Inspector did not conclude that the change in use of the building was unacceptable as a matter of principle, but rather that a material change of use had occurred and that permission had not been granted to that effect.
- 6.8 The Inspector discusses the effect of the development on the character and appearance of the appeal building and surrounding area later in the letter. In paragraphs 20-25 she concluded that the balcony, rooflights and flue were dominant domestic features which were completely out of place with the character of the rural building, thus being contrary to CS Policy RA5. The balcony has since been removed however the rooflights remain (albeit sealed internally with slates placed over on the eastern roof slope) and the flue has been removed and a new one installed on the northern end elevation.



The building in 2017



The building in 2021 without flue

- 6.9 It is acknowledged that the Inspector concluded that the balcony, rooflights and flue were harmful to the character and appearance of the barn. However in comparing the appearance of the building then and now it is not considered that the introduction of a flue and the retention of the rooflights represents an unacceptable form of development such that a refusal is warranted in this instance. It is your Officers view that the most significant domestication and visual harm was caused by the

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

balcony and its removal ensures that the character and appearance of the barn remains. As such no conflict with RA5, SD1 or LD1 of the CS is found.

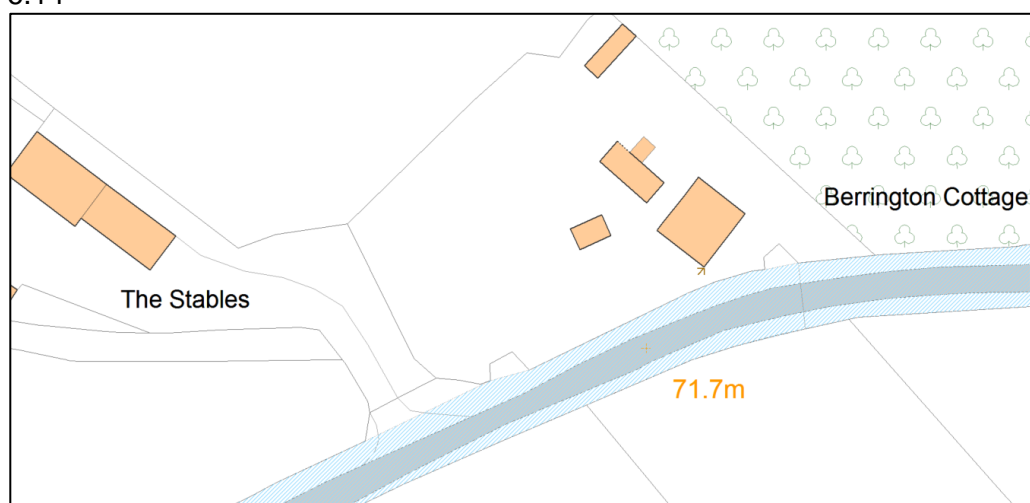
Amenity

- 6.10 Given the nature of the application and the proximity to Berrington Cottage, the impact upon the amenity of the existing and future occupiers must be given due consideration. Although the proximity between the buildings is close (just under 4 metres), there is a well vegetated boundary established between the buildings which provides a level of screening and privacy.
- 6.11 The plans only show a single window in the south western elevation; previously this was a door opening onto the since removed balcony. No other windows are proposed. The rooflights in the north eastern roof slope may give an opportunity for a degree of overlooking of the curtilage of the neighbouring property. As such, whilst these have been plastered over internally and do not afford views out, a condition is recommended to secure the removal of the units and to make good the roof with slates. The two rooflights in the south west roof slope look onto the applicants own property and cause no harm in respect of amenity. It is advised that the justified and sensitive use of rooflights is entirely commonplace in conversion schemes of this nature and the retention of the two in the south-western elevation is not considered to be unreasonable, especially given the otherwise minimal intervention in terms of new window openings.
- 6.12 Concern was raised with regards to the flue and the impact of the smoke upon the neighbouring property. Environmental Health (nuisance) were consulted and conducted a site visit observing the lighting of the flue and the smoke that was generated. From this visit they raised no objections to the proposals.

Access and Parking

- 6.13 No objection has been raised by Area Engineer with regards to the number of trips generated. It is considered that converting an agricultural barn to a holiday let has limited highway safety impacts as the trips tend to be offset. The existing access and driveway arrangements are to be retained and therefore there are no objections in this regard. There is adequate space for the parking and turning of vehicles. There were concerns that the proposed visibility splays were over land that is not either within the applicant's ownership or the highway extent, however it is confirmed through mapping that this would not be the case. The image below is taken from The Council's mapping system and indicates the highway extent.

6.14



- 6.15 The proposed holiday let would benefit from the inclusion of secure cycle storage to allow guests to make use of active travel options when visiting nearby points of interest. In order to ensure this is delivered, a compliance condition is recommended.

Ecology

- 6.16 The proposal is limited to a change in use of the building. The internal works have already been carried out and as such no formal requests with regards to the need for an ecological survey have been received from the Ecologist. The building and its adjacent areas of hardstanding and grazed improved pasture are of limited value to wildlife. As such, the proposal would not have any adverse effects on any designated sites or priority habitats; or any European protected species, such as bats or amphibians or reptiles in the wider area.
- 6.17 In line with national and local planning policy, the works should be designed to provide a net biodiversity gain. A suitably worded condition, to secure the biodiversity net gain, is recommended.

Drainage, Flooding and Habitat Regulations

- 6.18 With regards to foul water drainage, the existing septic tank is proposed for use, which has a capacity of 5 people; more than sufficient to accept the nominal increase in domestic loading from a one-bed holiday let unit. The tank is understood to be in good working order (with building control sign off), with the associated drainage field as the means of outfall. The relevant testing has been carried out and indicates that the land has an acceptable Vp rate. The Ecologist and Land Drainage specialists have both reviewed the application and raise no objections to the foul water drainage strategy. Furthermore, no objection is raised with regards to the potential impact of the proposal upon the River Lugg. No conflict with CS policies SD3 and SD4 and NDP Policy M11 is therefore found.
- 6.19 The building already exists and there is no further hardstanding being introduced. The site is located within Flood Zone 1 and there are no surface water flood risks indicated for the site. The drainage field is appropriately sized providing an attenuation volume over double that required. No concern with regards to surface water flooding is found, according with CS policy SD3 and NDP Policy M11.
- 6.20 To achieve certainty, a compliance condition regarding surface and foul water drainage, is reasonable and necessary in the interests of maintaining water quality and avoiding pollution of ground and surface waters.

