

# Agenda

## Planning and Regulatory Committee

Date: **Wednesday 16 August 2023**

---

Time: **10.00 am**

---

Place: **Herefordshire Council Offices, Plough Lane, Hereford,  
HR4 0LE**

---

Notes: Please note the time, date and venue of the meeting. Please access the following link for the webcast of the meeting: [Planning and Regulatory Committee - Wednesday 16 August 2023 10.00 am](#)

For any further information please contact:

**Matthew Evans, Democratic Services Officer**

Tel: 01432 383690

Email: [matthew.evans@herefordshire.gov.uk](mailto:matthew.evans@herefordshire.gov.uk)

---

If you would like help to understand this document, or would like it in another format, please call Matthew Evans, Democratic Services Officer on 01432 383690 or e-mail [matthew.evans@herefordshire.gov.uk](mailto:matthew.evans@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the meeting of the Planning and Regulatory Committee**

## **Membership**

**Chairperson**            **Councillor Terry James**  
**Vice-chairperson**   **Councillor Clare Davies**

**Councillor Polly Andrews**  
**Councillor Bruce Baker**  
**Councillor Dave Boulter**  
**Councillor Simeon Cole**  
**Councillor Dave Davies**  
**Councillor Elizabeth Foxton**  
**Councillor Catherine Gennard**  
**Councillor Peter Hamblin**  
**Councillor Daniel Powell**  
**Councillor Stef Simmons**  
**Councillor John Stone**  
**Councillor Richard Thomas**  
**Councillor Diana Toynbee**

## Agenda

<b>PUBLIC INFORMATION</b>		
<b>GUIDE TO THE COMMITTEE</b>		
<b>NOLAN PRINCIPLES</b>		
<b>1.</b>	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
<b>2.</b>	<b>NAMED SUBSTITUTES (IF ANY)</b> To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
<b>3.</b>	<b>DECLARATIONS OF INTEREST</b> To receive declarations of interests in respect of items on the agenda.	
<b>4.</b>	<b>MINUTES</b> To approve the minutes of the meeting held on 26 July 2023.	13 - 88
<b>5.</b>	<b>CHAIRPERSON'S ANNOUNCEMENTS</b> To receive any announcements from the Chairperson.	
<b>6.</b>	<b>181494 - LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY</b>  Proposed land for residential development and associated work together with public open space and local green space.	89 - 168
<b>7.</b>	<b>223281 - LAND AT ASHLEY FARM, GRAFTON COURT CLOSE, GRAFTON, HEREFORD, HEREFORDSHIRE, HR2 8BL</b>  Outline permission for proposed mixed use development to provide community hub with enhanced recreation facilities including a 3G pitch, car park and access roads, change of use of land from agricultural to allotments and productive gardens new buildings to provide changing facilities, classrooms, equipment storage, poly tunnels cafe and kitchen.	169 - 218
<b>8.</b>	<b>212518 - LAND SOUTH OF YEW TREE FARM, RUCKHALL, COMMON ROAD, EATON BISHOP, HEREFORD, HR2 9QX</b>  Reserved matters following outline approval 191541 (Outline for three or four bedroom dwelling on a plot of land currently part of Hillcrest's garden).	219 - 234
<b>9.</b>	<b>231926 - BARN AT WOOLNER HILL FARM, STONEHOUSE LANE, BRINGSTY, HEREFORDSHIRE</b>  Application for the prior approval of change of use of agricultural building to single dwelling.	235 - 244
<b>10.</b>	<b>DATE OF NEXT MEETING</b>  Date of next site inspection – 5 September 2023  Date of next meeting – 6 September 2023	



# The Public's Rights to Information and Attendance at Meetings

## 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.

## Recording of meetings

Please note that filming, photography and recording of this meeting is permitted provided that it does not disrupt the business of the meeting.

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.

## Travelling to the meeting

The Herefordshire Council office at Plough Lane is located off Whitecross Road in Hereford, approximately 1 kilometre from the City Bus Station. The location of the office and details of city bus services can be viewed at: <http://www.herefordshire.gov.uk/downloads/file/1597/hereford-city-bus-map-local-services>. If you are driving to the meeting please note that there is a pay and display car park on the far side of the council offices as you drive up Plough Lane. There is also a free car park at the top of plough lane alongside the Yazor Brook cycle track.



### 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 Clare Davies (Vice Chairperson)	True Independents
Councillor Polly Andrews	Liberal Democrat
Councillor Bruce Baker	Conservative
Councillor Dave Boulter	Independents for Herefordshire
Councillor Simeon Cole	Conservative
Councillor Dave Davies	Conservative
Councillor Elizabeth Foxton	Independents for Herefordshire
Councillor Catherine Gennard	The Green Party
Councillor Peter Hamblin	Conservative
Councillor Daniel Powell	Liberal Democrat
Councillor Stef Simmons	The Green Party
Councillor John Stone	Conservative
Councillor Richard Thomas	Conservative
Councillor Diana Toynbee	The Green Party

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 Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Wednesday 26 July 2023 at 10.00 am**

**Present:** Councillor Terry James (chairperson)  
Councillor Clare Davies (vice-chairperson)

**Councillors:** Bruce Baker, Chris Bartrum, Dave Boulter, Simeon Cole, Frank Cornthwaite, Toni Fagan, Elizabeth Foxton, Catherine Gennard, Dan Powell, Stef Simmons, John Stone and Richard Thomas

**In attendance:** Councillors Bob Matthews

**Officers:** Solicitor, Planning & Highways, Development Manager Majors Team and Highways Representative

**7. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Polly Andrews, Dave Davies, Peter Hamblin and Diana Toynbee.

**8. NAMED SUBSTITUTES (IF ANY)**

Councillor Chris Bartrum acted as a substitute for Councillor Polly Andrews  
Councillor Frank Cornthwaite acted as a substitute for Councillor Peter Hamblin  
Councillor Toni Fagan acted as a substitute for Councillor Diana Toynbee

**9. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**10. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 28 June be approved.

**11. 222314 - LAND AT GLOUCESTER ROAD (A40 A449 JUNCTION), ROSS ON WYE, HEREFORDSHIRE (Pages 7 - 66)**

*Councillor Chris Bartram left the committee to act as the local Ward member for the application below.*

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

In accordance the criteria for public speaking Ms Foreman spoke on behalf of Ross-on-Wye Town Council, Ms Hall, local resident, spoke in objection to the application and Mr Watt, the applicant, spoke in support.

In accordance with the council's constitution the local ward member spoke on the application. In summary he explained that the application site was at a sensitive location close to a large

roundabout on significant and busy highway infrastructure. There were health objections to the application and its impact on childhood obesity particularly given the proximity to John Kyrle High School. The application if approved would be contrary to statutory requirements for the council to improve the health and wellbeing of the residents of Herefordshire. The application was also contrary to paragraph 92 of the National Planning Policy Framework (NPPF) and planning policy guidance relating to the health and wellbeing of local residents. The application site was close to the Wye Valley Area of Natural Beauty (AONB) and located on an important gateway into the AONB. It was considered that the application would have a detrimental impact upon the AONB and would alter the views, setting and character of the AONB. In terms of its impact upon the AONB, the application was contrary to Core Strategy policies LD1 and SD1. The economic impact of the application upon Ross-on-Wye town centre was queried. The assessments of the impact of the application upon the town centre were inadequate and it had not been demonstrated that there would be no negative impact as required by the Neighbourhood Development Plan (NDP). It was also queried why the town centre would not have been an acceptable location for the type of restaurant contained in the application. The traffic surveys accompanying the application were queried. The surveys dated from 2019 from the Department for Transport indicated that traffic flows has increased markedly since this time. A locally commissioned traffic survey in September 2022 had shown the traffic volumes were up to 30% higher than those quoted in the 2019 survey. The impact of the proposed development upon the local highway network and traffic volumes was unacceptable and was contrary to Core Strategy policies SS4 and MT1.

The committee debated the application. During consideration of the application the committee raised the following concerns:

- the increase in the number of car movements arising from the application and the impact upon local residents' amenity and living conditions. There would be a detrimental impact upon air quality in the area. The impact of a significant increase in car movements upon local residential amenity, for those residents living adjacent to the proposed site, was unacceptable. The noise, emissions and headlight glare from cars accessing the application site would be unacceptable upon residential amenity. The increase in the number of car journeys and the impact upon highways safety was unacceptable. There was particular concern that pupils from the local high school would access the fast food restaurant across busy local roads. The unacceptable impact upon residential amenity posed by the increase in traffic volumes was the contrary to Core Strategy policies SS6 and SD1. The unacceptable impact upon highway safety was contrary to Core Strategy policy MT1.

- the detrimental impact of a fast food restaurant upon the health and well-being of local residents and inconsistency with the council's public health objectives to reduce childhood obesity and statutory duty to protect and improve the health and wellbeing of the local population. The application was contrary to paragraphs 8 and 92 of the NPPF.

- the location of the application and the drive-through facilities proposed would encourage an increase in car journeys. This was contrary to Core Strategy policy MT1 to reduce car journeys and also contrary to core strategy policy SS7 to address climate change.

- the economic impact of the proposed development upon the sustainability and vitality of the town centre was unacceptable and contrary to policy E2 of the Ross-on-Wye NDP.

The local ward member was given the opportunity to close the debate. He thanked the committee for their consideration of the application.

A motion that the application be refused due to: unacceptable impact on residential amenity and highway safety (contrary to core strategy policies SS6, SD1 and MT1); unacceptable impact upon the health and well-being of the local population posed by a fast food restaurant (contrary to paragraphs 8 and 92 of the NPPF); unacceptable impact on highways network resulting in an increase in car journeys and the detrimental impact upon climate change (contrary to Core Strategy policies MT1 and SS7); and unacceptable economic impact upon Ross-on-Wye town centre (contrary to policy E2 of the Ross-on-Wye NDP): was proposed by Councillor Toni Fagan and seconded by Councillor Stef Simmons. The motion was put to the vote and was carried unanimously.

**RESOLVED – that:**

**The application is refused due to: unacceptable impact on residential amenity and highway safety (contrary to core strategy policies SS6, SD1 and MT1); unacceptable impact upon the health and well-being of the local population posed by a fast food restaurant (contrary to paragraphs 8 and 92 of the NPPF); unacceptable impact on highways network resulting in an increase in car journeys and the detrimental impact upon climate change (contrary to Core Strategy policies MT1 and SS7); and unacceptable economic impact upon Ross-on-Wye town centre (contrary to policy E2 of the Ross-on-Wye NDP).**

*There was an adjournment at 11.12; the meeting reconvened at 11.26.*

**12. 204242 / 204243 - WARHAM COURT FARM, BREINTON, HEREFORD, HEREFORDSHIRE, HR4 7PF (Pages 67 - 76)**

*Councillor Chris Bartram resumed his seat on the committee for the following application.*

*Councillor Elizabeth Foxton left the meeting.*

The Senior Planning Officer gave a presentation on the application and the 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 Morfett spoke on behalf of Breinton Parish Council, Mr Barrat, local resident, spoke in objection to the application.

*There was an adjournment at 11:45 a.m.; the meeting reconvened at 11:59 a.m.*

Mr Carroll, the planning 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 site was located in open countryside and there was already a farm shop in the Parish of Breinton. The application would result in an increase in traffic volumes in the local narrow lanes accessing the site. Reference was made to a photograph that had been circulated in the updates sheet which demonstrated that the local lanes were unsuitable for HGV access; a weight restriction had been requested along the road. There were very limited passing places along the local narrow roads and the increase in traffic volumes would have an unacceptable impact on highway safety for those rational users of the Lanes including runners, walkers, cyclists and horse riders. There had been a number of objections to the application and the local Parish Council strongly objected. The application should be refused due to the impact on highways are the impact on the landscape in a rural area.

The committee debated the application. During consideration of the application the committee raised the following concerns:

- the scale and nature of the proposed development was not in keeping with the rural setting and location and was contrary to Core Strategy policy RA6.

- the proposed development would increase traffic volumes in narrow lanes and therefore would have an unacceptable impact upon highway safety and was contrary to Core Strategy policy MT1. Increased traffic volumes would have a detrimental impact on the use of local highways for recreational purposes contrary to Breinton NDP policies B10 and B13.

- increased traffic volumes would contribute to pollution and emissions with a consequent impact on climate change. This was contrary to policy SS7 in the Core Strategy.

- the proposed demolition of and significant alterations to agricultural buildings represented a substantial alteration upon the character and nature of the existing buildings contrary to Core Strategy policy RA5.

- the proposed reuse of existing buildings for a farm shop/cafe/office accommodation was considered contrary to Breinton NDP Policy B4.

The local ward member was given the opportunity to close the debate. He explained that the neighbouring ward councillor objected to the application and urged the committee to reject the application on the basis of highways concerns.

A motion that application 204242 be refused due to the: unacceptable scale and nature of the building in a rural setting (contrary to Core Strategy policy RA6); unacceptable impact on highway safety (contrary to Core Strategy policy MT1 and Breinton NDP policies B10 and B13); unacceptable impact on climate change (contrary to Core Strategy policy SS7); unacceptable changes to and impact on existing agricultural buildings (contrary to core strategy RA5); and unacceptable nature of reuse of empty buildings (contrary to Breinton NDP policy B4): was proposed by Councillor Toni Fagan and seconded by Councillor Stef Simmons. The motion was put to the vote carried by a simple majority.

A motion was proposed that application 204243 was refused for the following reason: *in the absence of the associated planning permission, the demolition of the two buildings and conversion of timber frame building to enable a farm shop/cafe and office units on the site are considered to be unjustified and therefore contrary to core strategy policy LD4 and guidance contained within the national planning policy framework*; was proposed by Councillor Toni Fagan and seconded by Councillor Stef Simmons. The motion was put to the vote and carried unanimously.

**RESOLVED – that:**

**Application 204242 is refused due to the: unacceptable scale and nature of the building in a rural setting (contrary to Core Strategy policy RA6); unacceptable impact on highway safety (contrary to Core Strategy policy MT1 and Breinton NDP policies B10 and B13); unacceptable impact on climate change (contrary to Core Strategy policy SS7); unacceptable changes to and impact on existing agricultural buildings (contrary to core strategy RA5); and unacceptable nature of reuse of empty buildings (contrary to Breinton NDP policy B4).**

**Application 204243 is refused as in the absence of the associated planning permission, the demolition of the two buildings and conversion of timber frame building to enable a farm shop/cafe and office units on the site are considered to**



**be unjustified and therefore contrary to core strategy policy LD4 and guidance contained within the national planning policy framework.**

The meeting ended at 12.38 pm

**Chairperson**



## **PLANNING COMMITTEE**

**Date: 26 July 2023**

### **Schedule of Committee Updates/Additional Representations**

**Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.**

## SCHEDULE OF COMMITTEE UPDATES

**222314 - ERECTION OF A FREESTANDING RESTAURANT WITH DRIVE-THRU FACILITY, CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS, INCLUDING CUSTOMER ORDER DISPLAYS (COD), GOAL POST HEIGHT RESTRICTOR, PLAY FRAME AND PUMPING STATION.**

**For: McDonald's Restaurants Ltd per Mr Benjamin Fox, St Andrews Castle, 33 St Andrews Street South, Bury St Edmunds, IP33 3PH**

### ADDITIONAL REPRESENTATIONS

**Neil Hansen: Spatial Planner National Highways: received 24<sup>th</sup> July 2023**

In order for National Highways to fully consider the potential implications of the proposed works including works not within the established local highway operational land; can you please change your recommendation that the application is recommended for approval subject to final consultation and acceptance with National Highway's.

Some members have also received a further update from the Residents Action Group (St Marys Garden Village). This does not raise any new issues but is attached in full as an appendix to this update.

### OFFICER COMMENTS

This is a procedural matter, as part of the Local Highway authority recommendation (no objection), a planning condition was suggested which identified the need for highway works. However, these proposed works (via Section 278 works) are not all within the Local Highway Authority land and as such consultation and acceptance with National Highways is required to ensure that they have not been prejudiced in anyway.

### CHANGE TO RECOMMENDATION

*(change identified in italics below)*

***Subject to consultation with National Highways and receipt of no objection, and any other consultations as deemed necessary and no other material considerations being raised that*** Planning Permission be granted subject to conditions (as listed in main report) and any other further conditions considered necessary by officers named in the scheme of delegation.

**Appendix to update sheet - Application 222314 – St Mary's Garden Village Action Group representation – 18 July 2023.**

18<sup>th</sup> July 2023  
Herefordshire Planning Committee  
Herefordshire County Council  
Plough Lane  
Hereford  
Herefordshire  
HR4 0LE

Residents Action Group  
St Mary's Garden Village  
Ross on Wye

stmgy2021@gmail.com

Dear Councillor,

**Objection to application 222314/F Erection of a freestanding restaurant with drive-thru facility, car parking, landscaping, and associated works, including customer order displays (COD), goal post height restrictor, play frame and pumping station | Land at Gloucester Road (A40 A449 junction) Ross on Wye, Herefordshire.**

This letter and its supporting documents have been compiled and produced by the St Mary's Garden Village action group on behalf of the residents of St Mary's Garden Village.

The proposed McDonald's drive-thru is one usually found in retail parks, service stations, and out-of-town leisure facilities, not from within a residential housing estate. Not only is the location wholly unsuitable, it is unprecedented that there be such a facility located within a residential development and garden village.

We have made a number of previous objections to this application to which we do not consider having been addressed or considered appropriately throughout this process, and therefore our objections stand. These objections relate to not just council core planning matters, but also to local and national planning policy contraventions.

We would like to object on the following core planning grounds:

1. Traffic / Parking Issues
2. Land Ownership
3. Loss of Privacy, overlooking and loss of light
4. Noise and disturbance
5. Overdevelopment and oversupply of fast-food outlets in Ross on Wye
6. Design of building not in keep with local surroundings

We would also like to object on the grounds of contraventions to both local and national planning policy:

Herefordshire Local Plan Core Strategy RW1, RW2 MT1 para 1, 2, 3, 4, SS4, SS7, Policy E5 and Vision, Objectives and Spatial Strategy 3.68 & 3.69.

National Planning Policy Framework (NPPF) 90a, 90b, 91, 93d, 104a, 104d, 105, 110b, 111, 124c, and 124d.

For further consideration, we would like to also object on the following grounds:

- Loss of housing - current approved planning for this site is for residential houses
- Increase in danger to pedestrians by introducing a dangerous crossing point with no safety measures in place

Whilst our previous objection letters and submitted documents provide a detailed analysis of the application, its supporting documents, and the council's departmental responses, we would like to take this opportunity to provide the committee members an overview of our objections.

#### 1. Increased traffic volumes and congestion

The proposed site is located within a new residential garden village development with access to the site via Starling Road from a new roundabout on the A40. Starling Road is a single carriageway residential street which provides access to the development of around 450 family homes. The proposed use of Starling Road will be in direct conflict with

residents accessing their homes and simply does not have the sufficient capacity for dealing with the additional expected customer numbers circa **1 million visits per year**.

## **2. Land Ownership**

The proposed site forms part of the St Mary's Garden Village residential housing estate and is accessed via Starling Road. The Highways Authority have stated that Starling Road will require engineering works to be undertaken to widen and increase capacity to make it compliant to regulations.

Starling Road and the remainder of roads that form St Mary's Garden Village are unadopted. They are privately owned and maintained at the expense of the residents by way of maintenance fees. The management company St Mary's Garden Village Ltd acts on behalf of the residents of St Mary's Garden Village. The residents and St Mary's Garden Village Ltd do not, and will not allow any such works be undertaken on Starling Road. Thus meaning that the requirements of the Highways Authority cannot be complied with.

## **3. Loss of Privacy**

All vehicles accessing the proposed site will do so via Starling Road. This is a residential road and as such, a number of houses surround the proposed site and access road. With expected customer numbers of circa 1 million visits per year, meaning 1000's of queuing vehicles, and their passengers will be able to see directly into the gardens and front rooms of local residents. This is an unacceptable invasion of privacy, and no resident should be subjected to any amount of strangers peering through their living room windows.

## **4. Noise/Disturbance**

Not only will the residents of St Mary's Garden Village be disturbed with the thousands of vehicles visiting the proposed drive-thru, as highlighted in the point above, but they will also be susceptible to those loitering and eating their takeaways, off site at the communal areas within the estate. Particularly at night. The site will also attract an increasing degree of anti-social behaviour, a problem that is synonymous with McDonald's and well documented as being an issue at McDonald's locations across the country. An issue which was also raised as concern by West Mercia Police in the application at Belmont Road McDonald's for a variation in licensing hours.

## **5. Over development – Over supply of fast-food chains**

Close to the proposed location are two service areas located on the A449 Ledbury Road. These areas already have several food services similar to McDonald's: a Burger King, KFC, Subway, Greggs, Starbucks Coffee, and a café. These already serve the local needs of the community and motorway users. There are a total of 81 Restaurants and takeaway businesses within Ross-on-Wye. For this reason, we consider that it would be both unnecessary and indeed harmful to Ross Town Centre to add another fast-food restaurant, especially considering the size of town.

## **6. Design of Building**

The proposed drive-thru location is situated within the residential development of St Mary's Garden Village. As such, the introduction of commercial premises on this size and scale is not appropriate and not in keeping with design of houses within the development. The current approved planning for this site is for 2, 3, and 4 bedroom residential dwellings (P180155/RM, P140684/0), therefore a drive-thru facility is in complete contrast to the rest of the development and by no means representative of a residential dwelling.

Ross Town Council have also objected on this particular point as the application contravenes the Ross-on-Wye Neighbourhood Development Plan – Planning Policies; EN1 Ross Design Policy, EN2 Shopfronts and Signage, EN4 Infill and Backland Development, and EN 7 Key Views.

## Issues that conflict with Local and National Planning Policy:

This section provides the details of clear conflict between the application and current Local and National Planning policy as listed on page 1.

### a. Traffic Management / Road Network

**Core Strategy MT1: Traffic Management, Highway Safety and Promoting Active Travel.** *"Safe and Sustainable transport network and improved traffic schemes".*

**Core Strategy MT1 – Safe Entrance/Exit:** *"Ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services".*

**Core Strategy MT1 – Active Travel:** *"Encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities".*

**Core Strategy Objective:** *"To improve access to services in rural areas and movement and air quality within urban areas by ensuring new developments support the provision of an accessible, integrated, safe and sustainable transport network and improved traffic management schemes".*

**SS4:** *"New developments should be designed and located to minimise the impacts to the transport network".*

The examples provided below detail how this application contradicts the above requirements:

- I. Located within a residential development which does not have the capacity to accommodate almost 1 million vehicles visiting the site per year. This needs to be considered in the context of **MT1 Safe Entrance/Exit** and the **Core Strategic Objective**.
- II. Starling Road is an unadopted single lane residential road, it does not have sufficient capacity to accommodate this level of traffic and will dramatically increase congestion already experienced at peak times on the A40, A449, B4234 and make vehicle access to and from properties within SMGV impossible. This contravenes Core Strategy **MT1 para 1, 3, 4, 6, SS4, RW1, NPPF 104a, 104d, 105, 110b, 111 and 124c**.
- III. No consideration has been given for traffic diverted to the site via SMGV at the A40/Old Tannery Way roundabout, nor to fly-parking on these roads. This needs to be considered in the context of **MT1**.
- IV. No right turn filter lane at the A40/Starling Road roundabout, nor the ability to widen the road to include such a lane and ease congestion. Application 181448 (Leominster) was unsuccessful in part due to the 'right turn' traffic being shown to be of a volume to significantly impact **MT1**, as is the case here. This precedent must also apply in this instance.
- V. The Traffic Management Plan is based upon the restaurant operating at 100% staffing levels. No account or plan has been made for running at a reduced capacity and the impact this would have on the transport networks due to delays in service at the drive-thru. Again, this should be considered in context of **MT1** and therefore **NPPF 110b, 111, and 124c**.
- VI. Active travel – The core business model of any drive-thru facility is for the use of vehicles to visit the site. McDonald's figures themselves predict nearly 1 million vehicles expected to use the facility each year. The analysis that has been conducted on representations made on this application clearly shows the majority of those supporting would be making visits by vehicle and not by other means of public transport or active travel. This is in stark contradiction to the active travel requirements within **MT1**.
- VII. The private unadopted roads required to access this site would require extensive engineering works to support the enormous traffic volumes predicted by McDonald's themselves. These roads are privately owned by SMGV Ltd and therefore the required works will be unable to be conducted and therefore in conflict with **MT1 – Safe Entrance/Exit** requirements.