Conclusion

- 6.21 To conclude, the proposal accords with the development plan when read as a whole. The proposal would result in the re-use of an existing rural building, make a more efficient use of the land and diversify the County's tourism offering, thereby leading to small-scale economic and environmental benefits. The effects of development in the landscape would be visually contained and the proposed use of the building is in keeping with the rural area. No harm to the amenity of surrounding neighbours is found. It is necessary to impose a condition removing permitted development rights for any future alterations and extensions, in line with Policy SD1 and RA5 and its reasoned justification.

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. C01**
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. Development in accordance with approved plans and materials

The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. 24.6; 24.4; 24.3; 24.5; 24.1; 24.2; Ordnance Survey map reference SO5250SE; letter from Townsend Water Engineering dated 3rd October 2022; untitled amended visibility splays) except where otherwise stipulated by conditions attached to this permission.

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 Policies SD1, LD1, SS6, LD2, SD3, SD4 and MT1 of the Herefordshire Local Plan – Core Strategy, Policy M11 of the Marden Neighbourhood Development Plan and the National Planning Policy Framework.

3. Prior to first use of any part of the development works approved under this planning decision notice, evidence of the suitably placed installation within the site boundary or on other land under the applicant’s control of a minimum total of TWO bat boxes (or similar features supporting bat roosting) and TWO bird nesting boxes (mixed types) and ONE Hedgehog Home should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

4. At no time shall any external lighting, except low power (under 550 Lumens/5 watts and <3000 Kelvin), ‘warm’ LED lighting in directional down-lighting luminaires on motion operated and time-limited switches be installed or operated in association with the approved development and no permanently illuminated external lighting shall be operated at any time, without the written approval of this local planning authority.

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SD1, SS6, LD1-3.

5. Unless otherwise approved in writing by the planning authority all foul water, created by the development approved by this permission shall discharge through connection to the existing private, residential septic tank discharging to soakaway drainage field, as identified in the drainage information by Townsend Water Engineering dated 3 October 2022.

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2 and SD4.

6. There shall be no playing of amplified music or the use of a fire pit or fireworks outside at any time.

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

7. 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 the holiday accommodation 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 to the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

8. Within 3 months of the date of this permission the roof lights found on the north eastern roof slope are to be removed in their entirety and slates to match the existing slates are to be re-laid.

Reason: To safeguard the amenity of the area in compliance with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

9. 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, AA, B, C, D, E and H of Part 1 and of Schedule 2, shall be carried out.

Reason: To ensure the character of the original conversion scheme is maintained and to comply with Policy RA5 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no windows shall be constructed in the north eastern and south eastern elevations of the property.

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

INFORMATIVES:

1. IP2 – Application approved following revisions
2. The proposed development may not have access to mains water and be reliant on a private water supply. The applicant is advised that the Private Water Supplies

(England) Regulations 2016 (as amended) and the Water Supply (Water Quality) Regulation 2016 are likely to apply. In accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard.

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

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

- 3. When the wood burning stove is replaced, the new appliance must meet new EcoDesign standards which came into force on 1st January 2022.**

Only certain types of wood are suitable for burning and the wood must be dry. This means it should have a moisture content of less than 20%. If the applicant continues to burn his own wood, I suggest that a moisture meter is purchased. Any wood purchased by the applicant should be certified as 'Ready to Burn'. Using fuels that are approved and labelled as 'Ready to Burn' ensures compliance with the Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020 that outlaw the sale of wet wood and house coal, which are the most polluting fuels.

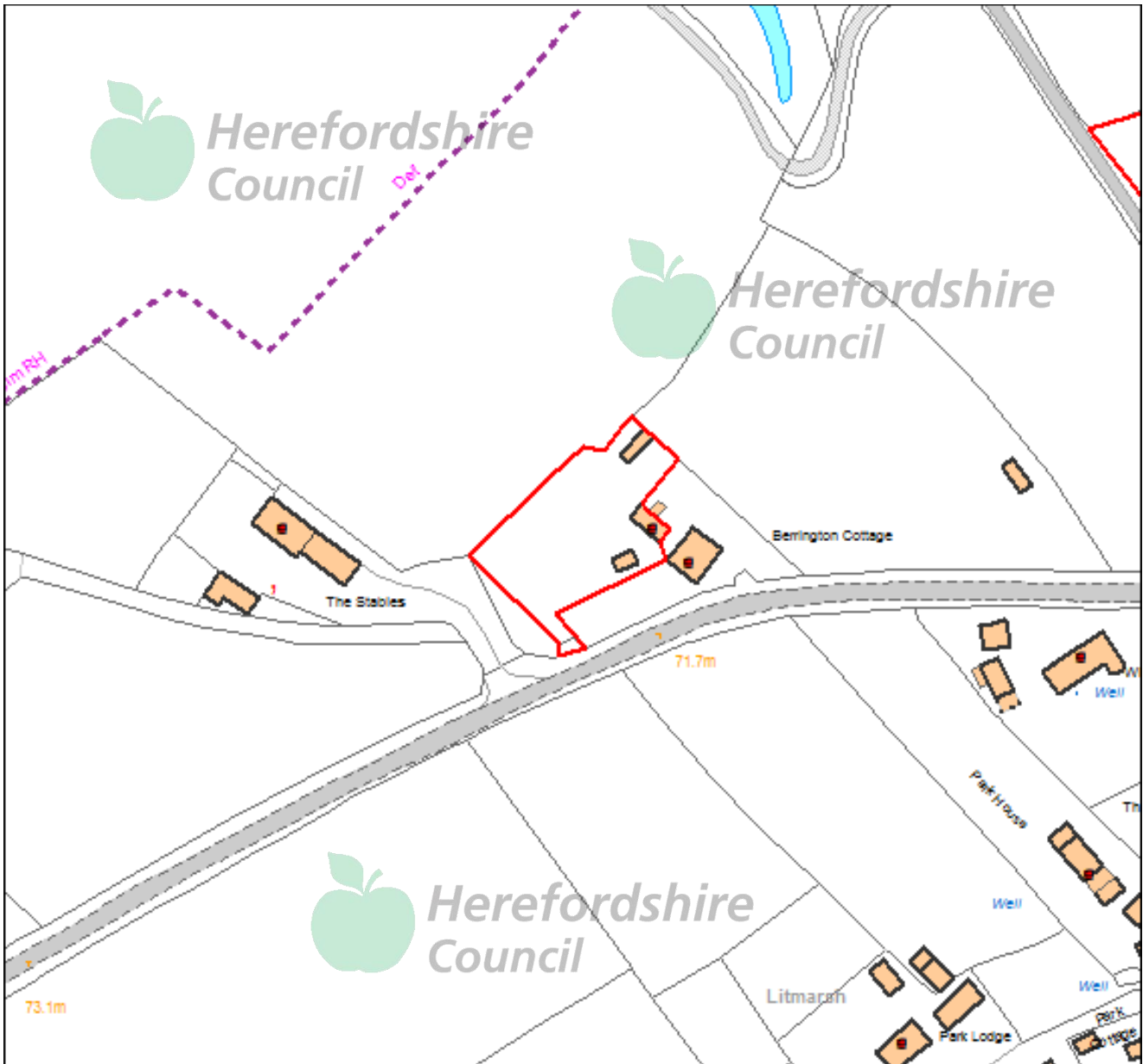
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 222295

SITE ADDRESS : AGRICULTURAL BUILDING ADJACENT BERRINGTON BOWER, MARDEN, HEREFORD, HEREFORDSHIRE, HR1 3EY

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	15 MARCH 2023
TITLE OF REPORT:	<p>222316 - ERECTION OF AN AGRICULTURAL WORKERS DWELLING, INCLUDING A NEW GARAGE AND ASSOCIATED WORKS. AT LAND AT FOXHALLS FARM, SOLLERS HOPE, HEREFORDSHIRE, HR1 4RN</p> <p>For: Mr Rogers per Miss Yasmin Lokat, Nexus, Unit 1, Roushill, Shrewsbury, SY1 1PT</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=222316&search-term=222316
Reason Application submitted to Committee – Redirection at the request of the Ward Member	

Date Received: 13 July 2022
Expiry Date: 27 October 2022
Local Member: Cllr Barry Durkin

Ward: Old Gore

Grid Ref: 362966, 232915

1. Site Description and Proposal

- 1.1 This application proposes the construction of an agricultural worker's dwelling and garage, as well as engineering operations to form a platform on which to build an associated access, turning and parking facilities. The agricultural enterprise for which the application seeks new accommodation, known as Foxhalls Farm, lies downhill around 870m to the south-west.
- 1.2 The elevated greenfield site proposed covers an area of approximately 0.22ha and is situated at the southern end of the linear woodland along Marcle Ridge, which is an important landscape feature and, in part, an Ancient Replanted Woodland. The full extent of the woodlands along Marcle Hill and Ridge Hill is designated as a Local Wildlife Site. The Wye Valley Area of Outstanding Natural Beauty (AONB) lies around 730m to the south-west of the site at its closest point.
- 1.3 Public footpath MM10 runs outside of the site, along its eastern boundary, and forms part of the long-distance route known as the Herefordshire Trail. The topography of the site slopes down from 194.6m AOD at its northern point, to 175.6m AOD in its south-western corner.
- 1.4 Access is proposed via an unmetalled single-track carriageway known as Lyndalls Lane, which branches off Cherry Orchard Lane; an unclassified road within the parish of Much Marcle. An existing agricultural entrance exists at the south-eastern corner of the site, which consists of a field gate leading to an informal track extending across part of the southern boundary.

Further information on the subject of this report is available from Mr Simon Rowles on 01432 260238

2. Policies

2.1 Herefordshire Local Plan - Core Strategy

SS1 – Presumption in favour of sustainable development
SS2 – Delivering new homes
SS6 – Environmental quality and local distinctiveness
SS7 – Addressing climate change
RA3 – Herefordshire’s countryside
RA4 – Agricultural, forestry and rural enterprise dwellings
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
MT1 – Traffic management, highway safety and promoting active travel

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

<https://www.herefordshire.gov.uk/local-plan-1/local-plan-core-strategy>

2.2 How Caple, Sollars Hope and Yatton Group Neighbourhood Development Plan

Vision and Objectives (VO1)
Environment (ENV-1)
Housing (HSG-1)
Economy (ECON-1)
Infrastructure (INF-1)

2.3 National Planning Policy Framework

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

2.4 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and paragraph 33 of the National Planning Policy 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 Core Strategy was adopted on 15 October 2015 and the decision to review it was made on 9 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 applications. In this case, relevant policies have been reviewed, are considered consistent with the NPPF and thus attributed significant weight.

3. Planning History

3.1 There is no relevant planning history to the application site.

4. Consultation Summary

Statutory Consultations

4.1 Natural England (no objection):

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites (River Wye SAC and River Wye SSSI) 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). The 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 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, such as consideration of protected species impacts, is provided at Annex A.

4.2 Welsh Water (comments):

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

4.3 Severn Trent Water (no comment):

The site lies outside of Severn Trent's wastewater area and we have no comment to make.

Internal Council Consultations

4.4 Minerals and Waste Officer (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.

4.5 Ecologist (no objection subject to conditions):

The site is within the River Wye SAC catchment and this proposed development triggers the legal requirement for a HRA process to be carried out by the LPA. The final HRA 'appropriate assessment' must be formally approved by Natural England prior to any planning consent being granted. Sufficient and detailed information is required to allow the authority to assess the proposal through its Duty of Care under NERC Act and Habitat Regulations. Natural England is a statutory consultee and the process needs to be completed based on all current requirements and considerations and on information supplied for this specific application and that is sufficiently detailed to allow any relevant conditions to be secured. The HRA process must be completed with legal and scientific certainty and using a precautionary approach.

The proposal is for one new 'self-contained' residential unit with associated additional foul and potential additional surface water flows.

- There is no mains sewer connection available to manage foul water flow.
- The proposal is to manage all foul water through a private package treatment plant discharging outfall to a soakaway drainage field within the curtilage of the dwelling.
- From supplied and available information the LPA has no reason to consider that this foul water management system cannot be achieved at this location.
- All additional surface water can be managed by on-site infiltration drainage features.
- The agreed foul and surface water management systems can be secured by condition on any permission granted

Subject to a 'no objection' response by Natural England to the HRA AA completed by the LPA there are no identified unmitigated effects from this development on the River Wye SAC.

Other Ecology comments

The Preliminary Ecological Appraisal by Arbor Vitae dated 30/05/2022 refers. It is noted that no local Biological Records Centre search has been obtained and thus the fact that the site is currently designated as a Local Wildlife Site (LWS) has not been identified or considered. LWS_SO63/014 ("Woodlands along Marcle Hill and Ridge Hill") was designated in the late 1980s for its woodland habitat and associated species.

From aerial images the development parcel of land – part of the Local Wildlife Site – has not been under woodland cover for over 20 years – this is supported by the current PEA surveys and the remnant Ancient Woodland indicator species found in the hedgerows at the site.