**b. Landscape / Townscape**

**Core Strategy Policy LD1.1:** "demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas".

**Core Strategy Policy LD1.2:** "conserve and enhance the natural, historic, and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, nationally and locally designated parks and gardens and conservation areas; through the protection of the area's character and by enabling appropriate uses, design and management".

**Core Strategy SD1 5.3.30:** "High quality design can significantly enhance the environment and amenity for new residents. Equally, the amenity and quality of life for existing residents can be adversely affected... and includes consideration of the impacts of noise and artificial light, ground conditions and air quality"

- I. Loss of Privacy – Any passenger vehicle accessing the site will be able to see directly into the surrounding residential dwellings both when entering and exiting the site. This will also apply to any pedestrian accessing the site on foot. The volumes of up to 1 million visitors (strangers) included in McDonald's figures provide a totally unacceptable loss of privacy and loss of residential amenity to residents of SMGV. **This is in context of SD1 5.3.30**
- II. Litter – McDonald's and litter are synonymous. Despite operating litter management plans, it is evident across the country that these are not sufficient to deal with the issue. The plan to introduce such a facility within a garden village, with dedicated green areas, play areas and walking routes will only be to the detriment of the residents who will inevitably be the ones responsible for clearing these areas of McDonald's litter. This is in stark contrast to **Core Strategy Policy LD1.2** Conserve and enhance landscapes and features.
- III. Design and appearance of buildings – This site is located within a residential development of a garden village. The current approved planning for this site is for 2, 3, and 4 bedroom residential dwellings (P180155/RM, P140684/0). The introduction of a drive-thru restaurant facility is in stark contrast not only to the design and appearance of the houses but is also not in keeping with a garden village community. This is in context of **Core Strategy Policy LD1.1, 1.2 and SD1 5.3.30 and RW1.**

**c. Economic Prosperity**

**Core Strategy Policy E5 Town Centres:** "Town centres will be the focus for retail, commercial, leisure, cultural and tourism uses. Proposals for such uses which contribute to the vitality and viability of the town centres of Hereford and the market towns will be supported provided that they:

1. do not adversely affect the primary function of the town centres as shopping destinations; and;
2. are of a scale and design appropriate to the size, role, character and heritage of the centre.

Proposals for development outside the town centres will only be permitted if it can be demonstrated that the requirements of the sequential test, as set out in paragraph 24 of the NPPF, have been met and that the proposal would not have a significant adverse impact on the vitality and viability of the centres. An application will be refused if it fails the sequential test or an impact assessment.

- I. Retail Impact Assessment – No detailed Retail Impact Assessment has been conducted. McDonald's have consistently refused to provide adequate replies and data on their impact on the town centre despite being over the threshold for an impact assessment. The council's planning retail consultant having reviewed the application and a Nexus retail study, provided a summary which was contradictory of itself. In para 9 it states it is "impossible to make an estimate of the likely diversion of turnover from the town centre" however para 11 states "it appears to us that it would be unlikely to be of a scale to seriously affect the town centre's vitality and viability". Not only does this contradict it's own summary, it also contradicts the Nexus study stating "a development of 300sq m and over is a significant development and could severely impact a town centre". This confusion is



borne out of the lack of a detailed Retail Impact Assessment which is contrary to **Core Strategy Policy E5: Town Centres**.

**d. Addressing Climate Change**

**Core Strategy Policy SS7.2:** "delivering development that seeks to reduce the need to travel by private car"  
**Core Strategy Policy SS7.3** "designing developments to reduce carbon emissions and use resources more efficiently"

- I. A drive-thru facility is modelled on the basis of using private vehicles. This is in direct conflict to **Core Strategy Policy SS7.2**.
- II. The introduction of this site would completely undermine the council's stated aim of helping people "choose alternatives to car travel". Using McDonald's figures, visitors to the site (at a minimum) will contribute an extra 45 metric tonnes of CO2. Thus meaning that it would be impossible for the councils stated aim for being Carbon Zero by 2030 and contradicts **Core Strategy Policy SS7.3**.

Other items listed:

In addition to the serious conflicts of planning policy raised above, there have been numerous objections and concerns raised not only from local residents but also from town and parish councils, and other government departments.

- a. **Ross Town Council** – objection on the following Policy Points: **EN1, EN2, EN4, EN7, Planning Policy E1, E2 and A1**.
- b. **Public Health** – Objection due to encouraging car dependency, the close proximity to a high school, and the contribution to an unhealthier living environment compromised by both pollution and obesity.
- c. **Marstow Parish Council** – objection due to litter and the impacts to the Area of Natural Beauty gateway.
- d. **Herefordshire Committee to Protect Rural England** – objection due to considerable concerns relating to the application relating to **SS1, SS6, SS7, RW1, MT1 and E5**.

**Loss of Housing**

Current approved planning for this site is for residential properties (P180155/RM). The change of use from the approved residential dwellings to a fast-food drive-thru would result in the loss of housing. This is in direct contravention of the Herefordshire Local Plan 2021-2041 where 17,000 new homes across the county have been identified as required to meet housing needs. At a time of a national housing crisis, a fast-food drive-thru cannot be given priority over much needed housing.

**Pedestrian safety**

The revised plans show an addition of a crossing point to the northern edge of Starling Road and roundabout with A40. The plans for this are to have a pavement and lowered kerbstones but no pedestrian safety measures are included. This is the first crossing point that any pedestrians walking from the direction of the John Kyrle High School come to. Therefore, are far more likely to use this crossing than walk further down to the traffic light-controlled crossing that this application proposes. Given the direction these pedestrians are approaching from suggests that they are likely to be children and young teenagers from the school. This is an incredibly dangerous inclusion to this application and would be only a matter of time before a serious accident involving a child occurs.

### Pre planning advice response:

In 2017 the pre-application response was received from Herefordshire Council. The response stated that the officer was and I quote, **"very concerned that the proposal risks having a significant adverse effect upon the viability and vitality of Ross-On-Wye Town Centre"** and references the Town Centre Update 2012 which **"essentially states that Ross-On-Wye does not have a need for any more retail floorspace during the Core Strategy period (until 2031)"**. This advice is consistent with policy E2, section 4.17.1 in the ROWNDP which states that **"Ross-on-Wye has no further retail capacity during the current Local Plan period... Further retail development outside the town centre is likely to have significant adverse impacts on the town centre."**

The officer went on to say **"My own personal observation is that the health of Ross-On-Wye Town Centre has suffered, with the benefit of hindsight from the amount of out-of-centre retail floorspace previously permitted by this Council (and the former South Herefordshire Council)"**.

The officer also referred to other issues including the reliance on private motor vehicles due to the site's location, decreasing the sustainability of the proposal. Furthermore, the officer didn't believe that there would be "linked-trips" with the Town Centre.

### Conclusion

The introduction of a drive-thru facility within a residential development is not only unprecedented but with the expectant visitor numbers of 1 million customers per year, will result in a total loss of residential amenity and have a huge negative impact to local residents.

The serious concerns raised within this document, in addition to objections raised on the core planning grounds of; increased traffic volumes and congestion, land ownership, loss of privacy, noise & disturbance, design of a building, and over development provide clear and definitive evidence to the degree in which this application conflicts with both local council and national planning policies.

It will be detrimental to the Town Centre economy and whilst stating it will bring £52,000 in business rates, there is no account for the loss and closure of Town Centre Businesses at the expense of this venture.

McDonald's also states that it will bring 120 new jobs to the Town. At a time when there is a national crisis of over one million unfilled vacancies, of which there are 400 unfilled vacancies in Ross-on-Wye. Fuelling inflation and the cost-of-living crisis. This will add increasing strain on what is already a very small labour pool in Ross-on-Wye and will result in crippling staff shortages. Businesses have already started to permanently close due to staff shortages. McDonald's is struggling to fill 20 open vacancies at the nearest drive-thru at Belmont Road., Hereford. This is impacting it's operating capacity and is by McDonald's own admission, the reason there are large queues and tail backs onto the road network. This will be replicated at Ross-on-Wye.

Current approved planning on this site is for residential dwellings. In support of Policy RW1, priority cannot and must not be given to a fast-food outlet over much needed housing. This application must be refused.

Ross Town Council have voted unanimously to object against this application as it is completely unsuitable, not required and contravenes a number of Town and County Council Planning Policies. We urge you to do the same.

Yours sincerely

St Mary's Garden Village Action Group



A response to the McDonald's Drive-Thru Application 222314 and its associated applications. Compiled and produced by, and on behalf of the residents of St Mary's Garden Village.





## Introduction

Planning application 222314, and its associated applications 222321, 222309, and 222308 are for a freestanding McDonald's Drive-Thru restaurant close to the A449/A40 roundabout ("OverRoss Roundabout") and other structures concerning this restaurant. McDonald's has proposed access for this restaurant via an unadopted residential road (Starling Road) and residential area (St Mary's Garden Village).

This is the second application that McDonald's has made for this site having previously withdrawn application 213017 after receiving strong objections and concerns from a number of government agencies, Ross Town Council, John Kyrle High School, and residents.

This revised application and its supporting documents on behalf of McDonald's have been written to give the impression that all of these previous concerns have been listened to and addressed by a revised plan. The contents of this document refute these claims and clearly demonstrate the unsuitability of this proposal under the **Core Strategy, NPPF, ROWNDP, and the negative impacts on the Town, County, and wider environment.**

The reality is that the revised plan contains **very few changes** from the original plan and the vast **majority of concerns and objections remain valid.**

Throughout the application McDonald's has supplied cherry-picked, misleading data to provide a "best case scenario" to describe the impact of the restaurant on the amount of traffic, pollution, noise, invasion of privacy and nuisance to the area around the restaurant. **The reality is very different!** As witnessed across the country, described below.

This document provides the essential points which show that this application should be refused. It includes a view of key concerns that the residents of St Mary's Garden Village would like to raise and is **in addition to the comprehensive document** (appendix A) which was provided in objection to the previous application (213017).

## Key Points

- Unreliable Traffic Assessment outcomes and misleading data from using flawed approach to assessments/modelling and assumptions
- Inadequate assessment for Drive-Thru Queuing and impacts to road network
- None of the Comparison sites used as a basis for assessment are fit for purpose
- No Traffic Management Plan to alleviate traffic issues facility will create
- Revised Plan increases danger to pedestrians
- Pollution & Environmental issues, carbon emissions, EV chargers
- Invasion of privacy from Static queuing vehicles & headlight glare
- Litter
- Anti-Social Behaviour
- No Retail Impact Assessment
- Adding to the Local and National issue of unfilled vacancies (and inflation)

## 1. Traffic Assessments

There are a number of different assessments, modelling and assumptions used to provide the basis for the overall traffic impact assessment. Each of these have been created using cherry picked data to provide a 'best-case' view, using irrelevant comparison site data, and factually incorrect assumptions. These have been accepted by Highways England who appear to have only checked that the modelling techniques were correct but have not required up to date data.

### Flawed approach to Traffic Assessment and Modelling

The Traffic Assessment report uses data compiled over a short period (a couple of days in September 2019) and has used modelling to predict volumes for 5 subsequent years. Using this approach is misguided as it is not able to provide a true picture of actual traffic levels. Only a more thorough assessment over a prolonged period of time would be able to provide a true understanding of traffic volumes. By virtue of living here, currently only local residents have this knowledge, and these residents are telling you that already there is a traffic problem without the creation of an **additional 4900 trips per day** through the A40/Starling Road roundabout. *Source: Air Quality Assessment, McDonald's Ross-on-Wye 13 July 2021 Job no J10/12499B/10 p27 – 2444 vehicles per day x 2 (inbound/outbound)*

Of the 216 objections to the previous application – **185 cited traffic issues as a concern**. No amount of theoretical modelling and ad-hoc surveys can provide you with a true assessment. The most accurate and reliable representation of traffic can only be given by local residents who experience these issues on a daily basis or through a longer-term assessment by a third party.



**Picture 1 – A40/Starling Road and OverRoss roundabouts**

Picture 1 above clearly demonstrates the current traffic congestion that regularly occurs in this area. These traffic levels have not yet returned to pre-COVID levels, nor has the development of the residential areas of St Mary's Garden Village, Hildersley Farm, and the business development of Ross Model Farm completed. The increase in traffic from these developments remain **unknown** at this time. The **addition** of a further **4900 vehicles per day** through the A40/Starling Road roundabout will create **traffic chaos** and will also prevent residents of St Mary's Garden Village from returning to their homes during these times.

## Factually incorrect assumptions as basis for Traffic Assessments

The figures used to support the traffic assessment are based on a 5km catchment area. However not only does the application also state that there are no other McDonald's within a 10km radius. The closest being Belmont Road, Hereford (**24.4km away**). There are also no other McDonald's Drive-Thru locations between Ross on Wye and the Coldra M4 roundabout, and there are no services on the M50. **Therefore, it would attract customers in vehicles from Monmouth, Ledbury, Cinderford, Mitcheldean, Coleford and many other small towns and villages in the area.**

There is considerable evidence from the postcode location of supporting representations from the previous application (213017) that people would travel from these places. The site is specifically designed to attract customers in cars and **McDonald's is manipulating its data to hide this fact and the impact of the extra traffic.**

The Transport Assessment report also uses traffic data from other sites to support their traffic assessments and trip survey data. The sites used for this are not comparable to the proposed location as they are not located within a residential housing estate but are out of town retail sites and service areas. Therefore, the data used is **not comparable** and **invalid**.



**Picture 2 - Traffic Congestion at A40/Starling Road roundabout**

## Section 278 Agreement – Starling Road

The ADL Transport Assessment Section 2.2.7 States that *“the land on the eastern side of the roundabout is covered by a section 278 agreement for adoption and will be adopted by Herefordshire Council after the works have been completed.”*

**This is incorrect.** The 278 agreement (and all 278 agreements) only cover works within the existing adopted highway, so the 278 agreement ends at the A40/Starling Road roundabout. The land to the east of the A40 will remain unadopted and owned and maintained by the residents of St Mary's Garden Village.

When objections to access from Starling Road were highlighted in previous feedback, McDonald's undertook an assessment of alternative access routes to the same site:

Access from A449 – Highways England **says NO!**

Access from A40 – Herefordshire Highways Authority **says NO!**

Access from Starling Road (unadopted) – St Mary's Garden Village **says NO!**

To further evidence that the current approach to Traffic Assessments and modelling is flawed, we only need to look at experiences at other McDonald's Drive-Thru locations across the country. These applications also insisted that the Traffic Assessments were sound and there would be **no impact to traffic**. The **reality** and **true impact** of these are well documented. We have all seen for ourselves the traffic issues and misery that these locations bring to their local area.

## Police called over traffic chaos caused by McDonald's drive thru in Stood

Chris Hunter chunter@thekmggroup.co.uk



McDonald's 'working' to address traffic congestion around Pontefract and Castleford drive-thrus after complaints  
 McDonald's says it's looking at ways to help relieve congestion around its drive-thru restaurants in Pontefract and Castleford.



### "Avoid-Drive thru causes traffic nightmare in car park"

Review of McDonald's

Ranked #5 of 8 Quick Stops in Aylesford

4.0/5 (14 reviews)

McDonald's

Unit 4, 22 Hawthorne Road, Aylesford ME20 9PL, England

+44 1302 755232

Get food delivered

3 photos

Reviewed 12 December 2020

Avoid-Drive thru causes traffic nightmare in car park

We've visited Aylesford McDonalds drive thru a few times and each time the car park traffic gets worse. It gets completely gridlocked because you have to drive past drive thru entrance to get out of the car park. The car park gets so badly blocked that to one not drive out of the drive through and then no one can get out of the car park. Just avoid unless you want to get stuck in second gear waiting for half hour.

Done of this December 2020

Explore Dorwin and its surrounds

## Burgess Hill McDonald's: Problems with traffic queuing to use drive-through investigated

Traffic problems with McDonald's customers trying to place their orders at the drive-through are being investigated by the county council.

**"AND IT'S CAUSING HAVOC FOR THE PEOPLE WHO WANT TO GO INTO THEIR HOMES".**

## 2. Inadequate assessment for Drive-Thru Queuing and impacts to road network

The Drive-Thru Queuing assessment is based on an average over an hour i.e. 1 vehicle arriving every minute, per hour at peak times. To have a steady, regular stream of vehicles over such a period is wholly unrealistic and an inadequate basis to assess the capacity of the Drive-Thru facility. The more realistic scenario will be surging traffic volumes throughout many periods within the peak time. There is **no account for these surge volumes** within their assessment. Despite this, they state as fact that there will be **no impact** to traffic on the A40 within their traffic assessment. It should also be noted that **'peak times'** for the Drive-Thru **coincide with rush hour traffic**.

This flawed approach to assessments is in line with the flawed approach to Traffic Assessments and provides the answer as to why the country experiences so many Traffic issues with these Drive-Thru facilities. They are designed to fail from the start.

In our previous document, we used Belmont Road Drive-Thru to demonstrate the issues created by the facility in Hereford. McDonald's response was that the Drive-Thru was not operating at capacity for one reason or another and that this was the cause of the issue. Thus, further demonstrating that these facilities are **not designed or equipped to deal with anything other than a 'best case' scenario**, a scenario which is ever far from reality and further evidence that these assessments and documents attempting to portray that there would be no impact to the road network just do not stack up!

It is worth noting that there is a jobs crisis nationwide with over 1 million unfilled vacancies. There are almost **400 unfilled vacancies in Ross on Wye**. There are also currently 20 unfilled vacancies at the Belmont Road Drive-Thru. It is highly likely that McDonald's will struggle to fill all of the 120 new jobs in this application thus meaning that the Drive-Thru will **not be able to operate at full capacity**.



Picture 3 -Traffic Congestion experienced at Drive-Thru locations across the country



### 3. The comparison sites used to support the application are not fit for purpose

#### **None of the Comparison Restaurants share their access with a residential area**

One shares access with an out-of-town shopping centre, another with a petrol station and supermarket and the third has its own access direct from a major roundabout. The proposed restaurant is off a small, single track roundabout and the site shares access through an unadopted road which is owned and managed by the residents and developer of St Mary's Garden Village.

McDonald's Drive-Thru locations are set on retail parks, leisure outlets, petrol stations and large supermarket stores. Are there any McDonald's Drive-Thru locations that are part of a residential estate?  
**Does Herefordshire County Council want to set this precedent?**

#### **McDonald's uses misleading comparison restaurants which are not fit for purpose**

McDonald's' most similar comparison restaurant in terms of floor area and number of seats serves an area with **twice the population** and **3 times the population density of that of Ross-on-Wye**. **None of these sites have access through a residential area**. The closest comparison site in terms of population size has a restaurant approximately half the size of the proposed Ross-on-Wye site. For McDonald's own vehicle trip figures to work, this Drive-Thru will clearly be a destination restaurant creating extra journeys.

Part of our previous objection document used Leominster as an example to demonstrate that the comparison sites are not fit for purpose. In McDonald's response to this point, they state that as Leominster is located with a large supermarket that it could not be used to support the argument. **Thus, making our point perfectly**. If Leominster is not suitable then neither are any of the sites provided by McDonald's to support their application.

The locations of the comparison sites demonstrate:

- **None of these sites share access with residential developments**
- **All 3 sites are in areas with significantly more commercial development (each is within 100m of a supermarket or shopping centre)**
- **2 of the 3 sites are in areas with at least 3 times the population density**
- **The only site in an area of similar population density is approximately 50% smaller than the proposed Ross-on-Wye site**



Picture 4 -square peg – round hole

#### 4. No Traffic Management Plan to alleviate issues facility will create

The arguments that we raise in response to this application provide evidence that this facility will not only **increase traffic congestion on the A40**, it will also introduce a **'rat-run'** through St Mary's Garden Village via Starling Road. This will endanger residents and children within the village and increase the likelihood of a **serious (or fatal) accident**. Not only have these been denied or ignored by this application, there has been no inclusion of a Traffic Management Plan to deal with the issues that will be created.



**Picture 5 - Examples of traffic measures**

For example, Traffic calming measures should be introduced on Starling Road, as well as a 'no right turn' into the access road to the Drive-Thru for those trying to avoid the congestion on the A40 and jump the queue. There should also be the inclusion of a right-hand turn filter lane at the southern arm on the A40/Starling Road roundabout to alleviate the heavy congestion on the A40.

It is worth noting, that whilst these examples would help address the issues that the Drive-Thru will create, it would be very difficult for McDonald's to actually introduce any of these measures as it would involve work to be completed by Herefordshire Council, Highways Agency, Edenstone Group and St Mary's Garden Village.

## 5. Increase in danger to pedestrians and schoolchildren

The revised plans show an addition of a crossing point to the northern edge of Starling Road and roundabout with A40. The plans for this are to have a pavement and lowered kerbstones but **no safety measures** are to be included. Any pedestrians from the direction of the **John Kyrle High School** are far more likely to use this crossing than walk further down to the traffic light-controlled crossing that this application proposes. Given the direction these pedestrians are approaching from suggests that they are far more likely to be children and young teenagers from the school. This is an incredibly dangerous inclusion to this application and would be **only a matter of time before a serious accident involving a child occurs.**



**Picture 6 - Scene of serious accident involving car and child – will St Mary's Garden Village be next?**

## 6. Pollution & Environmental issues, carbon emissions, EV chargers

### Pollution, Environmental issues, and Carbon emissions

McDonald's predictions for air and noise pollution rely upon the data from the Transport Report as discussed earlier in this document. We have shown this data to be inaccurate and not a true reflection of the actual traffic volumes that will be created. This data must be resubmitted as all subsequent claims from McDonald's in terms of the environmental impact of the restaurant depend on this data. **Put simply, if there would be far more traffic accessing the site than the underpinning data suggests then any subsequent analysis based on it cannot be relied upon either.**

McDonald's and ADL's data has already been proven to wildly underestimate the number of vehicles that would access the proposed restaurant. **However, in the best possible case the restaurant would be responsible for more than 44 tonnes of CO<sub>2</sub> emissions per year from cars alone.** This figure depends on McDonald's conservative estimates for vehicle traffic and assumes that no vehicles would idle at any point on the site. It also doesn't account for any traffic not considered "light vehicles" such as HGV deliveries.

Full details of this issue are covered within our previous objection document. We would like to highlight that there has been **no response has been made by McDonald's to these issues raised in their revised application.**

**Herefordshire Council declared a climate emergency on 8<sup>th</sup> March 2019 and in September 2019 the council resolved to set a target of net-zero carbon by 2030.**

A Drive-Thru restaurant with a catchment area stretching the length of the A449 from Ledbury to Monmouth as well as a sizeable area of the Forest of Dean and Wye Valley AONB would completely undermine the council's stated aim of helping people "choose alternatives to car travel", and Core Strategy SS4 3.52. It is also against NPPF 104 a) and 112 a).



Council resolves to set a target of zero carbon by 2030

**Picture 7 – Herefordshire County Council declare Climate Emergency in 2019**

## Electric Vehicle Charging Points

In the revised application, McDonald's claims two Electric Vehicle Charging Points (EVCPs) will be provided at the site and that this is therefore part of its plan to mitigate against the restaurant's impact on the climate. However, it gives **no data** of how this will translate into a reduction of traffic or vehicle emissions.

In respect of the Leominster McDonald's Drive-Thru application 181448, Environmental Health Officer Philippa Hargreaves notes:

Electric Vehicle Charging facilities have been included within the mitigation, which is welcomed. However, it is noted that this would not be the only public electric vehicle

charging facility in Leominster.

The primary concern, however, is there is no information to demonstrate how these mitigation measures would translate into a reduction in the predicted vehicle emissions, from the increased car use as a result of the development, particularly in the Air Quality Management Area at Bargates.

Source: Application 181448 IntConsResp 8 dated 04/07/2019 p2-3

In order for the EVCPs to be considered as mitigation in 222314 it must also be shown how they will translate into a reduction in the predicted vehicle emissions from the increased car use as a result of the development.



## 7. Invasion of privacy from Static queuing vehicles & headlight glare



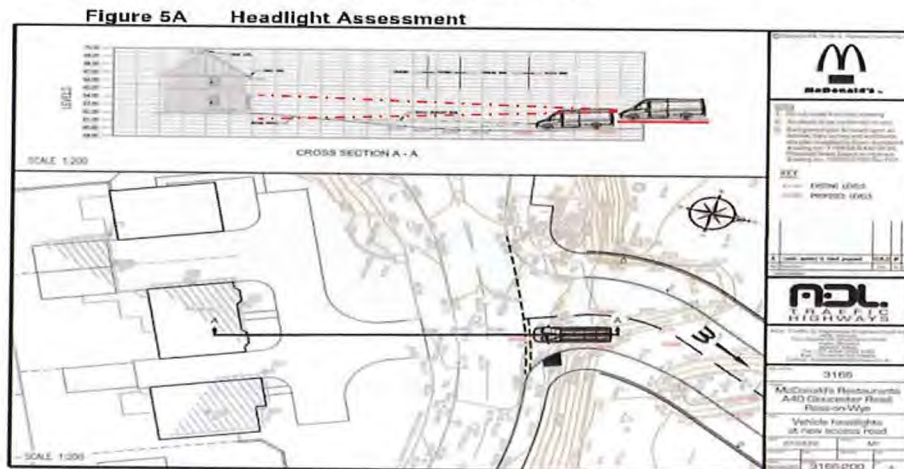
**Picture 8 – diagram showing houses impacted by invasion of privacy by queuing vehicles**

Any passenger in a vehicle queuing on Starling Road (in the area indicated by the green line on this drawing) would be able to see **directly into the front gardens, ground and first floor of the properties marked with a red star**. This would be particularly apparent at night-time. Properties further round Starling Road would have pedestrians loitering to eat their takeaways off site, as there is a communal area and play area less than 100m along the road. This is a totally **unacceptable invasion of the right to privacy**. SD1, 5.3.30 requires designs to take account of “overlooking”. This is in regard to both customers on site and increased pedestrians loitering to eat their takeaways off site.

## Headlight Glare – Starling Road

In response to our previous concern on headlight glare directly into the residential properties on Starling Road, McDonald's has made a poor attempt at demonstrating they have resolved the issue. The truth is that whilst reducing the opening hours from 24hrs to 0600-0000 does reduce the impact somewhat, there is still a significant amount of 'after dark' time within the revised opening hours.

The second part to which McDonald's again try to mislead the reader is by the diagram used to show the modelling of headlight glare. Figure A Headlight Assessment.



**Picture 9 – Diagram showing corrected headlight glare projections**

What that picture failed to show is if you were to move the vehicle back towards the Drive-Thru by just one car length, the headlight glare would be directly into the garden, ground and first floor of the residential property (See corrected picture above). This is because the land to which this application relates to, is raised in height from the point it joins Starling Road thus raising the height of the headlight beam.

## 8. Litter

Despite having a litter management plan, as is McDonald's Policy, the evidence of experience across the country shows that these are not used, complied with, or effective. Even if they were, 150m is not sufficient to manage the litter issue. There is **no provision for litter bins** within St Mary's Garden Village, as this site is not maintained by Herefordshire Council. However, as previously evidenced in our original objection document, litter from these facilities can be tracked far and wide. Therefore, **there will be litter** strewn up and down both the **A40** and **A449**.





## 9. Anti-Social Behaviour

Anti-Social behaviour is **synonymous with McDonald's** across the country. It is well documented that where there's a McDonald's, there's also Anti-Social behaviour. These sites are a magnet for people to gather in large groups, cause nuisance, commit acts of criminal damage, violent behaviour, loud noise, loitering, littering, the list goes on.

The nearest McDonald's to Ross on Wye is in Belmont Road in Hereford. Below is an extract from **West Mercia Police's objection** to a recent application for variation to licence hours for the Drive-Thru.

The spectrum of incidents or issues concern a wide range of 'bad behaviour' – this includes youth anti-social behaviour such as assault, stone throwing, swearing and being abusive, refusing to leave the premises, being aggressive and causing minor damage to property.

Issues additionally include excessive noise from cars and customers, vehicle related anti-social behaviour – commonly known as 'boy racers' – such as car racing and revving of car engines.

There are concerns over child sexual exploitation and whilst this is not the fault of the premises the fact that young people do meet and congregate at the location has resulted in predatory conduct targeting young people.

There has been a number of incidents reported of adult drunkenness at the premises, potentially drink driving issues by those using the restaurant or drive through facility, adult domestic related assaults and arguments and road safety issues by vehicles queuing to enter the premises.

All this does impact on the effective management of the premises and importantly on the safety and wellbeing of the public.

### **Extract from West Mercia Police objection to variation in licence hours – Belmont Road**

Currently Ross on Wye town centre is subject to anti-social behaviour with numerous arson attacks at the skate park and open spaces, criminal damage, violence, and intimidating behaviour to local residents.

St Mary's Garden Village has already been the victim of this with the Boat House area being vandalised and almost destroyed by groups of youths on a number of occasions. The introduction of a McDonald's on this site will be a magnet to these youths and we will see a **huge increase in Anti-Social behaviour** within the development. Not only is this an endangerment to residents and their children, it will also provide great strain on the Police who are already under-resourced and struggling to contain the current levels of disorder without the additional issues that this new site will create.

**Antisocial behaviour issues near McDonald's is 'perennial problem'**

## Anti-social behaviour has got so bad at this McDonald's that police are using special powers to stop troublemakers

McDonalds in Ely has been plagued by antisocial behaviour in recent weeks - now, police are taking action

**Under-18s banned from entering McDonald's after 5pm**  
The decision was made after staff were repeatedly subjected to "verbal and physical abuse".

**McDonalds Musselburgh drive-thru would see rise in antisocial behaviour, police chief warns**  
15th June 2021

### McDonald's drive-thru plan rejected

Thursday July 22nd 2021



The drive-thru is seen off Gileghans Road in Musselburgh.

Written by Local Democracy Reporter, Marie Sharp

McDonald's has lost its fight to open a drive-thru in Musselburgh after an appeal to Scottish Ministers was thrown out over concerns from police about anti-social behaviour.

## 'Green and pleasant town' hit by wave of antisocial behaviour as teens loitering at McDonald's launch brick at ice cream fan

"Are you proud of your behaviour?" ask police

## Antisocial behaviour anticipated at McDonalds drive-through

4 October 2013

A McDonalds restaurant and drive-through in Lanarkshire was rejected because it would harm highway safety and the living conditions of neighbours.

## McDonalds' late-night drive-through plan for Kirkdale rejected by Liverpool council

A PLAN to open a 24-hour weekend drive-through McDonald's was rejected over fears it would be a magnet for anti-social behaviour.



## 10. No Retail Impact Assessment

Similar to the previous submission, McDonald's has **chosen not to** submit a Retail Impact Assessment despite being **required to do so**.

An impact assessment balances advantages and disadvantages of a proposed development, to ensure the development won't be detrimental to an area. Sections a and b in paragraph 90 of the NPPF summarises what an impact assessment should include:

*"(a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*

*(b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme)."*

Paragraph 90 of the NPPF requires local planning authorities to set "thresholds" to determine when impact assessments are required. Policy RW1 in HLPCS and E2 in ROWNDP set Ross on Wye's threshold at 400sq metres. The proposed development has a GEA floorspace of 426m<sup>2</sup>, thus it requires an impact assessment.

Therefore, by not including an impact assessment in the application, the application **does not accord with planning policy** and a **planning officer cannot make a fully informed decision**.

By completing a retail impact assessment, it would make clear the **huge negative impact** that this Drive-Thru will have on Ross Town Centre, local business, and the local economy. Whilst the application cites the benefit of £52k a year in business rates, this does not accord for the **loss in business rates** from those business who will be **forced to cease trading** as a direct result of this application.

## 11. Adding to the Local and National issue of unfilled vacancies (and inflation)

Job vacancies are at a record high and employers who want to attract and retain staff are under pressure to lift wages, which in turns fuels inflation. The UK has seen over 1 million people leave work since the start of the COVID-19 outbreak. Inflation is at a 40-year high and the Bank of England has warned that the UK will fall into recession later this year.

In Ross Town centre alone, there are currently almost **400 unfilled vacancies**. The introduction of 120 additional jobs would lead to some businesses being **crippled by staff shortages**. Not only would this be of no benefit to the population of Ross on Wye, but also compounds the issues we see nationally and feeds the increase in inflation.

A number of the current vacancies are for similar venues e.g. Burger King, Greggs, Subway and indeed, there are 20 unfilled vacancies at the nearest McDonald's Drive-Thru in Belmont Road, Hereford. As we have previously shown in the Drive-Thru queue assessment, if the restaurant is not fully staffed and operating at 100% then this will directly impact waiting times and lead to **long queues onto the A40**.



It is also untrue that a McDonald's, no matter if run by a local franchisee or from elsewhere, could possibly be a "small" or "medium sized" enterprise. Indeed, objections from independent businesses in the centre of Ross-on-Wye demonstrate that the only way to support small and medium sized enterprises in the town is to refuse the McDonald's application.

## **UK inflation hits new 40-year high of 9.4% as cost-of-living crisis deepens**

PUBLISHED WED, JUL 20 2022.2:04 AM EDT | UPDATED WED, JUL 20 2022.2:26 AM EDT

---

One million vacancies and soaring wages fuel UK inflation fears

IN BRIEF

### **Labour shortages: the 'most urgent problem' facing the UK economy right now**

Britain is currently in the grip of an 'employment crisis'

## Conclusion

The proposed McDonald's Drive-Thru is one usually found in retail parks or service stations not residential areas, and the comparison restaurants used in the application are all retail park style restaurants on existing commercial land much further from residential properties than in this application. There is **no precedent** for Drive-Thru restaurants located within residential housing estates. **Do not be the first!**

The revised application suggests that it has engaged with the local community, listened to the concerns raised and have addressed these issues. This could not be further from the truth! As this document shows, **little has been done to address these concerns** and in fact, there was **no response or acknowledgement**, to the formal objection from **Ross Town Council**. The only conclusion that can be made is that they simply **cannot address the concerns that have been raised!**

**900,000 vehicles** will visit McDonald's per year with **at least 200,000 specific journeys to the site**. It would bring **chaos to traffic, degrade the quality of life** for local families and local residents, it would impose **higher pollution levels** and **impact on town centre businesses**. It would **adversely impact on long term traffic plans** and would make the Council's stated position on **carbon reduction much harder to achieve**. A Drive-Thru should be for roadside use and accessed through similar services (such as adjacent to a petrol station or large supermarket) rather than through a narrow residential street.

Source: Air Quality Assessment, McDonald's Ross-on-Wye 13 July 2021 Job no J10/12499B/10 p27 – 2444 vehicles per day x 365)

**Herefordshire Council 'Housing Market Area Needs Assessment 2021'** states that **"133 new houses in Ross on Wye are required per annum"** to meet housing needs.

The current approved planning application on this site is for residential dwellings. At a time when we are in a national housing crisis, how could priority be given to another fast-food outlet over much needed houses? There are currently 81 restaurants and an **over supply** of fast-food outlets in Ross on Wye. **We desperately need houses not another burger bar!**

The data in this document proves that the proposed restaurant would **not be of benefit to Ross-on-Wye, local residents or the wider community**.





Traffic queuing to enter McDonald's Belmont Road, Hereford 12:33 Saturday 9<sup>th</sup> October 2021 Follow the QR code to view the video of this queue.



## **A McDonald's for Ross-on-Wye**

**The misleading data in application 213017, its unsuitability under the Core Strategy and NPPF and the proposed restaurant's negative impacts on the town, county and wider environment**

Prepared by and on behalf of the residents of St Mary's Garden Village [stmqv2021@gmail.com](mailto:stmqv2021@gmail.com)

## Summary

Planning application 213017 contravenes the Herefordshire Local Plan Core Strategy, specifically but not limited to points: RW1, RW2, MT1 para 1,2,4,6, SS4, Policy E5 and Vision, Objectives and Spatial Strategy 3.68 & 3.69.

It also contravenes or does not adequately address National Planning Policy Framework, specifically but not limited to points 90 a) and b) point 91, 93 d), 104 a) and d), 105, 110 b), 111, 124 c) and d). We believe this is sufficient for the application to be refused.

### **This application should be refused based on the following key points, which are evidenced in this document:**

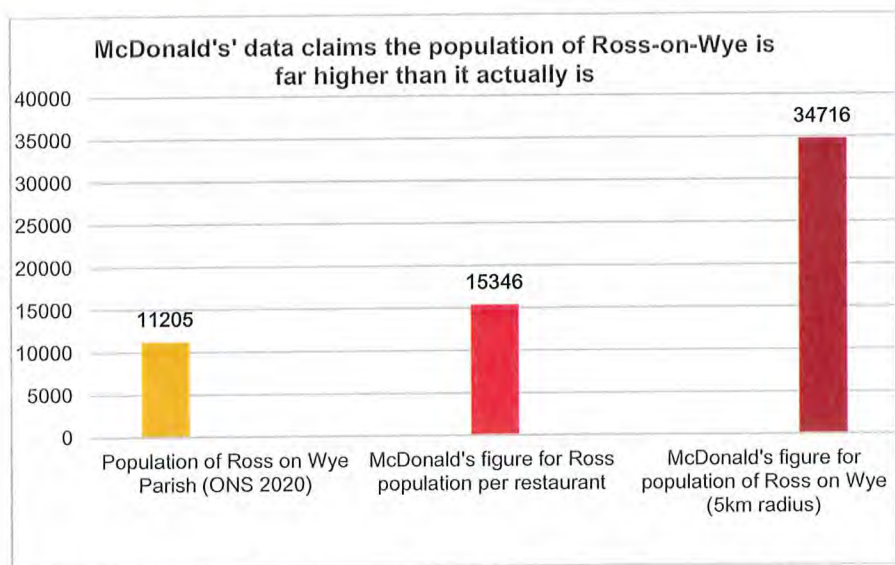
Data in the application states that the population of Ross-on-Wye and its surrounding area is 34,716. This is incorrect by a factor of almost 3 and this data plays a key part in asserting that the application complies with the NPPF and Core Strategy, particularly MT1.
This data has been the basis for Air Quality Assessments, Noise Assessments & other assessments used to determine the impact of the proposed site. The data must be resubmitted and peer reviewed in order that the application is not approved based on incorrect data.
Other agencies (such as Highways England) have based their recommendations on this incorrect data. These must be resubmitted with correct data in place.
The application does not give a single example of a comparison restaurant with access through a residential road. This data must be supplied.
The application does not acknowledge whether there is even precedent for any McDonald's (Drive-Thru or otherwise) taking access directly from a residential road.
There is no consideration in the application for the impact of northbound vehicles turning right when approaching the A40/Starling Road roundabout despite McDonald's claiming 1,962 vehicles per day would use this route. This needs to be considered in the context of MT1.
There is no "right turn" lane at the A40/Starling Road roundabout for this purpose, nor the facility to widen the road to include such a lane. This needs to be considered in the context of MT1.
Application 181448 was unsuccessful in part due to "right turn" traffic being shown to be of a volume to significantly impact MT1. This precedent must also apply in this instance.
No consideration has been given for traffic diverted to the restaurant via St Mary's Garden Village at the A40/Old Tannery Way roundabout nor to fly-parking on these roads. This needs to be considered in the context of MT1.
The emissions caused by traffic driving to and accessing the site would make it harder for Herefordshire Council to achieve its stated goal of the county being carbon neutral by 2030/31.
No Retail Impact Assessment has been submitted despite this being a requirement for developments of this size.
The proposed restaurant is 3 times too large (population/seat) in comparison to the comparable restaurants in the application. Its car park is too small for the traffic it would create. A Retail Impact Assessment would show whether this size of restaurant would have an impact on the town centre yet one has not been completed.
The ratio (population/seat) is identical to application 181448 which was withdrawn after opposition from the Council. This precedent must also apply in this case.
65 vehicles per hour will access the Drive-Thru at peak times yet McDonald's can only process 1 vehicle every 4mins 44 seconds. No modelling has been carried out to show the impact of this "4 in 1 out" on Starling Road, the A40 or A449 and this must be considered in order to comply with MT1.

## Introduction

Planning application 213017, and its associated applications 213010, 213009, 213008 and 213028 are for a freestanding 24-hour McDonald's Drive-Thru restaurant close to the A449/A40 roundabout ("Overcross Roundabout") and other structures concerning this restaurant. McDonald's has proposed access for this restaurant via an unadopted residential road (Starling Road).

Throughout the application McDonald's has supplied cherry-picked, misleading data to provide a "best case scenario" to describe the impact of the restaurant on the amount of traffic, pollution, noise, invasion of privacy or nuisance to the area around the restaurant.

## Throughout the application the data used is inaccurate and misleading



There are a number of significant inaccuracies in the data supplied in support of the application. One of the most surprising inaccuracies is that the application claims 2 vastly different figures for the population of Ross-on-Wye and the surrounding area depending on which point it argues. It should be impossible for the data in column 3 to be larger than that in column 2 given no other McDonald's restaurant within 5km. McDonald's uses these

2 figures to prove it adheres with different parts of Core Strategy and NPPF depending on which figure suits its argument better. Both figures cannot be true at the same time. **If the data is unreliable then any subsequent analysis based on it cannot be relied upon either.** The higher traffic than predicted in the application would mean the proposed restaurant could not adhere to MT1 para 2 or SS4 "New developments should be designed and located to minimise the impacts on the transport network" and therefore NPPF 110 b) and 111 and 124 c).

## None of the Comparison Restaurants share their access with a residential site.

One shares access with an out of town shopping centre, another with a petrol station and supermarket and the third has its own access direct from a major roundabout. The proposed restaurant site shares access through an unadopted road which will be owned and managed by the residents and developer of St Mary's Garden Village.

## McDonald's has chosen not to submit a Retail Assessment in its application.

It is a requirement that a business submits a Retail Assessment for building a premises of this size (over 400m<sup>2</sup> – the proposed premises is 402m<sup>2</sup>).

**McDonald's data inflates the population of Ross-on-Wye and the surrounding area by more than 200%. The data shows the proposed restaurant is 3 times too large for its location.**

Data has been used to suggest far more pedestrian visitors to the proposed site, and therefore far less traffic. Therefore the traffic assessment, pollution, litter and other nuisance data gives a wildly unrealistic impression of the impact of the restaurant. **By inflating the population size the application is designed to appear different to the unsuccessful Leominster McDonald's application 181448, when in fact the proposed Ross-on-Wye restaurant has an identical population per seat as Leominster.**

**Put simply, either the restaurant is far too big for the population of Ross, or McDonald's expects far more vehicle traffic to visit the site than it wants to show in its data.**

**McDonald's conservative estimate is that 892,060 vehicles would use this proposed restaurant and its Drive-Thru each year, with at least 200,000 visits having McDonald's as the sole destination.**

As it is sited near to the A449/A40 roundabout and proposes access through a single lane residential road it does not have sufficient access for this level of traffic. It will dramatically increase the congestion currently seen at peak times, creating chaos across a wide area in and around the town. This will result in significant congestion on the A40, A449, B4234 and make vehicle access to and from properties in Starling Road virtually impossible at peak times. **This contravenes several criteria of Core Planning Strategy (CPS) MT1 para 1, 3, 4, 6. SS4, RW1, National Planning & Policy Framework 104 a) and d), 105, 110 b) and 111, & Herefordshire Council's ambition of net-zero carbon.**

**McDonald's uses misleading comparison restaurants which are not fit for purpose.**

McDonald's' most similar comparison restaurant in terms of floor area and number of seats serves an area with **twice the population and 3 times the population density of that of Ross-on-Wye. None of these sites have access through a residential area.** The closest comparison site in terms of population size has a restaurant approximately half the size of the proposed Ross-on-Wye site.

McDonald's is manipulating Ross-on-Wye data and using these comparison restaurants to claim much higher pedestrian footfall, and therefore less traffic and parking. **The proposed site cannot possibly provide sufficient parking or space for vehicle movement for the restaurant.**

**McDonald's data shows that at peak times 4 vehicles would join the Drive-Thru queue for each one leaving it.**

Former McDonald's CEO Steve Easterbrook was quoted in a 2019 Business Insider article saying **Drive-Thru customers take on average 284 seconds** (almost 5 minutes) to process. **In its application McDonald's claims one new Drive-Thru customer will arrive at the site each minute in peak times.** This would cause queues out of the site within 10 minutes and calls into doubt every other claim in the application about parking, queuing traffic, air pollution and congestion which would result from the far larger queues for the Drive-Thru which would regularly spill out onto the wider road network.

McDonald's also claims that the application accords with the Ross-on-Wye Neighbourhood Plan. Even with the cherry-picked data this is not the case, and the plans directly contravene points EN1, EN2, EN4, EN7, E1, E2 and A1 of the Ross-on-Wye Neighbourhood Plan. Ross-on-Wye Town Council has unanimously voted to oppose the application on these points.

This document shows how McDonald's' data is at best misleading, how the restaurant would draw vehicular traffic from an area far wider than described in the application, and the far greater detrimental impact on the immediate and wider environment and global climate than McDonald's wishes to share. It also shows how the application contravenes a vast number of points in the Core Strategy and NPPF. With the data in this document in mind we believe you have no choice but to refuse the application.



# Contents

This document proves that McDonald's data is inaccurate and that its claims about the proposed site's impact on Ross-on-Wye, the local residents and the wider Herefordshire community are also inaccurate. In particular it highlights concerns and provides data analysis concerning:

- Traffic congestion & population density
- Comparison sites unfit for purpose
- Pollution & environmental impact (including climate change)
- Ross-on-Wye Neighbourhood Plan
- Lack of Retail Assessment

## Traffic Congestion & Population Density

McDonald's has cherry-picked data to justify the number of covers, floor area and ratio of pedestrian to vehicle visits to the site. McDonald's is doing so because of the advantageous location of the proposed site. There is no other McDonald's restaurant between Ross-on-Wye and the Coldra M4 roundabout, and there are no services on the M50. **Therefore it would attract customers in vehicles from Monmouth, Ledbury, Cinderford, Mitcheldean, Coleford and many other small towns and villages in the area.** There is considerable evidence from the postcode location of supporting representations for the site that people would travel from these places. The site is highly lucrative for McDonald's, specifically designed to attract customers in cars and McDonald's is manipulating its data to hide this fact and the impact of the extra traffic.

Local Plan Core Strategy states:

"[T]he planning system must [...] recognise the challenges faced by rural settlements, where reliance on private motorised transport, for many people, is the only realistic option for travel".

Source: Local Plan, SS4 3.52 p34 "Spatial Strategy"

By using the data in Table 5B (shown overleaf) and **incorrectly stating that Ross-on-Wye has 34,716 people living within a 5km catchment**, McDonald's is able to claim that far more journeys to the restaurant would be taken by foot than is realistic. Given that Herefordshire acknowledges the most realistic alternative is private vehicle, it is therefore true that the overwhelming majority of other visits to the proposed restaurant would also be by private vehicle.

The Comparable McDonald's prepared by ADL (Table 5B, Transport Report 2, p22) shows that the restaurant will have **37% more covers** than the average of the comparison sites, despite ADL figures showing it as only having **82.6% of the average population per restaurant**.