The rough grassland of the site resulting from decades of no woodland cover and minimal management has clearly been demonstrated as significantly ecologically degraded.

There is no evidence that any significant habitats associated with the LWS or any other priority habitat will be lost as a result of the proposed development. The existing northern/western boundary of the development plot adjoins remaining ancient woodland/LWS and a relevant Landscape Environmental Management Plan to ensure this habitat and surrounding remnant ancient woodland hedgerows are buffered from any garden area and recreational use or disturbance associated with the development is requested to ensure that no erosion, loss or degrading of remaining adjacent habitats and LWS occurs as a result of any permission.

The LEMP, in addition to 'soft' and 'green' features, should also include a detailed scheme to demonstrate a wider biodiversity net gain by the proposed development through the use of habitat boxes (or similar 'hard' features) to encourage and support bat roosting, dormice and bird nesting. This 'hard' biodiversity net gain should be secured by a condition.

The site is in a prominent location in an area well known to support protected species populations including the majority of UK bat species and dormice (potentially using the ecologically well connected hedgerows and trees around the site). The site is also in an intrinsically dark landscape that benefits local amenity and nature conservation interests and any additional lighting should be minimised and designed to ensure no illumination of any adjacent or boundary habitats occurs and that the local dark skies and landscape are maintained. A relevant condition is requested on any permission granted.

It is noted that some significant excavations and soil movement will be required and a detailed and comprehensive Construction Environmental Management Plan is requested as a pre-commencement condition and should include detailed ecological working methods / risk avoidance measures and details of the responsible site manager in respect of the construction works and implementation of the approved CEMP.

4.6 Land Drainage (no objection subject to conditions):

The EA's mapping indicates that the site is not at risk of surface water flooding. There may be a risk of surface water flooding from higher land. The Applicant would need to consider the likely flow routes in the vicinity of the proposed development site. It may be necessary to raise the threshold levels slightly to prevent ingress. The EA's groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer.

Surface water drainage

Infiltration testing has been undertaken at the site, whereby 3 trial holes were excavated to 1.3m, 1.5m and 1.25m below ground level, respectively. The slowest infiltration rate obtained was 2.7×10^{-5} m/s, which is acceptable for a surface water discharge to ground.

A groundwater level assessment has not been undertaken at the site. This will be required at discharge of condition stage to ensure that the base of the proposed soakaways are a minimum of 1m above groundwater levels.

We note proposals for two soakaways; one will serve the proposed dwelling and one will serve the garage. For an impermeable area of 40m² and a 1 in 100yr + 40% CC event, the required volume is 2.256m³ (2.82m x 1m x 0.8m). The dwelling soakaway is proposed to be 8m x 1m x 0.8m as this will serve an area of 105m². The garage soakaway is proposed to be 3m x 1m x 0.8m as this will serve an impermeable area of 38m². These provisions are adequate.

We understand that the access track is existing, however any additional hardstanding will be constructed from permeable materials.

Foul water drainage

We understand that specific percolation testing has not been undertaken at the site. However, given the acceptable infiltration test results, we are confident that a foul water discharge to ground can be accommodated. Further percolation testing will be required at discharge of condition stage to accurately size the proposed drainage field.

Using the infiltration rate stated above, a converted V_p rate of 11.7s/mm was established. This has been used to provisionally calculate the required drainage field area of 11.7m² (11.7 x 5 x 0.2). We acknowledge that a percolation rate of 11.7s/mm is outside of the acceptable 12-100s/mm range and that an Environment Agency Permit for a discharge to ground may be required. However, we advise that the V_p rate obtained from percolation testing at discharge of condition stage is used to resize the drainage field.

We note that the site is steeply sloping from north-east to south-west. Therefore, the drainage field has been orientated in line with the site contours and the flood exceedance routes shown. In the highly unlikely event that the drainage infrastructure floods, this is indicated to flow towards the adjacent farm track. However, given that this is not a formal highway, the rural location of the site and the good soakage proven on-site, we have no concerns regarding this.

Overall comment

In principle, we do not object to the proposals, however we recommend that the following information is provided within suitably worded conditions requiring submission of a groundwater level assessment and results of percolation testing undertaken in accordance with BS 6297 (the drainage field should be re-sized using these results); and submission of detailed foul water and surface water drainage design drawings / construction plans.

4.7 Landscape Officer (objection):

The landscape character type is principal wooded hills, including land to the west and wooded hills and farmlands to the east. The site is at the southern end of the linear woodland along Marcle Ridge, which is an important landscape feature and in part an ancient re-planted woodland. Public footpath MM10 runs outside of the site, along the eastern boundary and is part of the long distance route named the Herefordshire Trail.

The proposal is for a single agricultural dwelling, with associated infrastructure.

Landscape character – Marcle Hill and Marcle Ridge are key landscape features within Herefordshire. The proposed location is at an important location along the ridge, the end of the woodland and one of the highest points. In landscape terms, this location is not suitable for residential development. It would introduce a new use, with associated infrastructure, movement and light at an isolated rural location. The shape, scale and design of the proposal does not take account of local distinctiveness, where the surrounding area does include some small, stone or brick farmhouses. The materials and colour selection will not integrate with the surroundings, rather standing out in light colours in stark contrast to the natural environmental colour palette. The settlement pattern for other dwellings and built form is on the lower slopes of the hill. In landscape terms it is preferable for a new dwelling to be in close proximity to the existing built form and make use of shared infrastructure such as access roads.

Visual impact – The Herefordshire Trail is an important walking route and users have a high sensitivity to the landscape around them. The proposed new dwelling would be a negative feature for users along the trail, particularly when travelling north with views towards the site, crossing the road and walking along the boundary. The dwelling and associated activities with car movements and garden use (including structures such as sheds and play equipment) would be completely out of character at this location. In winter, with mostly deciduous trees and hedgerows, the visual impact will be worse. There will also be occasional mid and long distance views towards the house, which will have a negative impact on the ridgeline.

Trees – The arboricultural impact assessment accompanying the application is welcome and follows recommended practice. The schematic drainage layout, however, shows the end of the drainage channel within the RPA of T1. This should be updated. It is also disappointing that the car port needs to encroach on RPAs at all.

Landscape scheme – It is not considered that any landscape scheme could overcome the negative changes to the landscape character and visual amenity of the area. If it were demonstrated that there is no alternative location and that this is a necessary dwelling, then a planting scheme would be required to enhance the boundaries and increase tree cover with respect to the woodland setting.