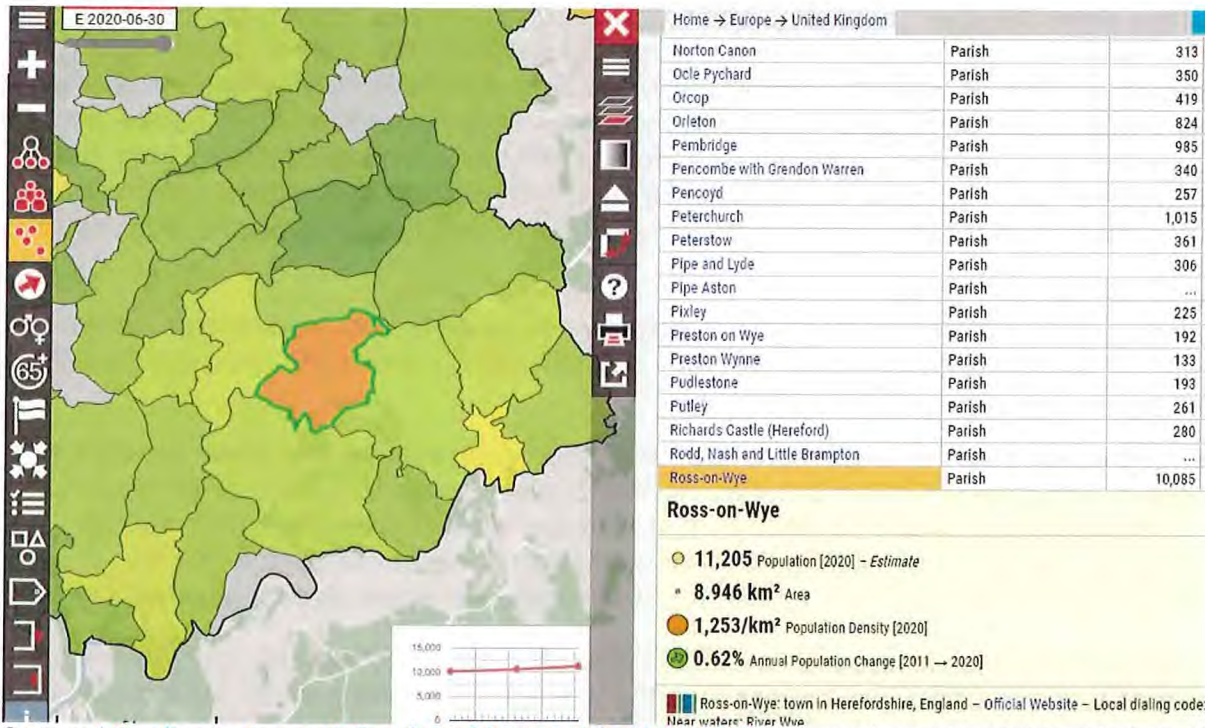
Table 5B Proposed Comparable McDonald's

	Rawtenstall #1506	Fraddon #610	Bourne #1441	Average	Proposed Ross on Wye
Restaurant Type	Single Storey	Single Storey	Single Storey	-	Single Storey
Floor Area	444sqm	239sqm	394sqm	359sqm	492sqm
№ of Seats	140	70	87	99	136
Parking Provision	38	23	40	34	50
Drive Thru Facilities	Side by Side	Side by Side	Side by Side	-	Side By Side
Population within 5km	46,271	30,061	18,450	31,594	34,716
AADT	50,445	10,500	20,010	26,985	33,693
№ McD Restaurants within 5km	2	1	1	-	1
Population per restaurant (inc proposal)	25,223	10,500	20,010	18,577	15,346

Based on Ross-on-Wye's true population, and SS4 3.52, the only way this restaurant would fill the 37% of extra covers is through customers arriving by vehicle, each of which would be in addition to the traffic from the Drive-Thru and from McDonald's own staff.

There is no possible other justification that a restaurant in Ross-on-Wye should have only 4 fewer seats than Rawtenstall, which table 5B shows has nearly 10,000 more people in its 5km catchment. **Table 5B shows that McDonald's is using comparison restaurant data to suggest a much higher pedestrian footfall than is possible in Ross-on-Wye.** There is no way that a global corporation such as McDonald's would build a restaurant that was too big for its predicted customer base, therefore **the data suggests McDonald's is counting on specific journeys being made to the restaurant from the surrounding area in order for the restaurant to be fit for its purpose.** This is in direct conflict with the data provided to suggest the amount of traffic accessing the site, and contravenes SS4 and MT1 as well as NPPF 110 b) and 111 and 124 c).

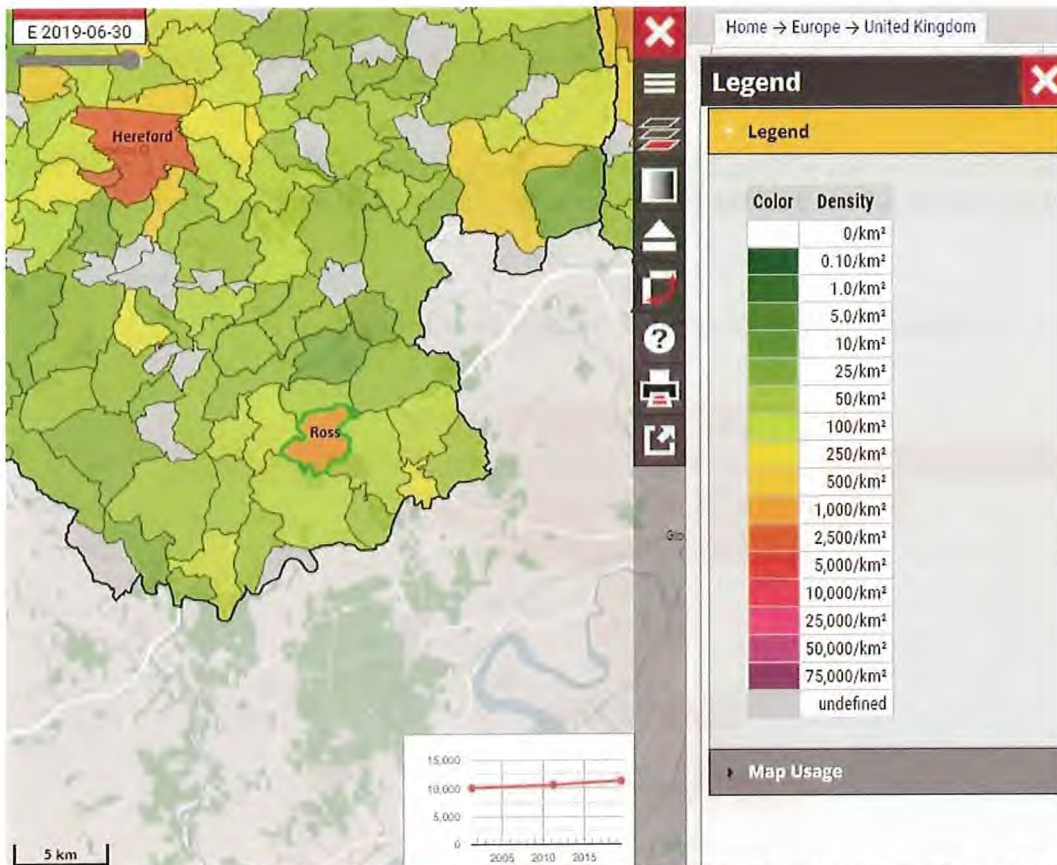
Table 5B also misleads that there is a population of 34,716 within 5km of the restaurant. According to the Office of National Statistics **Ross-on-Wye Parish actually has an estimated population of 11,205 (2020 figures) with a population density of 1,253 people per km<sup>2</sup>.**



Source: <https://www.citypopulation.de/en/uk/westmidlands/admin/> using most recent available data from ONS

In order for the 34,716 figure to be true, Ross-on-Wye would have to roughly triple its population density (which would put it on a par with Hull, Coventry and Wolverhampton and 50% higher than Hereford), or the surrounding areas would need a population density close to that of Ross-on-Wye itself. It is extraordinarily unlikely that Ross-on-Wye and its surrounding 5km will ever have a population approaching 34,716.

**Overall, Herefordshire has a population density of 88 people per km<sup>2</sup> (2019).** This map shows population density in the immediate surrounding areas to Ross-on-Wye, with no Parish within 5km having a density of more than 100 people per km<sup>2</sup>.



Source: <https://www.citypopulation.de/en/uk/westmidlands/admin/> using most recent available data from ONS

It is therefore impossible that there is a population of 34,716 within 5km of the proposed development. **The data in Table 5B, from which all of McDonald's other calculations about the impact of the site are taken (such as traffic and congestion), is thus proven to be incorrect.** The inaccurate data is given in order to adhere with Core Strategy MT1, NPPF 104 a) and d), 105 and 110 b).

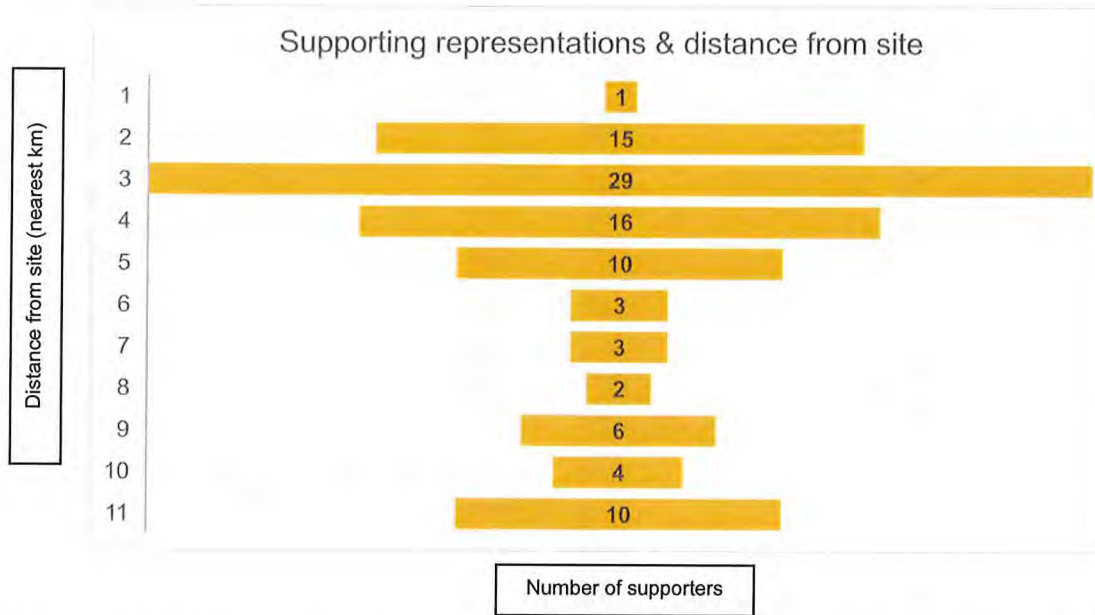
McDonald's also states the restaurant isn't even designed to attract customers from the centre of Ross-on-Wye. Transport Report 2, page 2:

- d) The proposal provides a local amenity for the committed residential development thus reducing the need to travel for those residents. There are existing takeaway facilities in the town centre so visitors to the town centre are highly unlikely to walk from the town centre to the proposed development. As set out in Section 3.2, there are new bus stops very close to the site on the A40.

Therefore McDonald's is proposing a restaurant 37% larger than the average of its comparison restaurants, aimed at a fraction of the population of an already lower-populated area. The only reason to make this claim is to attempt to comply with MT1, 4.7.20 of the Core Strategy and NPPF 90 a) and b). On one hand McDonald's says it needs a larger restaurant to appeal to the pedestrian footfall of the town whilst on the other it says the restaurant wouldn't have an impact on the town centre. **It is impossible for both positions to be applicable at the same time.**

The only possible explanation for the size of the restaurant in this proposal is that McDonald's predicts far more vehicle traffic accessing the site than its cherry-picked data is showing.

By using postcode data from the supporting representations on Herefordshire Council's website it can be shown that the majority of supporters for the proposed restaurant live between 2km and 5km from the site.



A 2015 report by WYG group "How far do people walk" shows "the average length of a walk journey is **one kilometre (0.6 miles)**". This differs little by age or sex and has remained constant since 1975/76".

Source: [https://www.sthelens.gov.uk/media/331745/cd-2229-wyg\\_how-far-do-people-walk.pdf](https://www.sthelens.gov.uk/media/331745/cd-2229-wyg_how-far-do-people-walk.pdf)

Note that only 1 supporting respondent lives within walking distance. It is therefore the case that one can expect the overwhelming majority of potential customers (a potential customer is clearly someone who gives their written support of the site) would travel to the restaurant via a method other than walking. Given Herefordshire Council acknowledges that private vehicle is the only realistic choice for travel for the majority of people in the county, it follows that these people would drive to the restaurant rather than walk, and therefore the cumulative effect of extra journeys on traffic, parking and congestion would be far higher than predicted in the application. Such traffic generation is in contradiction to Core Strategy MT1 and NPPF 104 a) and d). Many of these people live within walking distance of the centre of Ross-on-Wye, and therefore attracting these people away from the town centre also contravenes Core Strategy E5:

*"Proposals for development outside the town centres will only be permitted if it can be demonstrated that the requirements of the sequential test, as set out in paragraph 24 of the NPPF, have been met and that the proposal would not have a significant adverse impact on the vitality and viability of the centres".*

McDonald's and ADL rely on the data in Table 5B to make further predictions about the impact of traffic, parking and congestion on the surrounding road network. It is used in the calculations for air quality and pollution impact from vehicles accessing the site. **Every single one of these calculations will therefore be incorrect as it relies on the incorrect data shown in Table 5B.** It is therefore demonstrably the case that the proposed restaurant would cause:

- Significantly more traffic on the A40 and A449 than McDonald's data predicts
- Therefore more air and noise pollution caused by far more vehicles
- More congestion as far more vehicles attempt to access the site down a narrow residential street
- Insufficient parking at the proposed site leading to "fly parking" in the residential area, as there is no other parking which allows access to the site (the nearest being the opposite side of the A449, inaccessible by foot)
- Given the demonstrable build up of traffic at or around the A40/A449 roundabout there would be significant traffic diverting through the town centre or via Alton Road to avoid congestion, none of which is considered in the application

This data is also in stark contrast to that presented by ADT in the unsuccessful application **181448** for a McDonald's Drive-Thru restaurant in Leominster:

**Table 6A Comparable McDonald's Site: Survey**

	Arnold (Store № 963)	Folkestone (№ 775)	Pomphlett Rd Plymouth (№ 896)	Average	Proposed Site Leominster
Restaurant Type	Single storey	Single Storey	Single Storey		Three Storey
Floor Area	322sqm	265sqm	318sqm	301sqm	506sqm
№ of Seats	79	71	69	73	165
Parking Provision	34	32	29	32	25
Drive Thru Facilities	Side By Side	Side By Side	Single when counted		Side by Side
Population Within 5km	243,533	65306	154305	154,381	13,837
AADT	25,188 <sup>*2</sup>	17937	31436	24,853	16,809
№ of Surrounding McD Restaurants Within 5km (including store)	3	2	4	3	1
Population per McD's restaurant	81,177	32,653	38,576	51,460	13,837
Located Near to Major Foodstore	Sainsbury's	Sainsbury's	Morrison's	-	Tesco

Source: Traffic Report compiled by ADT, Herefordshire Planning Application 181448

Note how in this table the "Population Within 5km" and "Population per McD's Restaurant" are identical as there is no McDonald's within 5km of the site in application 181448 (as with Ross-on-Wye which has no McDonald's within 5km). Contrast this with Table 5B from the Ross-on-Wye application:

**Table 5B Proposed Comparable McDonald's**

	Rawtenstall #1506	Fraddon #610	Bourne #1441	Average	Proposed Ross on Wye
Restaurant Type	Single Storey	Single Storey	Single Storey	-	Single Storey
Floor Area	444sqm	239sqm	394sqm	359sqm	402sqm
№ of Seats	140	70	87	99	136
Parking Provision	38	23	40	34	50
Drive Thru Facilities	Side by Side	Side by Side	Side by Side	-	Side By Side
Population within 5km	46,271	30,061	18,450	31,594	34,716
AADT	50,445	10,500	20,010	26,985	33,693
№ McD Restaurants within 5km	2	1	1	-	1
Population per restaurant (inc proposal)	25,223	10,500	20,010	18,577	15,346

The data in 5B is clearly false:  $34,716 \div 1 \neq 15,346$ . It should be impossible for the population per restaurant in a town with no other McDonald's to be lower than the population per 5km.

McDonald's is claiming different figures in order to prove compliance with different parts of the NPPF, Core Strategy and Neighbourhood Plan depending on which data suits each part of its argument the best.

The data in 5B has been used to inform Highways England of the impact of the proposed restaurant on its network, and therefore Highways England has used this data to make its recommendations. Highways England must be given an opportunity to examine the data in the proposal again so it can be fully informed of the impact of the proposed restaurant on the A449.

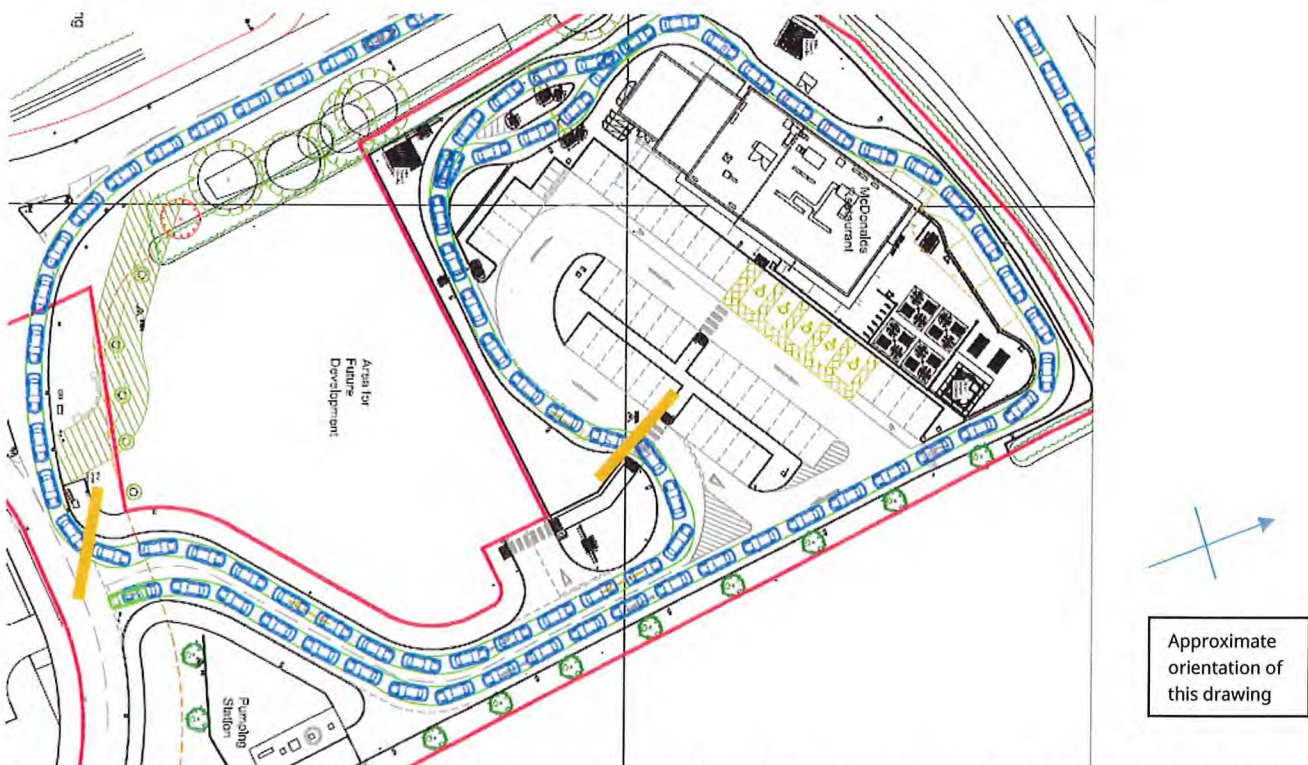
## Parking & traffic access to the proposed site

Transport Report 2 states on p55 that:

The parking demand is expected to be 35 vehicles on a Friday evening and 51 on a Saturday lunchtime.

The parking demand McDonald's predicts, using its cherry-picked data, shows that there is insufficient parking on the site. The proposal is actually for **50 spaces** (Table 5B) and **the plan shows 48 car park spaces and 2 waiting bays** (below). This is not the same as 50 parking spaces as 2 of the spaces can only be accessed through the Drive-Thru lane. Given that we know the traffic drawn to the site would be far higher than 5B suggests, the lack of parking would very likely exacerbate the traffic around the area as customers queue to park both on and off site (with the only option as fly parking in the residential area, there is no accessible car park within 1km). This is in contravention to NPPF 104 a) and d).

It must also be stressed that the plan for the site shows that the Drive-Thru and car park share access (access is shared between the 2 **yellow** lines shown on the drawing overleaf).



Source: Transport Report 4 p.10 showing only traffic arriving from A40 and travelling southbound before turning left into Starling Road and left again into the proposed site.

Every single vehicle accessing the site must be in the same queue, starting from the roundabout on the A40/Starling Road junction until reaching the car park. A queue in the car park or a queue for the Drive-Thru has the same effect – further delays back towards the roundabout along a residential road. **There is no possible way for the traffic to flow around the site without causing queuing on and off site.**

Note also that McDonald's claims the majority of vehicles would access northbound via the A40 rather than southbound via the A449:

.1 The proposed development is expected to generate a total of 2,444 daily light vehicle trips, of which 1,962 will travel north along the A40 and the remaining 482 will travel south; the daily trip rate north of the site roundabout is above the screening threshold of 500 LDVs recommended for use outside of an AQMA in the EPUK/IAQM guidance (Moorcroft and Barrowcliffe et al, 2017) (see Paragraph 3.7), thus a detailed assessment is required.

Source: Air Quality Assessment, McDonald's Ross-on-Wye 13 July 2021 Job no J10/12499B/10 p27

The drawing shows traffic only travelling into the site southbound – it does not model any vehicle accessing northbound, all of which would need to turn right at the new roundabout, and the subsequent impact on traffic travelling either direction on the A40 or entering or exiting Starling Road. The requested 'detailed assessment' does not model the impact of these vehicles turning right at the roundabout. **This is because the moment traffic builds up to the edge of Starling Road the entire system would be clogged.**

McDonald's has not provided a model for the impact traffic turning right at the A40/Starling Road roundabout into the site. Its data says 1,962 vehicles will enter the residential road from this direction each day. There is no right-turn lane for Starling Road when accessing the site from the south. **McDonald's must share evidence that an extra 1,962 vehicles turning right at this roundabout would have no impact on vehicles travelling in either direction on the A40 in order for its Traffic Assessment to be robust.**

In a letter dated 13 August 2018 in respect of application **181448**, it is noted by the Highways Authority (F. Mamoojee et al):

*"The Highway Authority provided a recommendation for refusal, as information provided in the Transport Assessment relating to trip generation, vehicular access and operational capacity and highway operation were considered incomplete. The following key issues were raised:*

*2) The proposed site access arrangements were considered contrary to Policy MT1: Traffic Management, Safety and Active Travel etc. in demonstrating a safe and appropriate access arrangement on account of the proposed right-turn lane facility, proposed junction spacing and incomplete operational assessments undertaken."*

and subsequently the recommendation from the Highways Authority was:

*"Whilst some issues previously raised have been addressed, there remain sufficient outstanding concerns that the Highway Authority has no option but to maintain its recommendation of refusal for the following reasons:*

- The proposal is contrary to key objectives of the NPPF in demonstrating non-severe residential cumulative impact since inadequate information have been submitted to satisfy the Local Planning Authority that the proposed scheme would not have a severe impact in the operation of the A44 Barons Cross Road / Morrisons Access roundabout junction. The assessment is therefore still considered to be contrary to key objectives of the NPPF in demonstrating non-severe cumulative impact.*
  - The delivery of the proposed scheme and access arrangements are contrary to Policy MT1: Traffic Management, Safety and Active Travel etc. in demonstrating a safe and appropriate access arrangement.*
- Source: IntConsResp 5 Memorandum from Mr A Banks 13 August 2018

This principle must apply in the same way to 213017 – there is inadequate information that the proposed scheme would not have a severe impact in the operation of the A40/Starling Road roundabout junction and therefore the proposed scheme and access arrangements are also contrary to MT1.

This photograph shows the A40/Starling Road roundabout looking northbound. There is no “right turn” lane available at this roundabout, and to create one would require repositioning the footpath and crossing on the western side (left-hand side of this photograph), widening the A40 on the western side beyond the crossing in a southerly direction. As with point 2) above in relation to application 181448, McDonald’s must show evidence that right-turning traffic into Starling Road would have no impact on other A40/A449 flow in order to comply with MT1.



A40/Starling Road roundabout, 13:57 Saturday 9<sup>th</sup> October 2021

### Inaccurate data in respect of Drive-Thru trip duration

Table 5C shows that evening peak Traffic Generation for the 3 comparison restaurants is 116 vehicles. Given that these restaurants are, in McDonald’s opinion, a good baseline for the proposed Ross-on-Wye site it follows that approximately 116 vehicles would be expected to access the proposed site.