Conclusion

The proposal is contrary to Core Strategy policy LD1. The proposal does not demonstrate that the character of the landscape has positively influenced the design, scale or site selection of the proposal. It does not conserve or enhance the important landscape feature of Marcle Ridge. There is no landscape scheme that could integrate the built form and new use appropriately into its surroundings.

4.8 Area Engineer - Highways (no objection subject to conditions):

The application proposes the erection of a new three-bed residential dwelling on land to the north of Foxhalls Farm. This is intended to be for the use of family operating the existing agricultural facilities. Access is from a lightly trafficked unclassified road and it is considered that vehicle

movements associated with the residential use would not have a material impact on the operating capacity and highway safety of the surrounding local highway network.

The access proposed would be over PRow MM10 and within the proposed application boundary there is sufficient space for parking and manoeuvring of vehicles which would reduce any potential impact for vehicles to block the PRow. The existing PRow also provides access to the adjoining agricultural land, which will continue in the future.

Any changes to the access will be subject to a Section 184 application which can be conditioned as part of any planning approval (CAE). Any improvement works to the access should include for, as a minimum, the hard bound surfacing of the first 5 metres. In addition, details with regard to secure and covered cycle parking should be provided for the development, to the quantum of one space per bedroom (CB2).

Due to the site location, any occupiers will be dependent on the private car as available public transport is located at some distance from the site.

4.9 Public Rights of Way Manager: No objections

5. Representations

5.1 How Caple, Sollershope and Yatton Parish Council (support):

The application was discussed at a Parish Council meeting. Members unanimously supported the application with the additional comment that the members encouraged and welcomed young people and families to remain in the village they grew up in. Our NDP supports this.

5.2 Forestry Commission (comments):

Thank you for seeking our advice about the impacts that this application may have on Ancient Woodland. The Forestry Commission is pleased to provide you with details of Government policy relating to ancient woodland and information on their importance and designation.

Ancient woodlands are irreplaceable. They have great value because they have a long history of woodland cover, with many features remaining undisturbed. This applies equally to Ancient Semi Natural Woodland and Plantations on Ancient Woodland Sites. It is Government policy to refuse development that will result in the loss or deterioration of irreplaceable habitats including ancient woodland, unless "there are wholly exceptional reasons and a suitable compensation strategy exists". We suggest that you have regard to any points provided by Natural England about the biodiversity of the woodland. We also assume that as part of the planning process, the local authority has given a screening opinion as to whether or not an EIA is needed.

5.3 Significant local public support has been expressed for the proposal, as summarised below.

- The applicant is committed to the future success of the family farm, including a dairy herd, and it is a well-run organic farm.
- The shortage of affordable homes in the area is shown by Sollershope having the highest average house price in Herefordshire according to the Hereford Times.
- The work carried out on the farm using organic methods and working with nature have created beautiful habitats for both animals and walkers to enjoy.
- The scheme employs renewable resources, using an existing access and benefits from a sympathetic house design.
- The site is the ideal location for a farm worker's dwelling as it is within walking distance of the farm and stock, which need to be checked daily.
- The proposal will thereby eliminate the need for extra vehicle usage and also provide security as the main farm entrance can be seen.

- If rural workers are not supported to stay within the local area, then this will harm the beauty of the countryside.
- The building works will not be detrimental to the environment or even visible from many other properties.
- The house will be built on land that is not suitable for agriculture.
- The Rogers family are good farmers who contribute to the local community and manage the land and livestock to a high standard.
- This scheme will benefit the local community with no detriment to the environment.
- All generations of the family are working together in this business endeavour.
- The track provides good access without the need for a new roadway.
- The south-facing aspect of the land will enable use of solar energy and is largely hidden from view by woodland and high hedges.
- Being involved with agriculture, especially a dairy herd enterprise, there is a need to be close at hand and available at all hours of the day.
- The village needs young people that also commit and help the village.
- A DEFRA survey of YFC members in England and Wales found that there is a lack of rural housing available to the young people who have a stake in the countryside.
- The occupancy condition will ensure it remains used for its intended purpose.
- The team at Foxhalls Farm support the neighbourhood during adverse weather.
- The site, in the proximity of the farm, presents very little risk of flooding.
- There is a lack of accommodation for agricultural workers in this area.

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=222316&search-term=222316

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 the principle of development

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

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

6.2 In this instance, the adopted development plan is the Herefordshire Local Plan - Core Strategy (hereafter 'the Core Strategy') and the How Caple, Sollershope and Yatton Neighbourhood Development Plan (hereafter 'the NDP'). The National Planning Policy Framework (hereafter 'the NPPF') also amounts to a significant material consideration.

6.3 The application site occupies an isolated countryside location, beyond any settlement boundary defined within the development plan. Policy RA3 of the Core Strategy states that in rural locations outside of settlements, residential development will be limited to proposals which satisfy one or more of the defined criteria. The most pertinent are as follows:-

- *The proposal meets an agricultural or forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work and complies with Policy RA4; or*
- *The proposal accompanies and is necessary to the establishment or growth of a rural enterprise, and complies with Policy RA4.*

- 6.4 Policy RA4 states, inter alia, that proposals for dwellings associated with agriculture, forestry and rural enterprises will be permitted where it can be demonstrated that there is a sustained essential functional need for the dwelling and it forms an essential part of a financially sustainable business, and that such need cannot be met in existing accommodation. Such dwellings should demonstrate that the accommodation could not be provided in an existing building(s); be sited so as to meet the identified functional need within the unit or in relation to other dwellings; and be of a high quality, sustainable design which is appropriate to the context and makes a positive contribution to the surrounding environment and rural landscape.
- 6.5 The application documentation has been subject to independent review by an agricultural consultant engaged by the Council. Whilst noting the scale of the holding, the essential work carried out and the supervisory capacity needed day and night, reservations were expressed as regards the functional need for a second dwelling, over and above the purpose served by the existing farmhouse. However, your Officers take the view that in the interests of succession planning, an additional dwelling could be reasonably justified, i.e. securing a replacement in preparation for the reduced involvement of occupants of the existing farmhouse.
- 6.6 Of relevance, the judgement involving *Keen v SSE and Aylesbury Vale DC (1996)* suggested that it is unreasonable to require the older generation to leave their farmhouse to accommodate the next generation. Moreover, with the necessity of the dwelling being sited so as to meet the functional need within the unit, it is accepted that using other dwellings within family ownership would not be practicable. Based on the financial information provided, the economic sustainability of this well-established dairy farm enterprise is also not in doubt.
- 6.7 From the perspective of the NDP, Policy HSG-1 sets out criteria to guide housing development in order to avoid unsustainable patterns of development in the rural areas. These criteria include “homes which meet an agricultural or forestry need”. Development must protect or enhance the character and appearance of How Caple, Sollershope and Yatton, and ensure that it does not adversely affect the living conditions of the occupiers of nearby properties. The use of traditional building materials, such as stone, brick and slate, is to be encouraged.
- 6.8 In summary, based on the policy exceptions established within the Core Strategy and NDP, the principle of a new dwelling to serve the farm enterprise is accepted. Conditional control would be necessary to ensure ongoing agricultural occupancy and policy compliance. That said, other aspects of the aforementioned policies will be considered in the ongoing appraisal.