**Table 5C Comparison of McDonald’s Trip Generation**

		Rawtenstall/Fraddon/Bourne Dataset	Newport Coldra/Redhouse Dataset
Traffic Generation	Am Peak 08:00-09:00 hours	82	88
	Pm Peak 17:00-18:00 hours	116	114
Max Parking Demand	Friday	24	30
	Saturday	29	33
Max DT Queue	Friday	12	13
	Saturday	11	12
Additional Trips %	Friday	32%	35%
	Saturday	23%	14%

Source: Transport Report 2 p29

**These vehicles must access the proposed site using the shared car park and Drive-Thru entrance. The application merely states, with no modelling, that this would have no impact on the surrounding road network.** Again, without accounting for such traffic the application fails to prove adherence to Core Strategy MT1 and NPPF 104 a) and d).

Given that the Parking Demand would be 51 vehicles at peak time (Transport Report 2 p55) **this leaves 65 vehicles accessing the Drive-Thru part of the restaurant in 1 peak time hour.**



Table 6C (Transport Report 2 p34) predicts the following Drive-Thru queues:

**Table 6C Proposed McDonald's Drive Thru Queues**

		McDonald's
Friday	Min Q	3
	Max Q	12
	Average Q	6
Saturday	Min Q	2
	Max Q	11
	Average Q	6

There is no source given for this data by ADL or McDonald's. However, it can be proved that the application vastly underestimates the length of time it takes for a vehicle to access and use the Drive-Thru, and therefore the length of the queue is also vastly underestimated.

The report states in section 4.6.2 (Transport Report 2, p20):

4.6.2 When a customer wishes to purchase a meal without leaving their vehicle, the following steps are taken:

1. Enter the drive thru lane
2. Place an order at one of the Customer Order Display (COD) units
3. Pay at the first booth
4. Collect meal from the second booth (halfway along the western elevation) and continue out of the drive thru lane

A 2019 article in Business Insider shows that the average Drive-Thru time for a McDonald's customer to complete the above steps is **284 seconds**. McDonald's then CEO Steve Easterbrook claimed that this is reducing, but not by a significant amount.

CEO Steve Easterbrook said McDonald's drive-thru times dropped by 20 seconds over the most recent quarter in a call with investors on Tuesday. In July, Easterbrook had announced a decline in wait times, including a 15-second year-over-year drop in the month of June.

The announcements indicate a reversal of a years-long trend at McDonald's. In 2019, the average drive-thru time at McDonald's was 284 seconds, or almost five minutes, according to QSR Magazine's annual Drive-Thru Performance Study. The figure represented an increase of almost 11 seconds over last year's average time.

Source: <https://www.businessinsider.com/McDonald's-drive-thru-times-speed-up-years-of-longer-waits-2019-10?r=US&IR=T>

65 vehicles accessing the Drive-Thru in peak time (i.e. approximately one vehicle joining the queue per minute), each taking on average 284 seconds (4 minutes 44 seconds) seconds to complete an order, means that more than **4 vehicles would join the queue for each one leaving it**. Even the average time were to reduce by 44 seconds, this would still mean the queue would be "4 in, 1 out" every evening peak time.

**Given "4 in 1 out", in under 10 minutes, even if the Drive-Thru lane wasn't shared with the car park lane, the traffic would queue out of the site.** This would exacerbate issues across the whole network due to traffic waiting to turn right from the A40/Starling Road roundabout with no "right turn" lane available on the road. Again, this needs to be considered in the context of MT1.

Therefore the queue to the drive through, and by extension to the car park, residential street and main A40/A449 roads will be **vastly increased in comparison to the figures McDonald's shows and its claim that there would be no impact on the surrounding area is false**. Once again McDonald's does not accurately report this figure in an attempt to make the figures in the application look acceptable in the context of MT1 and NPPF 104 a) and d).

Video evidence gathered at Belmont Road Drive-Thru at 12:37 on Saturday 9<sup>th</sup> October 2021 showed a vehicle taking 2 minutes 49 seconds to complete steps 3) and 4) as described in Transport Report 2, 4.6.2.



Video available at: <https://www.youtube.com/watch?v=19hNjTS1Wws> or by scanning the QR code below.



At a similar time of day at the proposed Ross-on-Wye site McDonald's data shows that 3 vehicles would have arrived to access the Drive-Thru in the time it takes this black car to complete 2 of the 4 steps shown in 4.6.2. McDonald's does not provide data to describe the impact of the build up of Drive-Thru traffic on Starling Road, the A40/Starling Road roundabout, the A40 in either direction, the A40/B4234/A449 roundabout, the B4234 or the A449 in either direction. In order to comply with MT1 the proposal must show that it has considered the impact

of the Drive-Thru queue on the road network surrounding the entrance and exit to the site rather than simply stating there would be no impact.

Belmont Road Drive-Thru provides further evidence of the impact of traffic at peak times, and difficulty of access for vehicles turning right into the site. This video was recorded at 12:32 on Saturday 9<sup>th</sup> October. The black car takes its place at the front of the queue at 1:04:



2m19 later the driver decides to abandon their trip due to congestion across the entire site (note this manoeuvre would be impossible at the Ross site. The driver would need to perform a turn in the road and head in the opposite direction as the A40 at Ross is single lane in both directions).



Video available at: <https://www.youtube.com/watch?v=jIT0g5vd0VQ> or by scanning the QR code overleaf.



McDonald's provides no evidence that its predicted extra 1,962 vehicles per day turning right into Starling Road from the A40/Starling Road roundabout would not cause similar levels of congestion. In order to satisfy MT1 this data must be shared and robustly checked.

Note also the UberEats delivery person j-walking around the protective metal barriers put in place at the restaurant. This person narrowly avoids being hit by the blue car in the right-hand photograph, the driver of which had accelerated around the queuing Jeep in order to continue along Belmont Road. This suggests that the metal barriers around the A40/A449 roundabout would not necessarily be sufficient to stop j-walking, particularly from John Kyrle High School students attempting to access the site. Further consideration must be given to whether barriers of this type would be fit for purpose given the location and proximity to a high school.



Video available at: <https://www.youtube.com/watch?v=jIT0g5vd0VQ> or by scanning the QR code above.

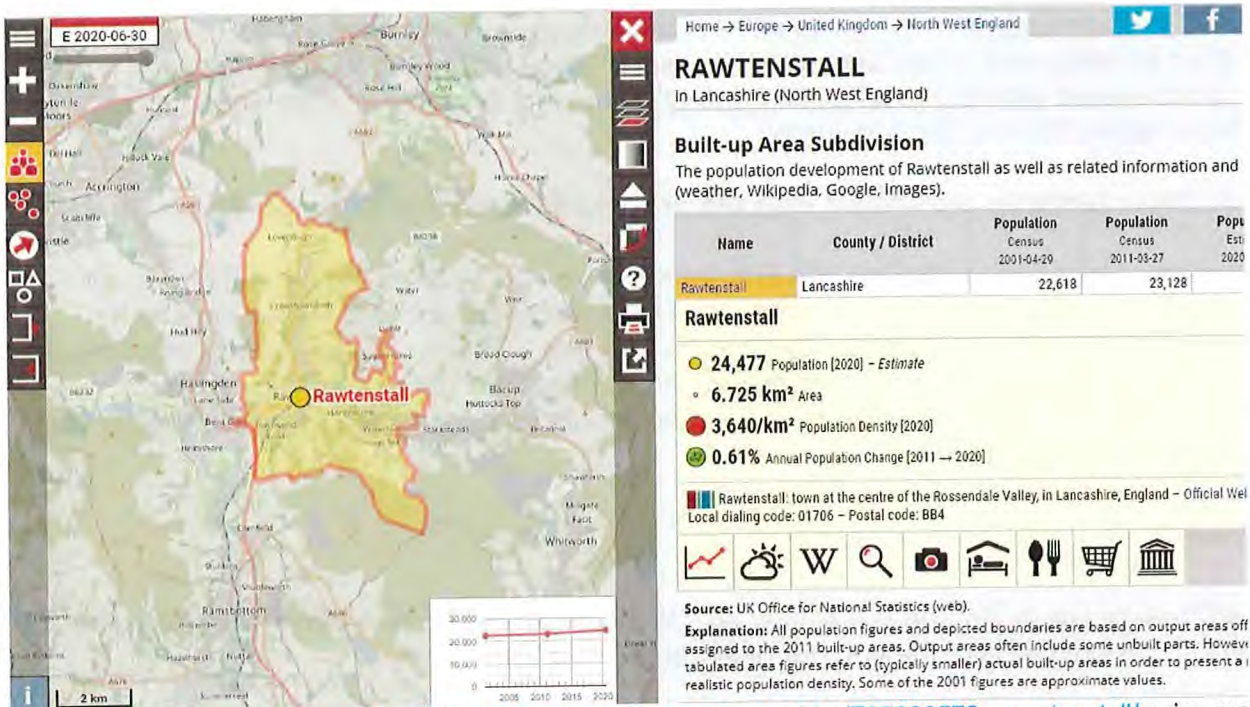
## Comparison sites unfit for purpose

There is further proof that McDonald's is providing cherry-picked, unsuitable data by analysing the comparison sites.

### Rawtenstall

Rawtenstall is the most similar sized McDonald's restaurant to the proposed site in Ross-on-Wye, with 4 more seats (140 vs 136) and a slightly larger floor area (444m<sup>2</sup> vs 402m<sup>2</sup>).

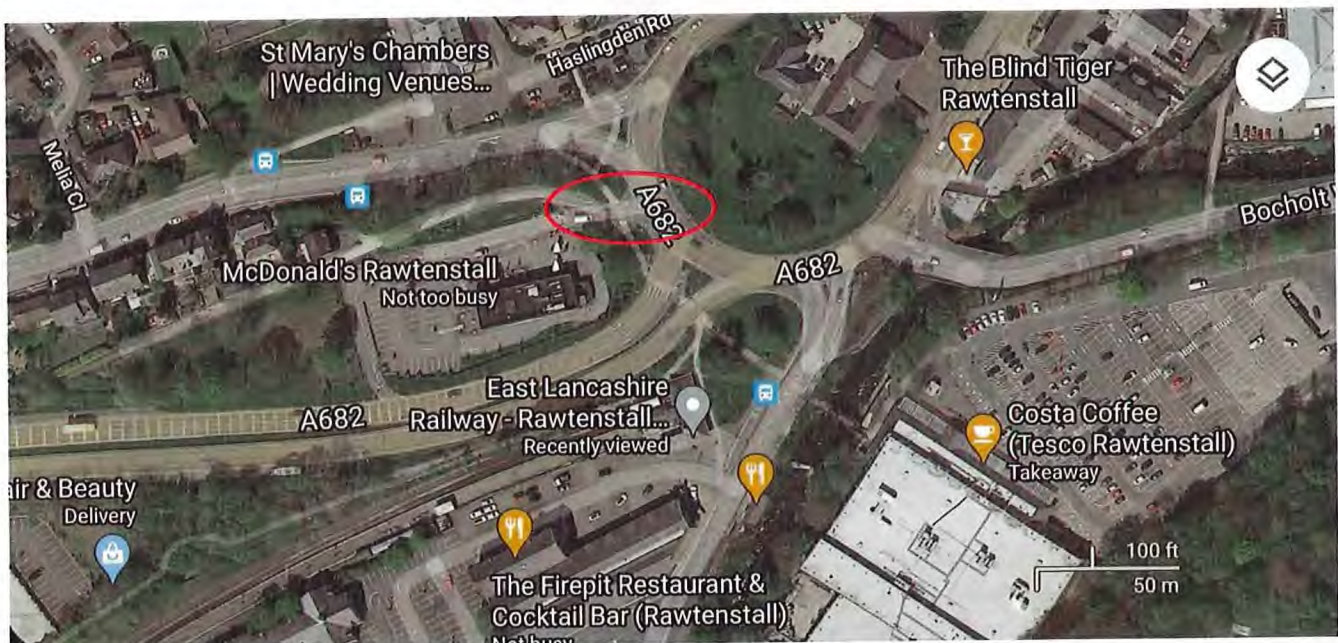
Rawtenstall is a Built-Up Area Subdivision in Lancashire, c.10km from Burnley with approximately 3 times the population density of Ross-on-Wye. The neighbouring areas of Haslingden, Ramsbottom and Accrington have similar population density to Rawtenstall. **Rawtenstall alone has a population around twice that of Ross-on-Wye from which it can draw customers and staff, even without considering that the surrounding 5km<sup>2</sup> area has a far higher population than the equivalent in Ross-on-Wye.**



Source: [https://www.citypopulation.de/en/uk/northwestengland/lancashire/E35000572\\_rawtenstall/](https://www.citypopulation.de/en/uk/northwestengland/lancashire/E35000572_rawtenstall/) using most recent available data from ONS

A higher population density would by definition give a restaurant more pedestrian customers, as a far higher percentage of potential customers and employees live within walking distance of the restaurant. If the Rawtenstall restaurant is the appropriate size (such as through its number of seats and parking spaces) for its context it follows that the Ross-on-Wye proposal is both far too large and has far too little parking for its location, even without factoring in additional journeys described by SS4 3.52. Therefore Rawtenstall does not provide an adequate comparison that the Ross-on-Wye site adheres to, at the least, MT1 and NPPF 104 a) and d).

The unsuitability of Rawtenstall as a comparison site is further highlighted from a satellite photograph of the location:



Source: Google Maps

McDonald's Rawtenstall is in the middle of 2 dual carriageways and near a train line in a built-up out of town development. It has separate access from the A682 roundabout (highlighted in red) which is not shared with any residential property. There is a large out-of-town style Tesco Superstore within 150m of the restaurant.

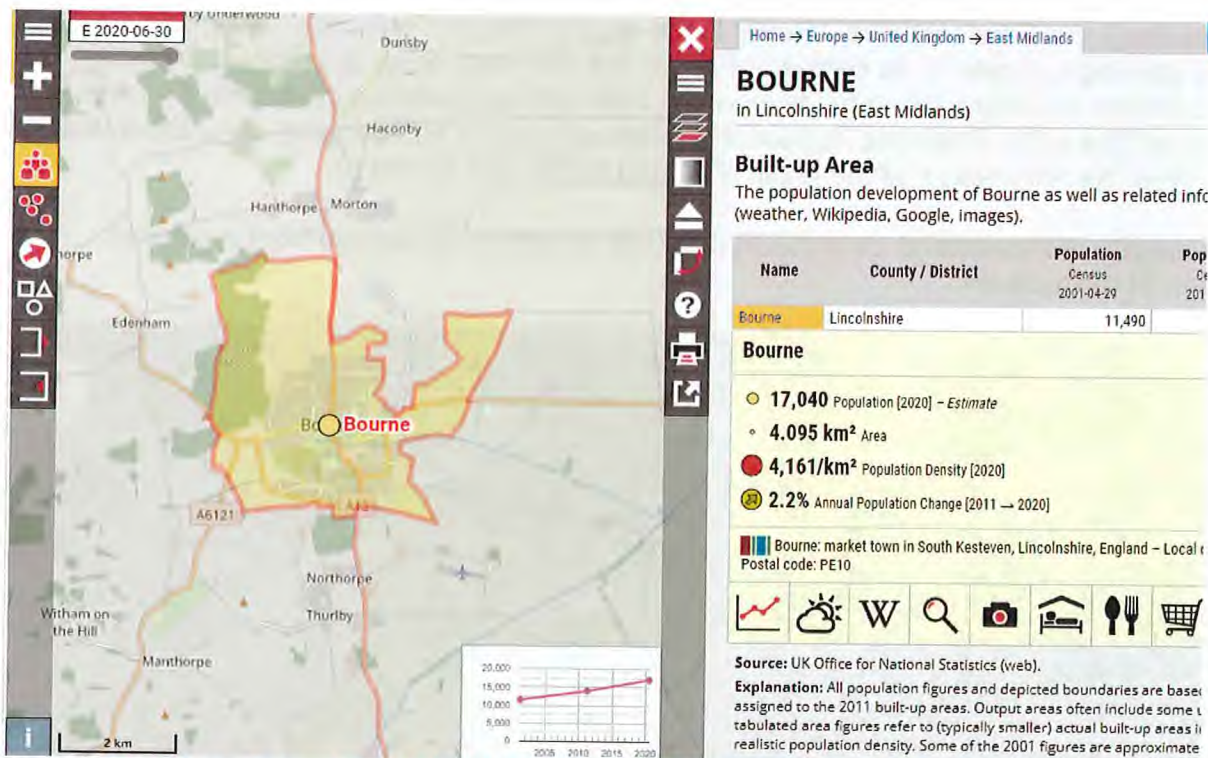
**None of these features are shared with the proposed location in Ross-on-Wye.**

By definition of its location, McDonald's Rawtenstall also has a higher baseline in air pollution, noise pollution and light pollution, therefore the comparative impact of the restaurant on its surrounding environment is significantly lower. It also has a Tesco car park nearby, reducing the need for staff and customers to park at the site itself, especially during peak times. Any comparison data in respect of environmental health must be disregarded as a result of the vast difference between the 2 sites.

## Bourne

The McDonald's site in Bourne is a similar size to the proposed Ross-on-Wye site (394m<sup>2</sup> vs 402m<sup>2</sup>) yet has only 64% of the number of seats (87 vs 136).

Bourne is a Built-Up Area in Lincolnshire, with approximately 3.5 times the population density of Ross-on-Wye. It has nearly 6,000 more people living in an area less than half the size of Ross-on-Wye parish. Therefore the number of people living within walking distance of this site is likely far higher.



Source: [https://www.citypopulation.de/en/uk/eastmidlands/lincolnshire/E34003418\\_bourne/](https://www.citypopulation.de/en/uk/eastmidlands/lincolnshire/E34003418_bourne/) using most recent available data from ONS

Therefore the same point stands as with Rawtenstall – the pedestrian traffic accessing the site is not comparable to Ross-on-Wye and traffic described by SS4 3.52 is not reflected in this site. Again, the photograph of the area also demonstrates that Bourne is not an adequate comparison site:



Source: Google Maps

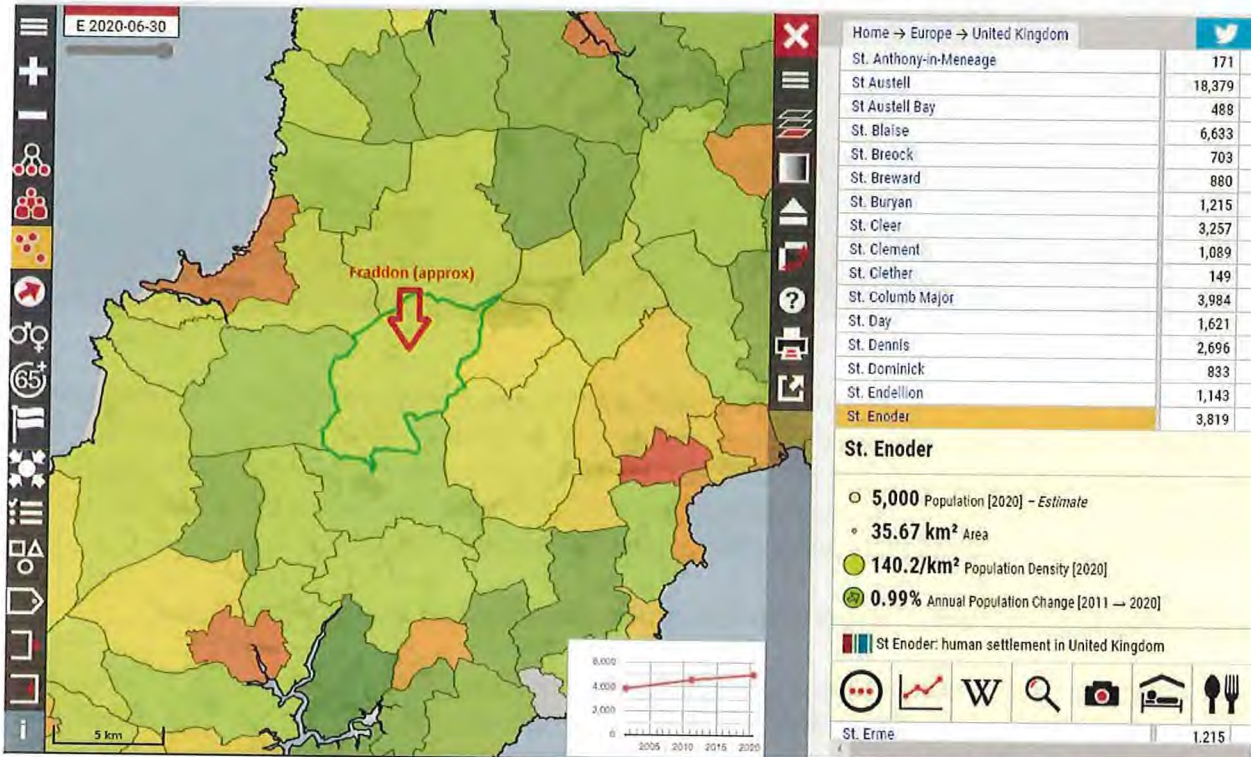
The site is less than 50m from a Lidl Supermarket with its associated parking. It is on the same site as a petrol station, which is not the same as the site in Ross-on-Wye. The petrol station and a pub are between the restaurant and the nearest residential development, and mature trees between the restaurant and the other residential dwellings which are more than 150m from the site. It does not share access with residential dwellings (access highlighted in red).

**None of these features are shared with the proposed location in Ross-on-Wye.**

Therefore this site is also not a fair comparison for the proposed Ross-on-Wye site. In Ross-on-Wye there are residential dwellings within 50m of the proposed site itself, no car parks available that could be used for “overspill” from the restaurant, and no mature tree line between the restaurant and residential areas. The Ross-on-Wye location would also share access with residential dwellings.

## Fraddon

Fraddon is a town in the Parish of St. Enoder in Cornwall and the most comparable restaurant to Ross-on-Wye in terms of wider population density and rural locale. Yet the Fraddon restaurant is only **59% of the floor area** of the proposed site (239m<sup>2</sup> vs 402m<sup>2</sup>) and has **only 51% of the seats** (70 covers in Fraddon vs 136 in the proposed site). Fraddon is shown here and is approximately 5km from Newquay and 10km from both Truro and St. Austell.



Source: <https://www.citypopulation.de/en/uk/southwestengland/admin/> using most recent available data from ONS

The satellite photograph shows, once again, that the sites are not comparable.



Source: Google Maps



This site does not share access with any residential development. It is on an industrial/shopping area. There is a shopping centre within 50m and ample other parking in the area for overspill. It is accessed via a mini roundabout to control traffic, and it is not accessed via a road shared with any residential dwellings. In addition the nearby A30 is a 3-lane road, allowing far more flow of traffic past the site at busy times.