Access and highway safety

- 6.9 The application proposes the erection of a new three-bed residential dwelling on land to the north-east of Foxhalls Farm, and intended for the use of family engaged in the agricultural activities. Access would be achieved via a lightly trafficked unclassified road and vehicle movements associated with the residential use would not have a material impact on the operating capacity and highway safety of the local highway network.
- 6.10 The access proposed would cross over public footpath MM10 but there is sufficient space for parking and manoeuvring of vehicles within the application site to reduce any potential impact of vehicles obstructing the footpath. Changes to the access could be conditioned as part of any approval, with any improvement works needing to at least provide for the hard bound surfacing of the first 5 metres. In addition, secure and covered cycle parking should be provided to the quantum of one space per bedroom. This matter would also need to be conditioned.
- 6.11 It is concluded that highway safety would not be prejudiced and that the isolated location of the site, with an inherent dependency on use of the private car, is justified by the nature of this development proposal for an agricultural worker’s dwelling.

Design, scale and siting

- 6.12 Amended plans have been submitted as part of the application process. Officers consider the revised dwelling to be of a scale and floor area that is not disproportionate to the functional need arising and of a design that would not be unsympathetic to the rural area. That said, a key part of the assessment required to demonstrate policy-compliance relates to its siting and any associated landscape and visual impacts that arise. The supporting text to Policy RA4 provides helpful context and is extracted below for ease of reference.

“Where the need for a dwelling is established on the basis of proven essential need, preference should be given to the use of suitable existing buildings through conversion. Where this is not possible, any new development should relate closely to the activities for which there is a need. In most cases this will mean that the new dwelling should be sited in close proximity to existing buildings. Isolated locations or locations that could encourage farm fragmentation in the case of dwellings for agricultural enterprises should be avoided.”

- 6.13 The landscape character type is Principal Wooded Hills, including land to the west, and Wooded Hills and Farmlands to the east. As mentioned above, the site lies at the southern end of the linear woodland along Marcle Ridge and a public footpath runs alongside its eastern boundary. Upon site inspection, it is evident that the proposed new dwelling would be visually detached from the farm it is intended to functionally serve. The Council’s Landscape Officer has objected to the application on the basis of conflict with Core Strategy policy LD1.
- 6.14 This is insofar as it fails to demonstrate that the character of the landscape has positively influenced the design, scale or site selection. The proposal would fail to conserve or enhance the important landscape feature of Marcle Ridge, with it being concluded that there is no landscape scheme that could integrate the built form and new use appropriately into its surroundings. In addition, there is some tension with the NDP vision (VO1) and Policy ENV-1, which seek to address some of the concerns of local residents, such as protecting the essential nature and character of the area and its outstanding rural views and qualities.
- 6.15 In response to these concerns, the Agent commissioned a Landscape and Visual Appraisal. This concludes that the overall effects of the proposal would not create an ‘unacceptable’ effect in terms of landscape and visual amenity and any such effects are mostly experienced at a local level. It also asserts that the small scale of the development, which is consistent with existing structures in the wider landscape, would result in residual landscape and visual effects of a moderate/minor level of effect, in the context of the wider landscape and visual amenity.
- 6.16 On balance, having regard to the requirement for proposals to be sited to meet the identified functional need or in relation to other dwellings (and thereby avoid isolated sites or locations that could encourage farm fragmentation), your Officers consider that the degree of landscape and visual harm arising justifies withholding permission. The earthworks required to facilitate the development would, in themselves, substantially alter the profile and natural qualities of the site.
- 6.17 In terms of landscape character, Marcle Hill and Marcle Ridge are key landscape features within Herefordshire. The proposed site lies at an important location along the ridge, the end of the woodland and one of its highest points. The Landscape Officer has concluded that this location is not suitable for residential development. The proposal would introduce a new use, with associated infrastructure, movement and artificial light in an isolated rural location. Whilst the revised design includes more appropriate timber cladding and stone, the settlement pattern for other dwellings and built form is on the lower slopes of the hill. The scheme would also remove any possibility of woodland cover being restored in line with the standing advice on ancient woodland issued by Natural England and the Forestry Commission.
- 6.18 As regards visual impact, the Herefordshire Trail is an important walking route and users have a high sensitivity to the landscape around them. The proposed new dwelling would be a negative

Further information on the subject of this report is available from Mr Simon Rowles on 01432 260238

feature for users along the trail, particularly when travelling north with views towards the site, crossing the road and walking along the boundary. The dwelling and associated activities, with car movements and garden paraphernalia, would be completely out of character in this location. In winter, with mostly deciduous trees and hedgerows, the visual impact will be worse. There would also be occasional mid and long distance views towards the house, as illustrated by LVA viewpoints EDP 5.4, 5.5 and 5.6, which would have a negative impact on the ridgeline.

- 6.19 Furthermore, the arboricultural impact assessment report accompanying the application, whilst following recommended practice, is unaware of the adverse impact of the proposed drainage works. The schematic layout shows the end of the foul drainage field encroaching upon the RPA of tree T1, a 'small-leaved lime' (Category B2) that is to be retained. The report advises that "no trench excavation is permitted within the RPA". It is also regrettable that the proposed car port and retaining wall structure within the needs to encroach on tree RPAs at all.
- 6.20 On the basis of the advice that a landscape scheme could not overcome the negative changes to the landscape character and visual amenity of the area, discussion has taken place as to the potential for alternative sites more closely related to the farmstead. In addition to the Policy RA4 imperative, in landscape terms, it would be preferable for the new dwelling to lie in close proximity to the existing built form and make use of shared infrastructure such as access roads. Moreover, a location closer to the farmstead, along the existing private access road to Foxhalls Farm, would afford better opportunity to deter theft and other rural crime.
- 6.21 Regrettably, discussions have not resulted in a positive outcome. Your Officers do not accept the suggestion that a dwelling could not be less intrusively developed in a lower-lying position, clustered with existing built form, so that it is not viewed as an isolated feature. Whilst noting arguments made in relation to topography and drainage issues, these have not been borne out by any compelling evidence and are therefore regarded as speculative.