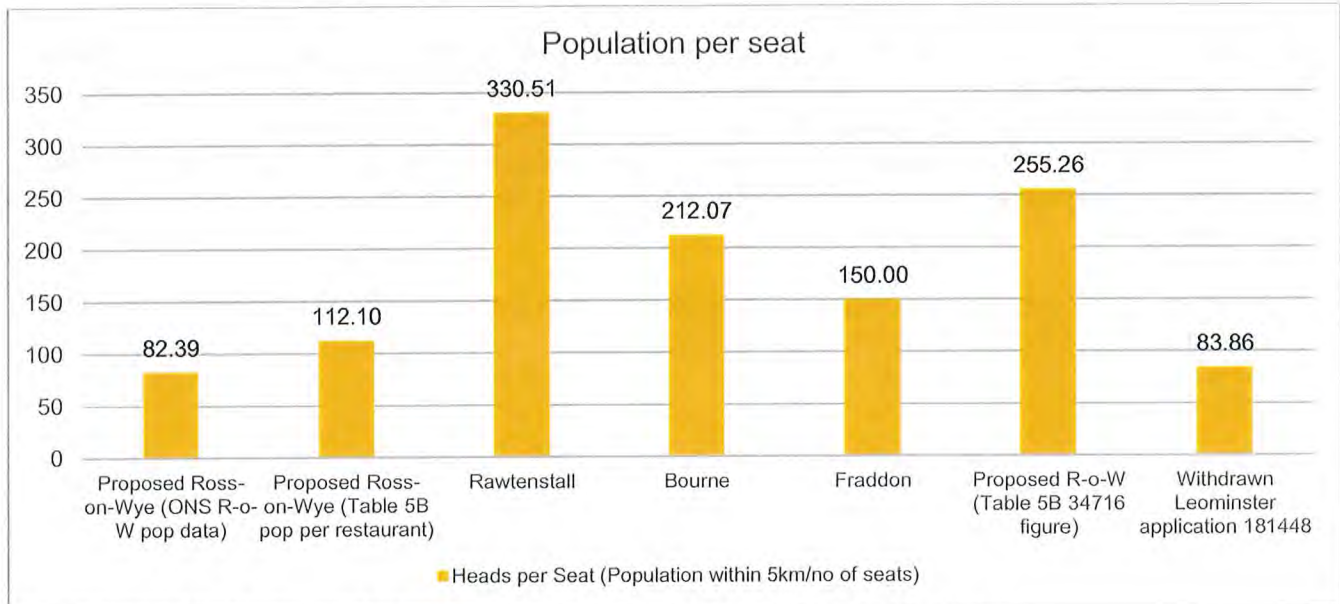
**None of these features are shared with the proposed location in Ross-on-Wye.**

The locations of the comparison sites demonstrate:

- **None of these sites share access with residential developments.**
- **All 3 sites are in areas with significantly more commercial development (each is within 100m of a supermarket or shopping centre).**
- **2 of the 3 comparison sites are in areas with at least 3 times the population density.**
- **The only site in an area of similar population density is approximately 50% smaller than the proposed Ross-on-Wye site.**

## Number of Seats/Covers per head

It is even more apparent how disproportionately large the proposed restaurant would be when plotting how many seats/covers each restaurant has per head of population in the area.



Data source: Table 5B, Transport Report 2, p22 and ONS population of Ross-on-Wye (2019)

This is where the inflated 34,716 figure for Ross-on-Wye (+5km<sup>2</sup>)'s population is particularly important. Here we can see clearly that by inflating the population size of Ross-on-Wye (6<sup>th</sup> column) the data would show the restaurant would have approximately the same population per seat as the mean of the 3 comparison restaurants. **Without inflating the population size the restaurant is slightly lower in population per seat than unsuccessful application 181448.** A key reason the Leominster application was unsuccessful was because the restaurant was far too large for its location. **This precedent must therefore also apply to the Ross-on-Wye application.**

The reality is that the proposed restaurant would have the lowest population per seat amongst the comparison sites by almost 70 people per seat. Essentially the proposed Ross-on-Wye restaurant would have to be three times as popular with people in Ross-on-Wye than the average site to be

comparable to the other sites. The inaccurate data gives a false impression that the proposed restaurant is similar to the comparison sites, and of how many people would visit from the immediate locale. To be very clear, it also falsely distances the proposed restaurant from the Leominster application 181448 in an attempt to make the Ross-on-Wye restaurant seem more favourable.

The only possible source for the remaining customers, especially in the context of Core Strategy SS4 3.52 p34, is private vehicle. Therefore the application's prediction of the number of vehicles accessing the site must, by definition, be much lower than what would happen in reality. The site either does not have a car park with sufficient capacity for the customers it will attract, or it is far too large for its location. It will therefore contravene MT1 as well as NPPF 104 d), 105, 110 b) and 124 c).

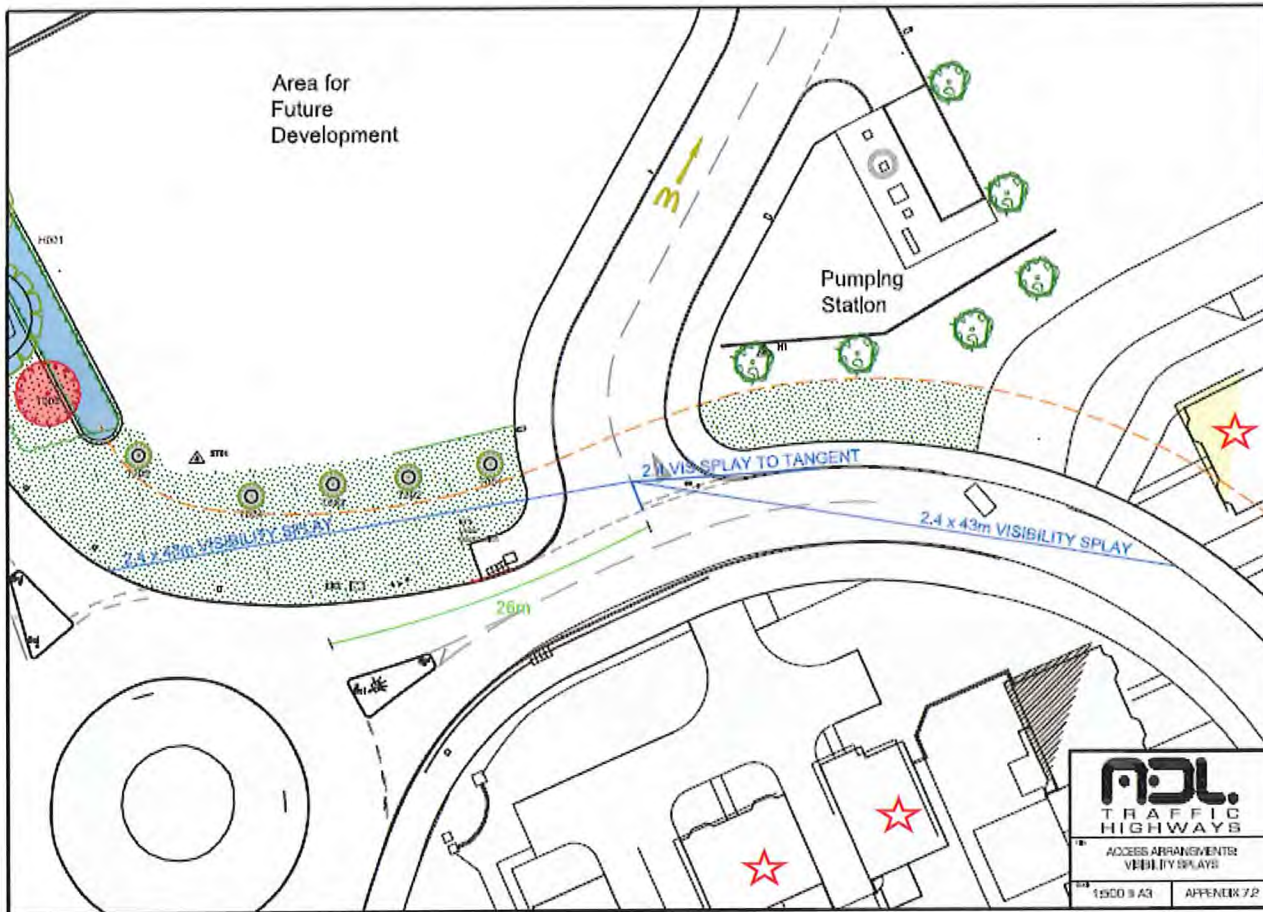
As a reminder, McDonald's and ADL rely on this data to make further predictions about the impact of traffic, parking and congestion on the surrounding road network. They supplied this data to Highways England in order for it to make its recommendations. It is used in the calculations for air quality and pollution impact from vehicles accessing the site.

---

## Pollution & immediate environmental impact

McDonald's predictions for air and noise pollution rely upon the data from the Transport Report as shown in Table 5B discussed earlier in this document. This data must be resubmitted as all subsequent claims from McDonald's in terms of the environmental impact of the restaurant depend on this data. **Put simply, if there would be far more traffic accessing the site than the underpinning data suggests then any subsequent analysis based on it cannot be relied upon either.**

In any case, there are also a number of omissions from the data that must be considered. The drawing overleaf is from Transport Report 4, page 6:



Any passenger in a vehicle queuing on Starling Road (in the area indicated by the green line on this drawing) would be able to see **directly into the front gardens, ground and first floor of the properties marked with a red star**. This would be particularly apparent at night time. Properties further round Starling Road would have pedestrians loitering to eat their takeaways off site, as there is a private communal area and play area less than 100m along the road. This is a totally unacceptable invasion of the right to privacy. **SD1, 5.3.30 requires designs to take account of “overlooking” this is in regards to both customers on site and increased pedestrians loitering to eat their takeaways off site.**

It must be noted that said communal area and play area are private and will be owned and maintained by a Residents Association. There is no provision for litter bins, as this site is not maintained by Herefordshire Council. Planware Supporting Statement, September 2021, 4.23 p21 states that McDonald’s staff regularly clean litter within a radius of 150m from a restaurant site. Therefore in the case of the proposed restaurant it is clear that litter would be expected to build up in an area owned and maintained at the expense of residents of St Mary’s Garden Village.

Despite the assertion that litter will be collected several times per day from such a radius, the following photographs were taken within 150m of the Belmont Road McDonalds between 12:19 and 12:25 on Saturday 8<sup>th</sup> October. The location of each photograph is referenced as a what3words code. Note how some of this litter has clearly been there for at least a day (2<sup>nd</sup> and 3<sup>th</sup> photographs in particular – notice how the bags have damage consistent with the damage to the grass verge and the dirt pattern on the pavement).



Location: What3Words ///love.finest.ledge 12:19 Saturday 9<sup>th</sup> October 2021



Location: What3Words ///cone.saves.cove 12:21 Saturday 9<sup>th</sup> October 2021. The environment surrounding the bag and the damage to the bag shows it has clearly been there some time.



Location: What3Words ///shape.legs.palace 12:25 Saturday 9<sup>th</sup> October 2021 (left) and ///shock.softly.sofa 12:24 Saturday 9<sup>th</sup> October 2021 (above)

The damage to the bag in the left-hand photograph and the engrained dirt clearly demonstrates it has been there for some time. Note this is directly outside Belmont McDonald's and visible from the Drive-Thru windows.

The application must demonstrate a further commitment to collecting litter from around the proposed site, as the mitigation strategy given in the Supporting Statement has been evidenced to be ineffective at the Belmont Road site. Such litter at the Ross-on-Wye site contravenes RW2 as well as SD2 points 1 and 2 that new development must “enhance[s] the setting of the adjacent Wye Valley Area of Outstanding Natural Beauty”.

The same Supporting Statement describes Noise and Odour Mitigation in section 3.24, p15:

#### Noise and Odour Mitigation

- 3.24 McDonald's recognises the potential impact of noise and cooking odours on local amenity. In response to these impacts, McDonald's utilises an air extraction system which incorporates built-in Hi-Catch filters, which removes 98% of airborne grease at source.]

As shown in the following section of the plan drawing, the pumping station for the restaurant would be within 25m of a residential property. No data has been shared about the noise or odour pollution from this station, particularly at such close range, which directly impacts on this property.



Source: excerpt from drawing in Transport Report 4, page 6:

The noise, pollution and privacy nuisance to this property in respect of the exit lane from the Drive-Thru and car park have also not been considered in the application. The proximity of this station to a residential dwelling must be considered under Core Strategy Policy SD1.

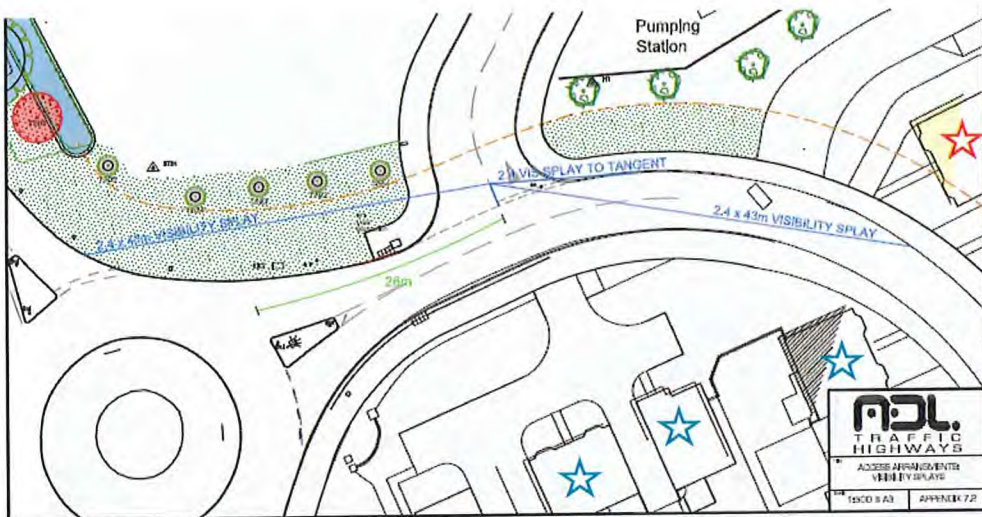
**Shadows from & visibility of signage**

Policy RW2 – Land at Hildersley states that the strategic residential development, of which the proposed development would be part, will be required to include:

“[D]evelopment of bespoke, high quality and inclusive design [...] that contributes to the distinctiveness of this part of Ross-on-Wye and enhances the setting of the adjacent Wye Valley Area of Outstanding Natural Beauty.”

Source: Herefordshire Local Plan Core Strategy 2011-2031 Policy RW2 p98

The application fails to describe the visual impact of the associated 12m high totem sign at the southwestern corner of the site, shown as the red circle in the top left of the site drawing:



Source: excerpt from drawing in Transport Report 4, page 6:

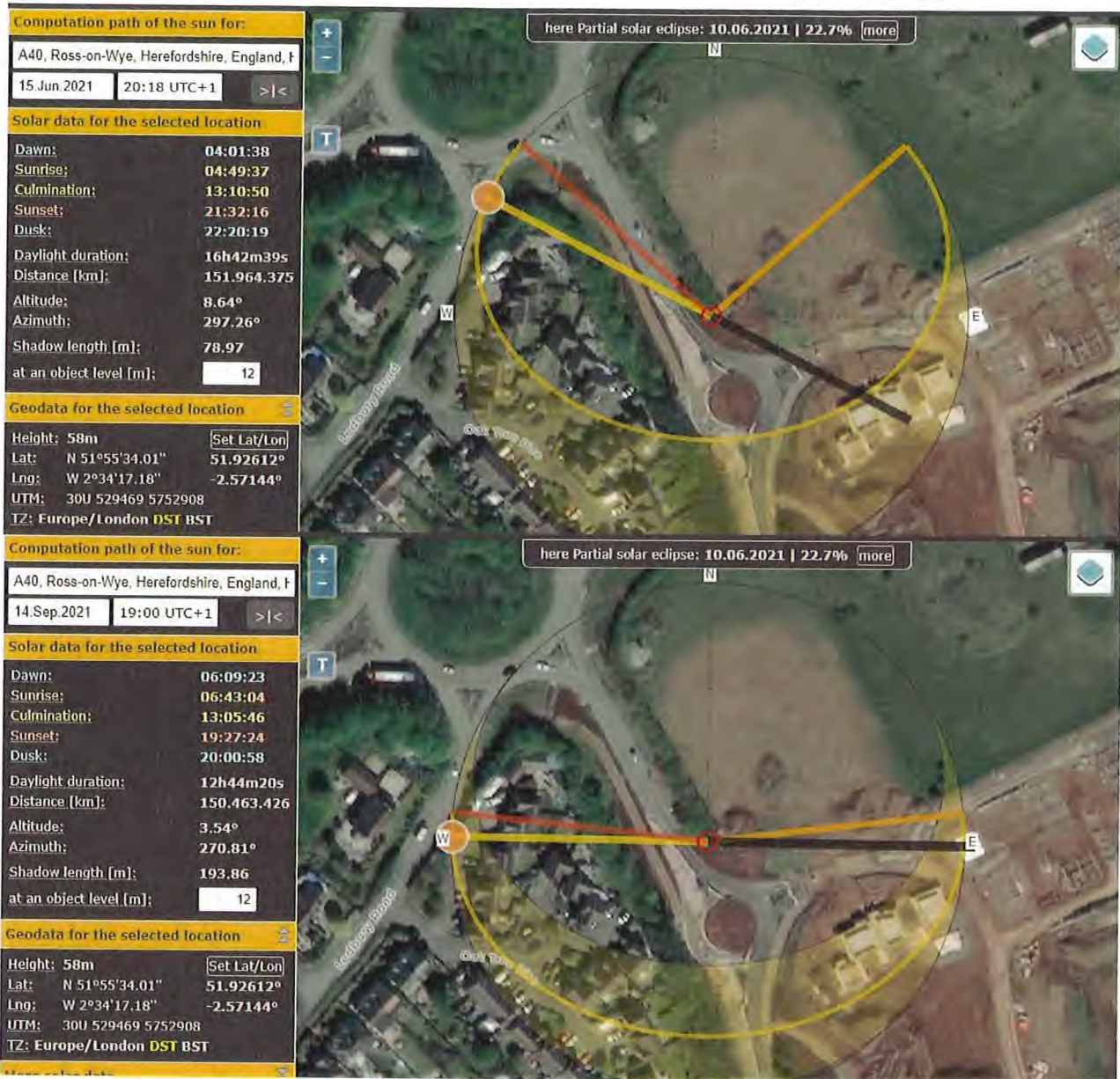
It is not possible that a 12m high light-up sign in any way “enhances the setting of the adjacent Wye Valley Area of Outstanding Natural Beauty”, therefore the sign alone contravenes policy RW2 as well as SD2 points 1 and 2.

Regarding the specific impact of the sign on the immediate vicinity: if the sign were orientated east-west the light it emits would be visible 24 hours a day from the front aspect of the residential property highlighted with a red star. If it were orientated north-south the light would be visible 24 hours a day from the residential properties highlighted with a blue star. In either orientation the sign would also be directly visible from 5 further properties on Saxon Avenue immediately to the south of this drawing. This would cause unacceptable light pollution into the living spaces of 9 residential properties, none of which is shown in McDonald’s plans.

In addition, a 12m high sign in this location would cast a shadow across the properties shown in the drawing every summer’s evening between April and September. The data superimposed on the following aerial photographs of the site show the location of sunrise, direction of the sun’s path through the sky, and location of sunset for the proposed location at different times of year.

On these photographs the red circle is the approximate location of the 12m high totem pole sign. The black line describes the shadow which would be created by a 12m high object when the sun is at the point described by the orange circle.





Source: <https://www.suncalc.org/#/51.9261,-2.5714,18/2021.09.14/19:00/12/1> Apr/Jun/Sep 2021 data

As with the light, the shadow impact of the sign on these properties has not been considered and it is unacceptable that these properties would be living in the literal shadow of McDonald's during the summer months. SD1 5.3.30 again specifically mentions "overshadowing" and acknowledges that "the amenity and quality of life for existing residents can be adversely affected by insensitive, poorly considered design". This also goes against NPPF 124 d).



## Climate Change

Herefordshire Council declared a climate emergency on 8<sup>th</sup> March 2019 and in September 2019 the council resolved to set a target of net-zero carbon by 2030.



Council resolves to set a target of zero carbon by 2030

Cllr Ellie Chowns is quoted as saying:

"Climate and ecological change is a huge challenge that we must face together and I am proud to say that Herefordshire Council is leading the way in tackling climate and ecological issues.

and

"Residents, community organisations and businesses can join us by making their own changes, from making homes more energy efficient, reducing and recycling waste and choosing alternatives to car travel. Together we can better protect the environment and preserve our wonderful county for future generations."

Source: <https://www.herefordshire.gov.uk/climate-2/climate-change>

A Drive-Thru restaurant with a catchment area stretching the length of the A449 from Ledbury to Monmouth as well as a sizeable area of the Forest of Dean and Wye Valley AONB would complete undermine the council's stated aim of helping people "choos[e] alternatives to car travel", and Core Strategy SS4 3.52. It is also against NPPF 104 a) and 112 a).

McDonald's and ADL's data has already been proven to wildly underestimate the amount of vehicles that would access the proposed restaurant. **However, in the best possible case the restaurant would be responsible for more than 44 tonnes of CO<sub>2</sub> emissions per year from cars alone.** This figure depends on McDonald's' conservative estimates for vehicle traffic and assumes that no vehicles would idle at any point on the site. It also doesn't account for any traffic not considered "light vehicles" such as HGV deliveries.

McDonald's' Air Quality Assessment states:

- .1 The proposed development is expected to generate a total of 2,444 daily light vehicle trips, of which 1,962 will travel north along the A40 and the remaining 482 will travel south; the daily trip rate north of the site roundabout is above the screening threshold of 500 LDVs recommended for use outside of an AQMA in the EPUK/IAQM guidance (Moorcroft and Barrowcliffe et al, 2017) (see Paragraph 3.7), thus a detailed assessment is required.

Source: Air Quality Assessment, McDonald's Ross-on-Wye 13 July 2021 Job no J10/12499B/10 p27

Even if we assumed each of these 2,444 vehicles does not make a specific journey, that each one accesses the site by turning from the A40/A449 roundabout into the site, parks or uses the drive-thru and then rejoins the A449, the extra distance covered by each vehicle would be approximately 0.25 miles. This means an extra 611 miles (978km) of driving per day, into one small residential street alone, on the unrealistically generous basis that none of the vehicles are making a specific journey or detour to the site and does not site idle with the engine running for a single moment.

- On average, the CO<sub>2</sub> emissions of diesel cars (127.0 g CO<sub>2</sub>/km) are now very close to those of petrol cars (127.6 g CO<sub>2</sub>/km). The difference of 0.6 g CO<sub>2</sub>/km was the lowest observed since the beginning of the monitoring.

Source: <https://www.eea.europa.eu/highlights/average-co2-emissions-from-new-cars-vans-2019>

Using the lower figure of 127.0g CO<sub>2</sub>/km, per day this therefore means an extra 124.155kg of CO<sub>2</sub> into the atmosphere solely from the vehicles travelling from the A40/A449 roundabout into the site and back, and over a year this extrapolates to **just over 45 metric tonnes of CO<sub>2</sub>**.

This is an extremely conservative estimate and does not account for a single vehicle idling at any point, nor for vehicles making specific journeys. Given that McDonald's' data (Table 5F below) tells us that on some days 32% of journeys to the site will have the sole purpose of visiting the restaurant (i.e. they are not merely "diverted" traffic) and given the rural environment and low population density of the surrounding area, it follows the actual impact of the travel to the restaurant alone will be **far higher than this figure**.

**Table 5F Customer Interview Average Survey Results McDonald's**

Trip Type	Definition	Friday	Saturday
		%	%
Additional Trips	Same origin & destination McDonald's sole purpose of trip	32%	23%
Existing Trips	Different origin & destination	68%	77%
	Same origin & destination McDonald's not sole purpose of trip		
<b>Total Surveys</b>		<b>100%</b>	<b>100%</b>

Source: Transport Report 2, p25

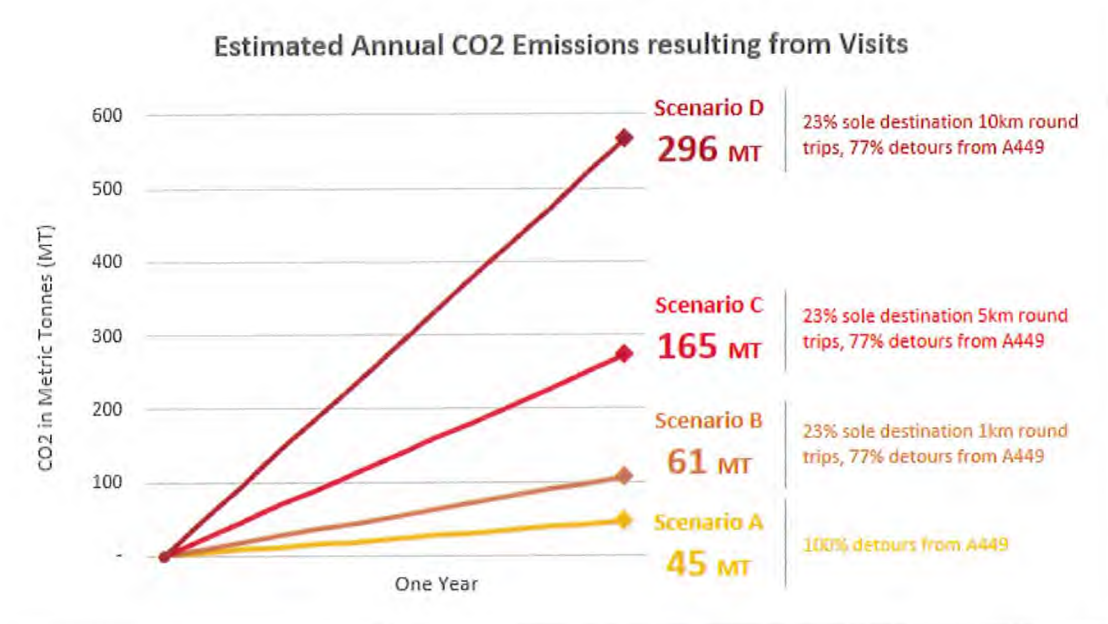
It must also be stressed that 2,444 extra journeys (however small) equates to **892,060 visits to the site each year**. Using the lower figure provided in table 5F (23%) over **200,000 of these visits would have this site as the sole destination of the trip**. This is in direct opposition to Herefordshire Council's stated position on reducing car use.

Should each one of these 23% destination trips be 10km in total (i.e. a visit from a home 5km away, there and back, as described as highly likely in Core Strategy SS4 3.52 and evidenced by the postcode data from the supporting representations) the impact of these trips alone would be **261 tonnes of CO<sub>2</sub> emissions every single year**. This also contravenes NPPF 104 d) in particular.

By exploring different scenarios we can see a better picture of the estimated emissions caused by the restaurant from light vehicle visits alone.

### Annual CO<sub>2</sub> emission by scenario

	annual metric tonnes	monthly metric tonnes
A: All trips are detours from A449	45.32	3.78
B: 77% detours from A449, 23% sole destination 1km trip	60.95	5.08
C: 77% detours from A449, 23% sole destination 5km trip	165.18	13.76
D: 77% detours from A449, 23% sole destination 10km trip	295.46	24.62



The impact of trips to the restaurant on its overall emissions must be considered in the context of Core Strategy MT1 point 3, Air Quality 2.32, Vision 3.14, Freight 3.56, Sustainable Communities 3.95 and SS7 point 3.

In the Biodiversity Report McDonald's claims Electric Vehicle Charging Points (EVCPs) will be provided at the site (Biodiversity Report 3 p4) and that this is therefore part of its plan to mitigate against the restaurant's impact on the climate. However it gives no data of how many EVCPs will be provided, nor how this will translate into a reduction of traffic or vehicle emissions.

In respect of application 181448, Environmental Health Officer Philippa Hargreaves notes:

Electric Vehicle Charging facilities have been included within the mitigation, which is welcomed. However, it is noted that this would not be the only public electric vehicle

charging facility in Leominster.

The primary concern, however, is there is no information to demonstrate how these mitigation measures would translate into a reduction in the predicted vehicle emissions, from the increased car use as a result of the development, particularly in the Air Quality Management Area at Bargates.

Source: Application 181448 IntConsResp 8 dated 04/07/2019 p2-3

In order for the EVCPs to be considered as mitigation in 213017 it must also be shown how they will translate into a reduction in the predicted vehicle emissions from the increased car use as a result of the development.

## Ross-on-Wye Neighbourhood Plan

The proposed restaurant has been objected to by Ross-on-Wye Town Council by a margin of 14-0. This decision was made based on the planning application contravening EN1, EN2, EN4, EN7, E1, E2 and A1 of the Neighbourhood Plan, which were detailed in full by Cllr Jane Roberts at a Town Planning Meeting on 14<sup>th</sup> September 2021.

## Retail Assessment/Retail Strategy

Herefordshire Core Strategy states:

“4.7.20 The policy for retail in Ross-on-Wye, based on the evidence in the Town Centres Study Update 2012, is to maintain its existing busy shopping centre, which is based on a mixture of popular high street chains and independent stores. New homes and households in Ross-on-Wye will strengthen and provide support for the town centre.”

Source: Local Plan Core Policy 4.7.20 p102

In addition NPPF 86, particularly a) and b) encourages the support of Town Centres over and above out-of-town retail development.

Despite McDonald's being required to produce a Retail Assessment in the pre-application advice and it being a condition of building a premises greater than 400m<sup>2</sup> it chose not to submit a Retail Assessment with this application and instead spends considerable time arguing that one isn't necessary. The only reasonable conclusion, particularly in the light of the misleading data used elsewhere in the proposal, is that such a submission would adversely affect the application and by implication the viability of the proposal. The Retail Assessment would show that the proposed restaurant would contravene Herefordshire policies aimed at supporting town centres and is therefore likely to be damaging to the retailers, employment and town centre development.

Rather than submit an assessment which is a requirement of RW1 of the Core Strategy, McDonald's has instead made an argument over why it could not possibly consider other sites. It has also provided pages of justification around its healthier food choices and charitable work to divert attention from the other negative impacts of its restaurants upon their immediate locale. It is unacceptable to construct an unnecessarily large premises with a design that is out of character with residential properties, and due to the elevation of the site would be far more visible than the

existing services which cannot be seen to any such extent from anywhere in the surrounding area. **The building is 37% larger than the average McDonald's but with a best-case scenario of only 82% of the expected customer base!** Locating it away from the town centre is unbalanced and therefore a robust retail survey with both Impact and Sequential assessments based on Ross-on-Wye must be carried out. Ignoring the policies aimed at understanding the impact on jobs and potential closure of premises in the town centre demonstrates that McDonald's is not concerned about prosperity of the town centre. It wants to capture the passing vehicle traffic, create further vehicle traffic for specific visits to the site and divert business away from a major tourist attraction at the gateway to the Wye Valley AONB.

McDonald's says that 65 jobs would be created by the restaurant. Of these most will be low paid, with 4-40 hour contracts offered.

Core Strategy 3.69 states:

"[Herefordshire's] low value economy is partly a function of the county's economic structure. There are a high proportion of employees in manufacturing (accounting for 16% of employee jobs compared to 8% across England), but these are primarily in low and medium technology activities, including food and beverage production, rather than higher value-added activities."

and

"The county has a high proportion of small and medium sized enterprises and the council will offer continuing support for such businesses in future."

Source: Core Strategy 3.69 p37

According to McDonald's own recruitment site, a new McDonald's Crew Member is paid between £6.10 and £8.91 an hour.

Source: [people.mcdonalds.co.uk](http://people.mcdonalds.co.uk)

Given that McDonald's wishes to offer 4-40 hour contracts (Supporting Statement 5.4), the most a new Crew Member could earn at the site is £356.40 per week. **This is 8% lower than the median wage in the county** (Core Strategy 3.68 - £385 per week median wage). 3.68 also states "[l]ow wage levels are borne out in housing affordability issues". The McDonald's wage structure would not allow for long-term, sustainable careers where staff could feasibly enter the housing market. It is also untrue that a McDonald's, no matter if run by a local franchisee or from elsewhere, could possibly be a "small" or "medium sized" enterprise. Indeed, objections from independent businesses in the centre of Ross-on-Wye demonstrate that the only way to support small and medium sized enterprises in the town is to refuse the McDonald's application.

It also should be noted that the only reason McDonald's offers minimum 4 hour contracts is because its **staff held a strike against zero hours contracts in 2018**, as shown in The Guardian: <https://www.theguardian.com/business/2018/may/01/mcstrike-McDonald's-workers-walk-out-over-zero-hours-contracts>

## Conclusion

The proposed McDonald's premises is one usually found in retail parks or service stations not residential areas, and the comparison restaurants used in the application are all retail park style restaurants on existing commercial land much further from residential properties than in this application. There is no comparison data offered for a McDonald's restaurant with access from a residential road. McDonald's has not offered a retail assessment as required. It fails to explain why a 37% larger premises is required to cater for only 82% of the average customer base. 892,060 cars will visit McDonald's per year with **at least 200,000 specific journeys to the site**. As described throughout this document this is likely to be an underestimate as the data has been skewed in an attempt to justify the application in the context of the Core Strategy and NPPF, and to create a false impression that the size of the restaurant in relation to the size of the town is different to an unsuccessful application previously considered by Herefordshire Council.

It would bring chaos to traffic, degrade the quality of life for local families and local residents, it would impose higher pollution levels and impact on town centre businesses. It would not have sufficient parking spaces for its customers even using the "best case scenario" data presented in the application. It would adversely impact on long term traffic plans and would make the Council's stated position on carbon reduction much harder to achieve. A Drive-Thru should be for road side use and accessed through similar services (such as adjacent to a petrol station or large supermarket) rather than through a narrow residential street. A pedestrian based restaurant should be in the town centre to attract visitors and add to the prosperity of the town. Combining the two on the edge of a residential area in a small market town, especially when the supporting data in the application has been manipulated to such a degree, is unacceptable. The data in this document proves that the proposed restaurant would not be of benefit to Ross-on-Wye, local residents or the wider community.

**204242 & 204243 - DEMOLITION OF EXISTING BARNs WITHIN THE GROUNDS OF A LISTED BUILDING. PROPOSED NEW FARM SHOP AND CAFE AND OFFICE ACCOMMODATION BUILDINGS WITH ASSOCIATED CAR PARKING AREA AT WARHAM COURT FARM, BREINTON, HEREFORD, HR4 7PF**

**For: Mrs McMinn per Mr Nick Carroll, 42 Broad Street, Worcester, WR1 3LR**

### **ADDITIONAL REPRESENTATIONS**

#### **Cllr Toynbee (Neighbouring Ward Cllr)**

Thank you for receiving my statement as councillor for the adjoining ward to Credenhill Ward. I am pleased that this application is coming to Committee, and thank committee members for taking note of the numerous and well-informed representations from a wide variety of people and organisations. I have had many communications, over three years, about this application; I understand the concerns raised, and am surprised that the recommendation coming to committee is for approval.

Warham Court Farm is a few hundred metres outside my ward, Greyfriars, and very much part of our local community. The countryside between the city and Breinton is a green lung for hundreds of residents of West Hereford, and they deeply value its greenery, peace, wildlife, rural heritage and opportunity for exercise. The ancient lanes, lined by wonderful hedges, are enjoyed by dog walkers, runners, families and cyclists, not to mention tourists, including those who walk the Wye Valley walk and the paths that link it to historic Warham and Breinton (see Policy E4 – Tourism, Core Strategy p137).

The lanes around Warham are narrow and winding, with poor drainage, very few passing places and poor visibility. A few hundred metres to the South of the site of this application is the River Wye, Site of Special Scientific Interest and Special Area of Conservation, the ecological sensitivity of which we are all more aware of than ever. A few hundred metres to the East is Broomy Hill Conservation Area, designated for its special architectural, historical and natural interest.

The area between Hereford and Breinton has a particular local distinctiveness, that should be preserved and enhanced (see policy SS6, Core Strategy p42)

Paragraph 6.20 of this report is particularly surprising: “It is acknowledged that there may be some increased car journeys to access the shop/café and businesses however, this would be somewhat offset by the number of journeys made by local people to access shops and employment in Hereford as there is no current facilities within the locality”. A **brand new** business and café, with a large car park, would necessitate a lot more than “some increased car journeys” to be financially viable, and the offsetting argument does not reflect reality.

To the West of the site are tiny lanes – indeed this proposal is served exclusively by extremely narrow lanes. There are no pedestrian walkways, and the verges and culverts are already damaged by vehicles manoeuvring or trying to pass each other. Surprisingly, the speed limit is 60mph, and there are no length or weight restrictions on vehicles.

I enclose a couple of photos shared with me from just this week, which show that in places the single track lanes around the site of this application are barely one vehicle wide.

For vehicles moving from this site towards Hereford, the right turn from the end of Broomy Hill onto Barton Road is notoriously dangerous, and an increase in traffic would pose a certain risk.

As far as social and community facilities are concerned, (see policy SC1, Core Strategy p128), this industrial development would have a detrimental effect on a unique area that fulfils Herefordshire Council's policy of maximising opportunities for city residents to access the countryside without the need for a car. Evidence of any benefits to the local community of this application being approved is very weak.

Knowing the area extremely well, having read all the documents, and heard from experts and residents, my view is that approving this application would have a negative impact on the people, traffic flow, quality of life, heritage and environment of the neighbourhood, and would not be in keeping with the sort of development we want to encourage in Herefordshire.





## **Julie Milsom – Director of Herefordshire Community Farm**

I am contacting you in my capacity as Director at Hereford Community Farm which is referenced in the above application. Having read the Officer Report which is listed on the Herefordshire Council Planning website I wish to bring to your attention areas of concern and inaccuracies that are pertinent to the application and ask that the committee be made aware of these points as a matter of urgency and integrity to the decision making process.

With regret I am unable to attend the Planning Committee Meeting in person to raise these points as I already have a commitment at the Hereford Community Partnership Meeting where a film about the work of the Community Farm made in conjunction with Herefordshire Healthwatch is being previewed.

Hereford Community Farm is an established community asset and as such falls within the Core Strategy policy SC1 which states that;

*'Existing facilities will be retained, unless it can be demonstrated that an appropriate alternative facility is available, or can be provided to meet the needs of the community affected, or it can be shown that the facility is no longer required, viable or is no longer fit for purpose: and where appropriate it has been vacant and marketed for community use without success. Viable alternative facilities must be equivalent to those they replace, in terms of size, quality and accessibility.'*

*Please note:*

It is stated in the report section 5.2 in response to the public consultation that '*Hereford Community Farm states that they feel reassured that they can continue on the 5 acre site and support the diversification scheme*'

To clarify **At no point has any representative of Hereford Community Farm been directly in communication with the Case Officer or other members of the planning team with regard to this application or supplied the above statement.**

The position of HCF regarding this application is already stated in a comment dated 03/02/2021 which remains unchanged neither supporting or objecting to the application.

The proposal as it stands will result in a 40% reduction in footprint of the Hereford Community Farm site currently leased from the landlord and the loss of all critical infrastructure - the portable classroom facilities - kitchen, office, accessible toilets, and heated workrooms essential to ensure an inclusive environment for our clients. In addition the 'tin barn' parallel to the lane which is to be demolished for the new building is still in active use as the woodwork workshop. The loss of the orchard area to the east which also comprises a cabin and covered area used for our schools session (installed by HCF) would affect the viability of schools and SEND provision.

The 5 acre field referenced has been leased by HCF since 2013 when it was formerly a grazing paddock and all existing enhancements - greenhouse, vegetable growing areas, garden, portable buildings, pathways and fixtures have been installed by HCF.

**However it is to be noted that this field was identified as being within the chosen route for the Western Relief Road (Hereford Bypass) which if built would render the site unuseable for HCF use.**

Consequently it is now impossible for HCF to have any guaranteed security of tenure on this part of the site even with the support and agreement of the landlord and this inhibits the organisations ability to raise grants or social funding for capital works or developmental works on this 5 acre field.

The potential building identified as an alternative premises for HCF to the west is a redundant former dairy that was identified in the previous application as unfit for use and to be demolished - it is currently used as storage space.

**To provide clarity and give context we therefore extend an invitation to the Planning Committee to visit the Hereford Community Farm site and view the premises during their site visit on 26/07 in advance of their meeting.**

With reference to points 6.11 & 6.12 it is misleading and inaccurate to state that the proposal as it stands for maintaining HCF on the site would '*provide an enhancement and continuity to the existing facilities for the Community Farm and overcome the concerns raised in regard to the loss of the Community facility.*'

There are no detailed plans for the relocation of Hereford Community Farm on this site ahead of the new development commencing and without specific conditions there is no guarantee that the Hereford Community Farm will be protected or able to continue at Warham Court so an alternative has to be sought to ensure that this Community Asset is not lost.

In conclusion Hereford Community Farm is appreciative of the opportunities that have been provided by the landlord and recognises that the farm diversification proposal that has been put forward reflects the landowners right to develop the commercial viability of the site. However the absolute priority for Hereford Community Farm is to safeguard delivery of service provision for the people that need it, to safeguard the jobs of a skilled and dedicated team and to 'future proof' the organisation as a community asset.

Three further letters of objection have been received and are detailed as below:

### **Representation 1**

Have the people who run the Community Farm been consulted via the planning authority or others about the impact that this planning application would have on the Community Farm and do you have a detailed record of their response which will be discussed at the meeting?

What measures are put in place to ensure that the Community Farm service is not disrupted?

The Community Farm, based at Warham Court Farm, provides vital social care placements for children, young people and adults living with disability, long term health conditions and mental health issues. Crucially, the Community Farm fills the gap left by closure of other services due to funding cuts, and is provided at no operational cost to the local authority. The facility provides a lifeline to disadvantaged people in and around Hereford.

### **Representation 2**

This site already has an existing approval for a café and shop on a much more suitable scale for the location ([Town and Country Planning Act 1990 \(herefordshire.gov.uk\)](http://www.herefordshire.gov.uk)).

If it has not been viable to build in accordance with this planning approval, why would an much bigger application with a car park the size of Aldi, be more economically viable?

The Planning Officer report is inaccurate and misleading on many occasions.

1. The site is not within a "settlement" but open countryside which is very rural despite its close location to the city of Hereford.
2. The officer omits to mention that there is already a farm shop in the parish, Breinton Manor, which does grow and sell its own produce. This is in addition to Wyevale Garden centre which provides a range of retail goods and a large café/restaurant. How does the development of another shop and café support local food and drink production by setting up in competition with these existing operations? How does this development support the vitality of the retail shops and office space in Hereford, which is a much more sustainable location for offices and retail and located just 1/2mile from the site?
3. Para 6.20 in the officers report is factually incorrect, spurious and misleading. " It is acknowledged that there may be some increased car journeys to access the

shop/cafe and businesses however, this would be somewhat offset by the number of journeys made by local people to access shops and employment in Hereford as there is no current facilities within the locality.” The proposed ventures if successful will undoubtedly result in a significant increase in car journeys. The residents of working age often work locally or from home, residents will continue shopping at supermarkets, etc. so many of these offset journeys do not exist. As the objectors have highlighted there are already shops, including a farm shop selling their own local produce, within Breinton Parish.

4. The current farm operation is an intensive livestock unit and does not even grow its own feed for these operations, despite what they said they would do in their original barn development. Currently, the farm only produces beef and the feed is trucked in regularly from Northamptonshire on articulated lorries through Hereford City and residential areas of Breinton/Barton Road. How does the proposal support local food and drink production?
5. The plans for the relocation of the Community Farm to the west of the site do not make clear how the repurposed farm buildings will provide the same or improved facilities for the Community Farm or how they can continue to use the historic apple orchard to the east of the new car park. The new location of the Community Farm surrounded by the access for delivery and waste vehicles poses a risk to the users of this facility as well as impacting clients through increased vehicle noise and pollution.. As such the development actually risks the loss of established jobs and opportunities offered by the Community Farm, listed as a Community Asset.

The application should be refused as it is contrary to the following Core Strategy Policies: -

- Policy RA5 Reuse of Rural Buildings makes it clear that development will only be permitted where “The building is capable of accommodating the proposed new use without the need for substantial alteration or extension, ancillary buildings, areas of hard standing or development which individually or taken together would adversely affect the character or appearance of the building or have a detrimental impact on its surroundings and landscape setting. As the officers report Para 4.9 overview describes it “The Applicant proposes the demolition of existing barns within the grounds of a Listed Building and the construction of a new farm shop and cafe and office accommodation buildings” this application is therefore contrary in every way to this policy and cannot be considered compliant.
- Policy RA6 (Rural Economy) which permits applications where they: “*ensure that the development is of a scale which would be commensurate with its location and setting*”; “*do not cause unacceptable adverse impacts to the amenity of nearby residents*”; “*do not generate traffic movements that cannot safely be accommodated within the local road network,* ”. The vehicle movements CANNOT BE INCORPORATED INTO THE LOCAL ROAD NETWORK as the officer is recommending the REMOVAL OF ANCIENT HEDGEROWS AND THE CREATION OF 3 PASSING BAYS ON ONE ACCESS ROAD ( via Broomy Hill ) to accommodate the additional vehicle movements this development will generate. The officer makes no comment about the lorries, vans and cars accessing the site from other roads across the parish and their impact on other road users and residents and other farmers, needing access to their crops and livestock.
- Policy SC1 which states “*Existing facilities will be retained, unless it can be demonstrated that an appropriate alternative facility is available, or can be provided to meet the needs of the community affected; or it can be shown that the facility is no longer required, viable or is no longer fit for purpose; and where appropriate, it has been vacant and marketed for community use without success. Viable alternative facilities must be equivalent to those they replace, in terms of size, quality and accessibility.*” Where are the new toilets, classrooms and changing facilities for the Community Farm and its vulnerable users in the plans? With no detailed plans and clear delivery for the relocation of the Community Farm ahead of the new development commencing, this application is contrary to Core Strategy policy SC1.

- Policies SD3 or SD4. This farm site had an Environment Agency investigation in 2021 as untreated, dirty farm water was contaminating land and running directly into water courses, flowing into the adjoining River Wye SAC. Despite being asked to do so, the Planning Office has not consulted with the Environment Agency on this development, despite the proximity of the discharges to the River Wye SAC and local water courses. The application does not accord with NDP policy RA6 which states the rural developments “*do not undermine the achievement of water quality targets in accordance with Policies SD3 and SD4*”. The drainage proposals are insufficient and therefore are not able to show compliance with Core Strategy Policies.

This application also fails to comply with the following Breinton Neighbourhood Development Plan policies:

- Breinton NDP Policy B4 which does not support the re-use of buildings for office space. The officers recommendation for office use is contrary to this Neighbourhood Plan Policy.
- Breinton NDP Policy B13 provides for “*the re-use or conversion of existing buildings for outdoor recreation and tourism related uses appropriate to the tranquil and unpolluted open countryside*”.

**To properly protect the Community Farm the officer should be recommending that the Condition should be amended** to make it clear that should the application be approved so that it reads something like :-

**“The application CANNOT proceed, until the Community Farm has been successfully relocated in equivalent or improved facilities as they currently application outlines.**

Processes need to be agreed with the planning authority to minimise the noise and danger to staff and users of the Community Farm from delivery and waste vehicles manoeuvring close to the relocation area. Safe access to the historic apple orchard across the site which plays an important part of the therapy provided by the Community Farm should be protected for use by the staff and beneficiaries of the therapeutic support.

The heavy, articulated feed and livestock lorries are coming & going on a regular basis to Warham Court Farm are causing the following damage to:-

1. the Longmeadow junction due to the weight and load of articulated lorries turning tightly on this junction.
2. the lanes from Brecon Road to Warham Court Farm (C1189 and U73022), including Magpie Lane (U73023) - which are crumbling away and narrowing as the vehicles wheels are wider than the road widths in places.
3. collapsing the culverts under the roads causing flooding and erosion of the road surfaces (see the long term problems of the culvert outside Warham Farm Cottages, and the pitted and patched dangerous road surface just below where the water accumulates).
4. damaging residents water mains supplies that sit inside the lanes and driveways;
5. eroding the banks of some of the roadside fields and verges.
6. damaging hedges and trees.
7. intimidating other road users eg. car drivers, walkers, cyclists, etc.

This is why weight & length restrictions on the roads are urgently needed and have been requested by the Parish Council and residents outside of this planning application.

Under the latest planning application for Warham Court Farm, Herefordshire Highways say it is fine for there to be increased traffic on the lanes & the Broomy Hill road has sufficient width for delivery, building and waste vehicles and there is no issue with the 60mph speed limit.

The driver of the Northamptonshire feed lorry that forced 6 residents to have to find an alternative route into Hereford on Monday due to blocking the Warham road (C1189), says he has been told by Warham Court Farm (Kevin Hammett) to deliver along the C1189 and not the Broomy Hill Road. Is this what the farm will be telling all the other delivery and building lorries to the new development? If so, why are Highways only requiring passing

bays for the Broomy Hill Road, and not the C1189 and other lanes in the parish, if the deliveries can take any route they like to the farm?

I do not believe that this application should be given approval. However, as a smaller farm shop and café as part of the location of the Community farm was previously been given approval may I suggest that if planning are approval of the development at Warham Court Farm is to be recommended that Councillors at the planning meeting need to add and approve the following conditions to any consent:

1. Condition that Broomy Hill Road is the vehicle access route to Warham Court Farm for all vans and lorries accessing the farm business units, shop and café and for the development vehicles.