Ecology and drainage

- 6.22 As regards drainage, based on advice from the relevant technical consultee, there are no substantive objections to the proposal, subject to further information being secured via suitably worded conditions requiring submission of a groundwater level assessment and the results of percolation testing undertaken in accordance with BS 6297:2007, as well as the submission of detailed foul water and surface water drainage design drawings.
- 6.23 In terms of the Habitat Regulations inferences of site drainage and river water quality issues, these have been considered as part of a HRA opinion that has been subject to a favourable consultation response from Natural England. This identified no unmitigated adverse effects from the proposed scheme on the River Wye Special Area of Conservation. Conditions would nonetheless be required to control the means of foul and surface water disposal.
- 6.24 The Council's Ecologist has noted shortcomings in the Preliminary Ecological Appraisal insofar as no local Biological Records Centre search has been obtained and the fact that the site is a Local Wildlife Site (LWS) has not been identified or considered. SO63/014 was designated in the late 1980s for its woodland habitat and associated species. That said, from aerial images the parcel of land has not been under woodland cover for over 20 years, as confirmed by the PEA survey and the remnant Ancient Woodland indicator species found in hedgerows.
- 6.25 On that basis, it has been concluded that there is no evidence that any significant habitats associated with the LWS or any other priority habitat would be lost as a result of the proposed development. Part of the existing site boundary adjoins remaining Ancient Woodland and a Landscape Environmental Management Plan (LEMP) would need to be required by condition to ensure this habitat and surrounding remnant ancient woodland hedgerows are buffered from any garden area and recreational use or disturbance. This is to ensure that no erosion, loss or degrading of remaining adjacent habitats and the LWS occurs.

6.26 Further conditions would be necessary in terms of controlling the impacts of artificial light and maintaining the dark skies environment; securing details of biodiversity enhancement (net gain) features; and obtaining a Construction Environmental Management Plan (CEMP) to avoid harm to protected species and habitats occurring during the construction process.

6.27 In light of the foregoing, for the record, it is not considered that the application necessitates an Environmental Impact Assessment pertaining to woodland or forestry projects.

Conclusion and planning balance

6.28 The proposed development fails to accord with the development plan when read as a whole, which is not outweighed by any other material considerations. Whilst observing the agricultural need and the social and economic benefits arising from the development, in the context of the significant environmental harm arising from landscape and visual impacts, and the policy-driven desire to avoid isolated locations, the application is recommended for refusal.

6.29 Your Officers stress that this recommendation has been given careful consideration and that the principle of erecting a well-designed and appropriately sited farm worker’s dwelling is accepted. In Officers’ opinion, the degree of landscape and visual harm could be meaningfully reduced through the use of an alternative site that is more closely related to the farmstead.

6.30 While noting local support for the application, the benefits set out within representations could equally be secured by a policy-compliant proposal in landscape and visual terms.

RECOMMENDATION

That planning permission be REFUSED for the following reason:

- 1. The proposed development, by reason of the isolated, skyline location of the site and associated erosion of the landscape character and visual amenity of the area, would cause significant harm to the natural, tree-covered character of Marcle Ridge. The proposal also fails to adequately safeguard mature trees to be retained and runs contrary to the policy requirement for agricultural workers’ dwellings be sited so as to meet the identified functional need within the unit or in relation to other dwellings, most notably, by avoiding isolated locations or locations that could encourage farm fragmentation. Accordingly, the proposal conflicts with Policies RA4 and LD1 of the Herefordshire Local Plan – Core Strategy, Policies ENV-1 and HSG-1 of the How Caple, Sollershope and Yatton Neighbourhood Development Plan and paragraphs 130 and 174 of the National Planning Policy Framework.**

INFORMATIVES:

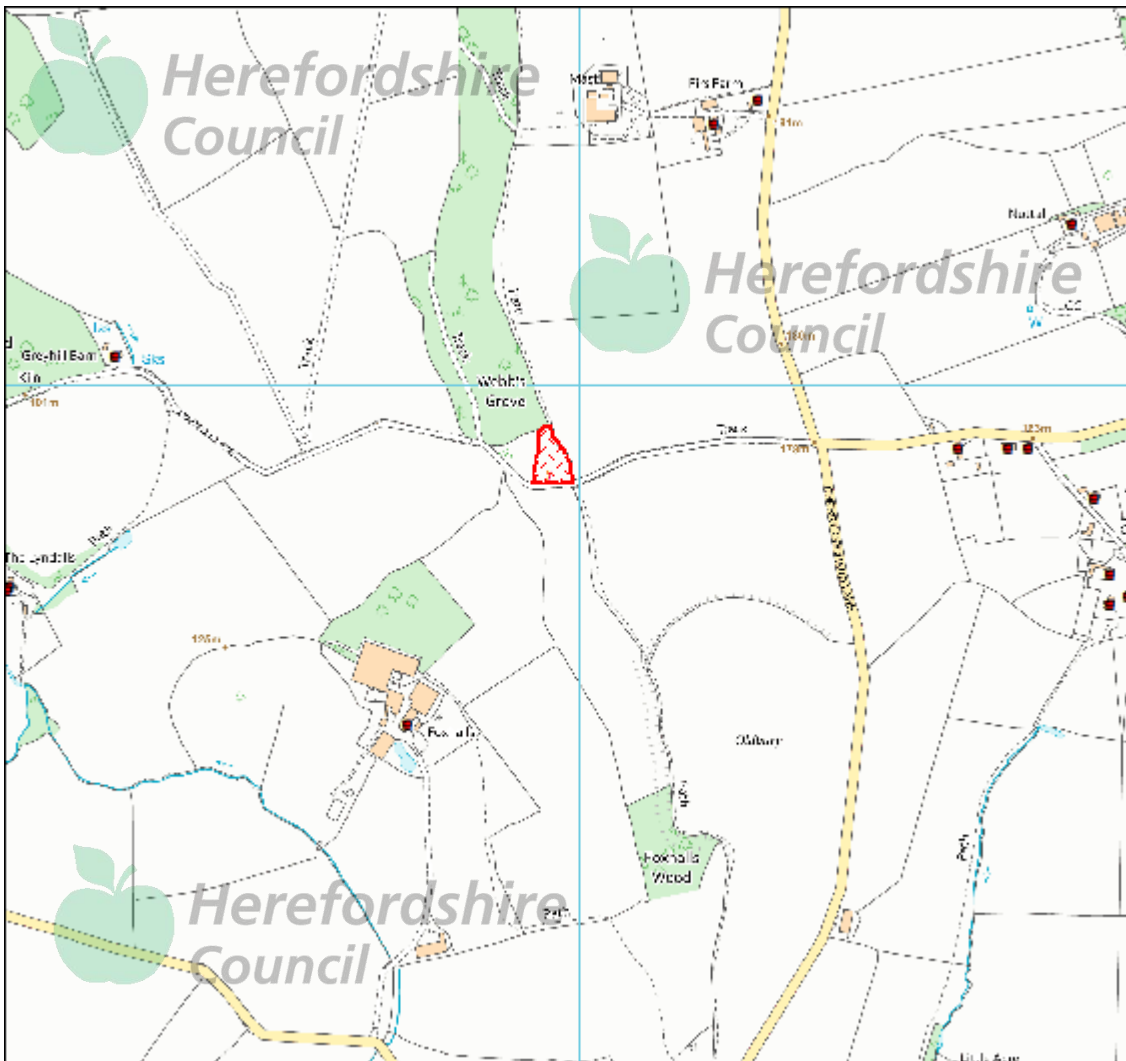
- 1. Refusal with a way forward**

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 222316

SITE ADDRESS : LAND AT FOXHALLS FARM, SOLLERS HOPE, HEREFORDSHIRE, HR1 4RN

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Further information on the subject of this report is available from Mr Simon Rowles on 01432 260238

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	15 MARCH 2023
TITLE OF REPORT:	224292 - PROPOSED SINGLE STOREY REAR EXTENSION AT 75 FOLEY STREET, HEREFORD, HEREFORDSHIRE, HR1 2SQ For: Lagoutte per Mr Rhys Bennett, Work Here, 4-5 High Town, Hereford, Herefordshire, HR1 2AA
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=224292
Reason Application submitted to Committee – Councillor relation	

Date Received: 22 December 2022 **Ward: Eign Hill** **Grid Ref: 352030,239629**
Expiry Date: 7 March 2023
Local Members: Cllr Elizabeth Mary Foxton

1. Site Description and Proposal

- 1.1 75 Foley Street is a two storey terraced house located at the end of Foley Street, a no-through road. It lies within an established residential area to the southeast of Hereford City Centre and the east of the railway line.
- 1.2 The application seeks permission to erect a single storey extension to the rear of the property to form a new dining room. The extension would extend out in line with the previously approved extension (Ref: 184042) and is approximately 3 metres long and 2.2 metres in width. It would be constructed in brickwork to match the existing walls of the dwelling. In total the extension would have an approximate 2.8 metre height on the boundary with the neighbouring property (although the height of the solid brickwork element would be approximately 2.5 metres) rising to a maximum height of 3.5 metres against the host dwelling and previous extension.
- 1.3 A selection of photographs of the site from the neighbours rear garden and the proposed elevations and floor plan are set out below for ease of reference.



PF2



2.

Policies

2.1 Herefordshire Local Plan – Core Strategy

SS1 – Presumption in favour of sustainable development

SD1 – Sustainable design and energy efficiency

LD1 – Landscape and townscape

MT1 - Traffic management, highway safety and promoting active travel

2.2 National Planning Policy Framework (NPPF) – February 2019

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 12 – Achieving well-designed places

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

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

2.4 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.

3. Planning History

- 3.1 P184042/FH Single storey extension to rear of existing property to form new kitchen, ground floor wc and sitting area. Approved with conditions

4. Consultation Summary

No Statutory Consultations

No Internal Council Consultations

5. Representations

- 5.1 Hereford City Council have not provided a response to the consultation

- 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=224292

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

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

6. Officer's Appraisal

Policy context and Principle of Development

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

- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration.

- 6.3 When assessing planning applications for residential extensions, Policy SD1 and LD1 of the CS are applicable. SD1 states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, and proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing. Policy LD1 requires that the character of the landscape/townscape has positively influenced the design and scale of development, amongst other matters. These policies accord with the principles as set out within the NPPF with regards to good design and ensuring a high standard of amenity for existing and future occupiers.

Assessment

- 6.4 The proposal is for a small single storey extension to form a dining room. Its maximum height is 3.5 metres and it will sit under the first floor window cill height at the rear with a lean-to style roof such that it reads as an appropriately scaled and subservient addition to the dwelling.
- 6.5 The proposals materials for the extension are matching facing brickwork with a contemporary style derived from the use of glazing. The roof materials are also matching and it is considered that the proposal is entirely acceptable and is compliant with CS policy LD1 as regards to design and scale.

- 6.7 The proposed extension would be to the rear of the terraced dwelling with an overall length of 3 metres and 2.2 metres in width. The scale and design of the extension are considered to complement to property and will have no adverse implication in terms of the wider character of the area.
- 6.8 The extension would be set on the boundary line where there is currently a standard height fence.
- 6.9 It is noted that the extension would result in an increase in height on the boundary line to 2.8 metres (2.5 metres in respect of the solid brickwork element). However, in my view the relationship is not unusual in the context of a higher density terraced location such as this and the relative orientation and presence of the existing extension on the rear elevation is such that immediate neighbours will not be adversely affected in terms of overshadowing. The glazing is at ground floor level and looks directly into the applicants own garden and the roof lights are for natural lighting only and so will not result in any loss of privacy.
- 6.9 Due to its modest nature and sensitive use of glazing it is not considered to have any adverse impact upon the neighbouring dwellings with regard to overlooking, overshadowing or overbearing. As such the scheme is considered to be of an appropriate and acceptable scale, and is therefore compliant to CS Policy SD1.

Conclusion

- 7.0 In summary the proposed rear extension is considered to be of an acceptable design that would have no adverse effects upon the character of the host dwelling, the wider streetscene or residential amenity. No response has been received from neighbouring dwellings. Moreover, the proposals would not give rise to any adverse impact upon the local highway network, thus complying with CS Policies LD1, SD1 and MT1. The recommendation is therefore one of approval subject to the conditions set out below.

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:

That planning permission be granted subject to the following conditions:

1. **C01 - Time limit for commencement (full permission)**
2. **C07 – Development in accordance with approved plans and materials**

INFORMATIVES:

1. **IP1 - Application Approved Without Amendment**

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 224292

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Further information on the subject of this report is available from Mrs Fay Griffiths on 01432 261932