2. A condition restricting the length and width of vehicles going to and from Warham Court Farm is applied to all routes in Breinton, including the C1189,U73022, U73023, Broomy Hill and Brecon Road and limiting vehicle speeds to 40mph, the same as outside Wyevale Garden Centre.

3. the hours of delivery vehicles to Warham Court Farm should be restricted from 9.00am to 5pm weekdays. With Warham Court Farm looking to sell their own food and drink, deliveries should not be required at the weekend. This would protect the quiet lanes for the access and amenity of local parish and city residents for walking, cycling, running, horse riding, etc. particularly out of school/office hours, when most people utilise the quiet rural lanes for leisure and amenity. (The adjoining wards of Greyfriars, Whitecross, Kings Acre, etc have the lowest proportion of open space for residents than any other part of the City. Breinton is an important leisure area for these residents, accessible by sustainable modes of transport).

4. If planning cannot condition a particular route for vehicles in and out of the Warham Court Farm site, then the condition for parking bays needs to be expanded so that the developer needs to provide more passing bays around the Parish to prevent delivery and farm vehicles restricting the movement of other road users and residents around the parish.

5. There needs to be a section 106 request for the culverts along the length of the C1189 (Breinton Lane to Hereford) and the Broomy Hill road, to be upgraded so that they can take the weight of the vehicles during the demolition and development and the delivery and waste lorries, and to make good the junctions at Long meadow and upgrade the road surfaces between Longmeadow and the Warham House turning, caused by damage of culverts and failure of the farm ditches to prevent field run off eroding the road surfaces.

6. The farm owner needs to maintain the ditches and drainage around Warham to prevent field run-off and localised flooding and to accommodate the additional waste water generated by this development, which according to the drainage plans are to be discharged into the local water courses.

7. Breinton Parish only has one bus a week, and is often over capacity and does not currently go past Warham Court Farm. To help minimise the number of vehicle movements generated by the site, there should be further S106 request or condition, that the development funds another regular, local bus service between Hereford and around Breinton Parish, to link the site by local public transport and enable all residents, regardless of whether they are able or own a car, to access the jobs offered by this development. This would accord with sustainable development and enable local residents and other users to access the site by means other than private car.

It seems very odd that when the City has so many empty shops, offices and other business units, that the officer would recommend development of more retail and café away from Hereford, especially when it will rely on so many car journeys from Hereford residents. Breinton is not an area of high unemployment or deprivation requiring diversification. Breinton is not marked as an area for employment or commercial development in the Core Strategy.

This is a car reliant development in open countryside accessible only by narrow, single track roads and no consideration has been given to other travellers, such as walking, running, cycling, horse-riding.

## **OFFICER COMMENTS**

The objectors further comments are acknowledged though do not raise any new material considerations that are not covered within the Committee Report.

Whilst recognising the views expressed, the scheme has been subject of consultation with all relevant technical consultees and is considered to be in accordance with planning policy in that it supports farm diversification and conversion of rural buildings.

The Transport Statement provided has stated that the majority of traffic will come from the east along Breinton Road and therefore requiring the passing bays to the east. Condition 8 states that development cannot begin prior to the details of the passing bays being agreed.

Additional conditions are suggested below that seek to control the use of the farm shop and café (Office use already has a suggested condition).

To protect the future of the Hereford Community Farm, condition 9 requires full details of the relocation and siting of the Hereford Community Farm use and any associated structures to be submitted to and approved prior to first use of the proposal.

A HRA has been undertaken with regard to the proposed development and concluded that there would be no adverse effects on the integrity of the identified River Wye Special Area of Conservation subject to appropriate mitigation being secured, condition are included in the report. Natural England has reviewed the HRA and has no objections.

A separate discharge licence may need to be obtained from Environment Agency. Any separate regulatory licence requirement is outside of planning controls and any HRA associated with this planning application.

## **CHANGE TO RECOMMENDATION**

### **ADDITIONAL CONDITIONS SUGGESTED:**

- The area identified as café in building 5/6 on plan number 2011/P/04E shall be used for Class E (b) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policies MT1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- The premises within unit 5/6 identified as the farm shop on plan number 2011/P/04E shall be exclusively for the sale of goods and produce supplied either as the owners own produce or from neighbouring farms or the local areas, defined as being within 5miles radius of the approved farm shop.

Reason: The local planning authority wish to control the specific use of the land/premises, to support local produce and growers and to preclude the establishment of an unrestricted out of town retail unit and in the interest of local

amenity and to comply with Policies MT1, E5 and SD1, of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and Policy B4 of Breinton Neighbourhood Development Plan.





<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>16 AUGUST 2023</b>
<b>TITLE OF REPORT:</b>	<p><b>181494 - PENDING SECTION 106 AGREEMENT PROPOSED LAND FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORK TOGETHER WITH PUBLIC OPEN SPACE AND LOCAL GREEN SPACE. AT LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY</b></p> <p><b>For: Mr &amp; Mrs Turner per Mr Peter Draper, Yew Tree Cottage, Byford, Hereford, Herefordshire HR4 7LB</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181494">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181494</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

Date Received: 23 April 2018

Ward: Kington

Grid Ref: 330174,256478

Expiry Date: 30 July 2018

Local Member: Cllr Terry James (Kington)

## 1. Background / Reason for application being returned to Committee

- 1.1 The application was considered by the Planning and Regulatory Committee ('the Committee) on 18 December 2018. The Committee resolution was that planning permission be granted on the grounds that the application was supported by policies SS1, SS2 OS2 and MT1, with approval to be subject to a Section 106 agreement to be prepared by officers after consultation with the Chairman and local ward member, and officers named in the scheme of delegation to officers be authorised to detail the conditions and reasons put forward for approval. The minutes of the Committee meeting are available at **Appendix 1**. A link to an audio recording of the meeting is available through the agenda webpage below:

[Agenda for Planning and Regulatory Committee on Tuesday 18 December 2018, 10.00 am](#)

- 1.2 Following the Committee's resolution and prior to the completion of the required Section 106 agreement, Natural England advised Herefordshire Council that it could no longer rely upon the Nutrient Management Plan to offset the phosphate generated by development. The associated restrictions imposed follow a judgement in the Court of Justice of the European Union on the application of the Habitats Regulations. Known as the 'Dutch Case', the judgement essentially directed that in situations where a designated site is already failing its conservation objectives, planning permission can only be granted for new development where it can be shown that this would have a neutral impact (or represent betterment) commonly now referred to as 'nutrient neutrality' upon the integrity of the designated site. Those requirements have been transferred into law in the United Kingdom following its exit from the European Union.

---

Further information on the subject of this report is available from Mr Ollie Jones on 01432 260504

- 1.3 The application site is located within the hydrological the catchment of the River Lugg, which is a tributary of the River Wye Special Area of Conservation (SAC) and forms part of the designated site. It is currently failing its conservation targets on phosphate levels. Following advice issued by Natural England (as the relevant statutory body) in July 2019 as above referred to, Herefordshire Council as the Local Planning Authority (LPA) has been unable to approve new developments within the Lugg catchment unless it can be demonstrated with certainty that it would be nutrient neutral with respect to water quality and the integrity of the designated site. This has become known as the need to demonstrate 'nutrient neutrality'.
- 1.4 The proposal is for residential development and would therefore generate foul water that is proposed to be managed through a connection to the mains sewer network serving Kington. The additional phosphate load generated has the potential to impact upon the River Wye SAC through the discharge of treated sewerage into the catchment. As such, there is requirement for the LPA to complete an 'Appropriate Assessment' before permission can be granted. A positive assessment in this regard was not possible following the application being considered by Planning Committee in 2018 – given the length of time taken to progress the Section 106 agreement; there were no methods available at the time to mitigate for the effects of the development and hence it could not be concluded that the proposal would have a neutral effect on the integrity of the River Lugg SAC. As a result, the application was placed 'on hold' pending a solution coming to fruition that would allow for a positive HRA to be completed.
- 1.5 In the interim, Herefordshire Council has been developing a project to deliver a series of integrated wetlands to provide secondary treatment to discharge of mains wastewater treatment works. The first site in Luston has been granted planning permission with construction completed. The delivery of the wetlands will reduce the amount of phosphate entering the catchment, allowing Herefordshire Council to offer a Phosphate Credits scheme to mitigate for the effects of proposed development (achieve nutrient neutrality) whilst still delivering net betterment to water quality in the Lugg catchment. Herefordshire Council's Cabinet took the decision to authorise the commencement of credit trading in July 2022:

<https://councillors.herefordshire.gov.uk/ieDecisionDetails.aspx?Id=8974>

- 1.6 The application in this case now seeks to purchase phosphate credits to mitigate for the effects of the development on the SAC and is eligible for such an allocation. This is discussed within the relevant section in the main body of the report which follows.
- 1.7 Notwithstanding the Committee resolution, the application is returned to this Committee given that since December 2018, there have been demonstrable changes to the planning policy context. These are material and therefore must be considered by this Committee. To explain, the application was previously considered in the context of the Council not being able to demonstrate a 5 year housing land supply – the position of April 2018 being 4.55 years. The implication of this was prescribed by the 2018 version of the National Planning Policy Framework (NPPF) which specifically set out at Paragraph 11d the following;
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
    - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
    - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 1.8 As per the minutes of the Committee meeting on 18 December 2018 as shown in **Appendix 1** and the recording of the meeting, officers consider it clear that in reaching the resolution to grant planning permission, the above ‘tilted-balance’ was engaged, meaning that the adverse impacts were identified but it was considered that they did not significantly and demonstrably outweigh the benefits of the development.
- 1.9 However, the currently supply position is that Herefordshire Council are able to demonstrate in excess of a 5 year housing land supply. When having regard to most up to date version of the NPPF (2021) – the same test as above-mentioned applied. However, because of the change in supply position, it can no longer be engaged. Rather, it is Paragraph 11 which is instead engaged. This states the following;
- c) approving development proposals that accord with an up-to-date development plan without delay.
- 1.10 Therefore, in simple terms – any adverse impacts that were identified by the Committee must no longer significantly and demonstrably outweigh the benefits. Instead, development proposals should accord with an up-to-date plan. This represents a significant change to the planning policy context and is material to the consideration of this application. Therefore, while the previous resolution reached by the Committee is acknowledged, this can only be attributed very limited weight in the context of the aforementioned significant changes to the planning policy context.
- 1.11 With the above in mind, the application has been reappraised as per the report set out below. The original Officer Report can be found in **Appendix 2**.

## **2. Site Description**

- 2.1 The site is situated on the north side of Headbrook, east of Kington’s town centre and west of the A44 by-pass. It is currently in agricultural use but is adjacent to existing residential areas along Headbrook, Old Eardisley Road and Bridge Street. The site amounts to 3.83 hectares and is irregularly shaped, essentially level and bound to the north by the River Arrow and to the south by the dwellings that front onto Headbrook which are arranged in a linear fashion along Headbrook are all set in narrow plots with little in the way of residential curtilage to the rear. Views into and across the site are afforded from its edges and there are defined visual boundaries created by the existing development and the mature trees and hedgerows within and along the boundaries, especially to the north and east.
- 2.2 There is an existing field accesses to the site; a narrow field gate between 45 and 47 Headbrook. This is considered to be inadequate to serve the proposed housing development and consequently the application site includes land immediately to the west of 45 Headbrook. There are no definitive Public Rights of Way into or across the site, but north of the site and river and within 300 to 400 metres are several local public footpaths and stretches of Offa’s Dyke Path and the Herefordshire Trail, both National and Local Long Distance Paths. The application submission highlights opportunity for new footpath and cycle routes to be created and linked into existing routes, and includes the possibility of a new footbridge across the River Arrow in the north-west corner of the land. At its closest the site is approximately within 300 metres of the town centre, which includes a post office, the bulk of shops, services and public transport facilities. The site is all within easy walking and cycling distance of the town centre and its full range of services.

## **3. Proposal**

- 3.1 This application is made in outline and seeks planning permission for residential development, associated works and the provision of public open-space and green space, with other matters reserved for future consideration. The proposal is for 35 dwellings although the submitted plans are illustrative only (see **Figure 1**), showing 33 dwellings and demonstrates how residential development on the site could come forward. The scheme would provide 35% affordable

provision. It has been illustrated how access to the site could be taken off Headbrook between Numbers 43 and 45.



Figure 1 – Indicative Proposed Site Plan

#### 4. Policies

##### 4.1 Herefordshire Local Plan – Core Strategy

- SS1      Presumption in favour of sustainable development
- SS2      Delivery new homes
- SS3      Ensuring sufficient housing land delivery
- SS4      Movement and transportation
- SS6      Environmental quality and local distinctiveness
- KG1      Development in Kington
- RA1      Rural housing distribution
- H1      Affordable housing – thresholds and targets
- H3      Ensuring an appropriate range and mix of housing
- OS1      Requirement for open space, sport and recreation facilities
- OS2      Meeting open space, sport and recreation Needs
- MT1      Traffic management, highway safety and promoting active travel
- LD1      Landscape and townscape
- LD2      Biodiversity and geodiversity
- LD3      Green infrastructure
- LD4      Historic environment and heritage assets
- SD1      Sustainable design and energy efficiency
- SD3      Sustainable water management and water resources

**SD4** Waste water treatment and river quality  
**ID1** Infrastructure delivery

#### 4.2 **Kington Area Neighbourhood Development Plan**

The referendum for voters within the Kington, Kington Rural and Lower Harpton Group and Huntington parish areas was held on 25 July 2019. Because the number of votes cast in favour of a 'yes' vote did not constitute more than half of those voting, the Kington Area Neighbourhood Development Plan was not made. It therefore carries no material weight for the purposes of decision-taking.

#### 4.3 **National Planning Policy Framework (NPPF)**

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

#### 5. **Planning History**

5.1 None.

#### 6. **Consultations**

Following receipt of additional supporting documents (Phosphate Calculations, updated Ecology Assessment), additional consultations were undertaken locally and with the Town Council, as well as with technical consultees where relevant to the submitted information. The original and updated responses are detailed below.

6.1 HC Built and Natural Environment Team (Building Conservation) – object

6.1.1 12/10/18 –

Recommendations:

The corridor of the River Arrow makes a strong contribution to the setting of the Conservation Area and the housing proposed to the North of the site would cause less than substantial harm to this setting. Policy 196 of the NPPF would apply.

Background to Recommendations:

The site is situated to the South of the Kington Conservation Area. A Conservation Area Appraisal exists from 2007, although this doesn't look at the site or the River Arrow Corridor in detail.

Whilst there is not statutory protection in the Planning (Listed Buildings and Conservation Areas) Act 1990 for the setting of Conservation Areas, (as there would be for Listed Buildings for example), this is a material planning consideration.

Comments:

The River Arrow makes a strong visual and historic contribution to the significance of the Conservation Area. Historically this is a primary reason for the Town being in this location, the crossing point allowed for traders to meet and also the means for a Mill, tanneries and other industries to develop. In terms of the character of the Conservation Area there are key views from the Bridge to the South of the town, looking East and from the East towards the Town. It is the view from the Conservation Area which would be most affected by the proposals, in

particular the proposed housing towards the north of the site. The transition from Headbrook to the River Arrow Corridor is an important aspect of views from the Conservation Area. Those views from the south extremity of the town looking directly south should not be entirely discounted, although it is noted that this is an area of more modern housing and not within the Conservation Area.

6.2 HC Built and Natural Environment Team (Landscape) - object

6.2.1 9/7/18 –

Policy context

National Planning Policy Framework

11. Conserving and enhancing the natural environment

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

SS6. Environmental quality and local distinctiveness

SS7. Addressing climate change

LD1. Landscape and Townscape

LD2. Biodiversity and Geodiversity

LD4. Historic environment and heritage assets

SD3. Sustainable water management and water resources

Designations/Constraints

- Draft – Kington Neighbourhood Development Plan – GS06 Land Beside River – designated as Green Space
- Listed Buildings (Conservation Advisor to provide further information) Grade II, No 19 Headbrook
- Registered Park and Garden – Hergest Croft – no views envisaged
- Agricultural Land Classification – Grade 3 Good to Moderate Agricultural soil
- Settlement boundary – The proposal is within the settlement boundary
- Conservation Area – Western boundary adjacent to a conservation area
- Flood zones and Ground Water Sensitivity areas – (Drainage engineer to provide further information)
- Pollution areas – The north western part of the site has a pollution area
- Public view points : See Figure 6 of the Landscape Visual Impact Assessment for various views of the site

Herefordshire Landscape Character Assessment

Riverside Meadows – Main Characteristics are: ‘Pastoral land use, with well defined linear patterns of willow and alder trees. Tree cover represented by stream side and hedgerow trees’. Secondary characteristics are ‘Wetland habitat with river channels and hedge and ditch boundaries’.

Landscape and Visual effects

I have visited the site

I have read the Landscape Visual Impact Assessment (September 2017)

I have seen the Illustrative Site Plan, Job No A.174 13.01 P.04, No Revision

I have seen the HK B7A. LVIA Appendix 1 – Revised layout Concept

These are my landscape comments which reference to this application relating to the following above planning policy statements:

The National Planning Policy Framework, Item 11, 109 states: 'The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and soils'

The northern boundary of the proposal site lies parallel and adjacent to the River Arrow. The site provides an attractive historical visual amenity for the town with its association to the river. The western boundary of the site is adjacent to the town's conservation area and the site when seen from nearby public rights of way view-points has a strong sense of place. On the northern boundary of the site the River Arrow is designated as a Special Wildlife Site corridor. On the southern boundary of the site there is a Grade II Listed building No 19 Headbrook. The agricultural land classification is that of a Grade 3 soil which is considered to be a good to moderate agricultural soil.

The Herefordshire Local Plan Core Strategy 2011 – 2031, Dated October 2015, following policies state:

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

The River Arrow and its associated flood plain represent a distinct landscape character of Riverside Meadows and local distinctiveness for the town, providing both visual amenity, flood storage and biodiversity value. The proposed site lies in an area designated in the emerging Kingston Neighbourhood Development Plan as a Local Green Space. The loss of this Local Green Space would not contribute towards the county's distinctiveness with reference to this historical, environmental and heritage asset.

SS7. Addressing climate change: 'Development proposals will be required to include measures which will mitigate their impact on climate change'.

With future erratic weather predicted due to climate change, flooding adjacent to river corridors will occur more often. Further information on these development proposals adjacent to the flood plain should be obtained from our Drainage Risk team.

LD1. Landscape and townscape: 'Development proposals should'

- Demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and designated areas;
- Conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, nationally and locally designated parks and gardens and conservation areas; through the protection of the area's character and by enabling appropriate uses, design and management;
- Incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings; and
- Maintain and extend tree cover where important to amenity, through the retention of important trees, appropriate replacement to trees lost through development and new planting to support green infrastructure.

The River Arrow and its associated flood plain provide a natural, historic and scenic beauty for the town of Kingston. This historical, environmental and aesthetically valued asset will not be protected by this proposed development, due to the loss of Riverside Meadow land which will deplete this existing valued Green Space asset.

LD2. Biodiversity and Geodiversity: 'Development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire'.

The River Arrow corridor is a Special Wildlife Site. Further information can be obtained from our Ecologist.

LD4. Historic environment and heritage assets: 'Development proposals should protect, conserve and where appropriate enhance heritage assets'

There is a listed building near to the south western site boundary, a Grade II No 19 Headbrook House. Further information can be obtained from our Conservation officer. There will be a loss of Riverside Meadows which has an historic value for the residents of Kington and tourist to the town.

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

The northern part of the site runs parallel to the River Arrow is in a Flood Zone 3. The northern central part of the site is within a Flood Zone 2. On the eastern boundary of the site a stream corridor which runs in a northerly direction towards the River Arrow experiences a 1: 30 year deep flood. Further information on these constraints should be sought from our Flood Risk Team.

#### Recommendations

I would object to this Outline application on the basis of the following points:

The proposed development site lies in an area designated in the emerging Kington Neighbourhood Development Plan as a Local Green Space. Even though the NDP is not in an advanced stage, this green space should be protected as a valued community and environmental resource for the future.

The proposed development would deplete the size of the existing Riverside Meadows adjacent to the River Arrow flood plain. This existing green space is an historic, aesthetic and communally valued open space. This depletion of existing environmental, historical and locally valued aesthetic would therefore not contribute or enhance the natural, historical and locally valued landscape.

This proposal is adjacent to the River Arrow flood plain. With climate change there is the potential to exacerbate the present flood issues and water quality issues in this area with this proposed development.

6.3 HC Built and Natural Environment Team Archaeology – no objection

6.3.1 11/5/18 – no objection.

6.4 HC Built and Natural Environment Team (Ecology) - comment

6.4.1 6/2/23 – HRA completed and submitted to Natural England. See **Appendix 3**.

6.4.2 11/1/23 - These comments only apply to Ecological matters that are outside the purview of required Habitat Regulations Assessment.

#### General Ecology Comments

The updated ecological assessment-report by Middlemarch dated November 2022 is noted and refers.

It appears that there has been little substantive change since original 2018 ecology comments. It is noted that as an outline application required detailed and specific information can be



secured for final consideration as part of future Reserved matters/Discharge of Conditions. These comments remain valid for 18 months/two main optimal periods from the date of the supplied ecology report. If outline permission is not granted by October 2024 a further update ecological report should be produced, submitted and updated ecology comments made.

Subject to relevant mitigation there are no identified likely effects on local populations of protected species or general biodiversity interests.

As identified in supplied ecology report to ensure all relevant considerations are a comprehensive Construction Environmental Management that should include wider effects of construction as well as specific section on ecological/wildlife considerations and protections, with details of appointed responsible person and relevant ecological clerk of works. If submission of required CEMP is delayed for any reason the submitted CEMP should be based on an valid and updated ecological/proposed development assessment process. . A good guide to all aspects requiring consideration with a CEMP can be found at: [https://www.designingbuildings.co.uk/wiki/Construction\\_environmental\\_management\\_plan](https://www.designingbuildings.co.uk/wiki/Construction_environmental_management_plan)

#### Ecological Protection and Construction Environmental Management Plan

No longer than one year prior to any works commencing on site a detailed Construction Environmental Management Plan – including ecological working method statement based on the assessment and details of the person responsible for the implementation of the CEMP, shall be supplied to the LPA for written approval. The approved CEMP shall be implemented in full for the duration of all construction works at the site 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 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council's declared Climate Change & Ecological Emergency.

As identified in current guidance and policies all developments should show how they will deliver a meaningful and lasting Biodiversity Net Gain. A detailed specification and location scheme for all permanent biodiversity net gain features is requested for approval through a relevant condition on any planning permission granted.

#### Nature Conservation – Biodiversity and Habitat Enhancement

Prior to any construction work above damp proof course a specification and annotated location plan for proposed biodiversity net gain enhancement features including significant and meaningful provision of 'fixed' habitat features including a range of bird nesting boxes, bat boxes (or similar roosting features), Hedgehog homes and hedgehog highways through all impermeable boundary features must be supplied to and approved in writing by the local authority. The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that biodiversity net gain is secured and habitats enhanced 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 and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies SS1, SS6 LD1, LD2 and LD3; and the council's declared Climate Change and Ecological Emergency

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

#### Protected Species and Dark Skies (external illumination)

No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

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; ; and the council's declared Climate Change and Ecological Emergency

- 6.4.3 23/8/18 – Thank you for consulting me again on this application. I note my colleague has completed the HRA assessment process for this satisfactorily. With regard to the ecological assessment, I welcome the updated survey which finds much remains unchanged. However, the presence of two riparian species (otter and white clawed crayfish) have been raised and confirmed as present along this stretch of the R. Arrow. I believe the plans to be ultimately adequate in habitat creation along the stream corridor here and so good water quality and lack of disturbance will be of utmost importance to maintain before and after construction. The bulk of the development will fall outside the flood plain and will lie some distance from the course of the river but a Construction Environmental Management Plan (CEMP) should be produced to ensure no construction materials/fuels etc. will be placed near the buffer zone. Except for planting there should be no need to enter this buffer zone during construction. Certainly no heavy machinery should be allowed the CEMP should clearly designate this zone as fenced off from the rest of the site. I do not believe it is possible, enforceable or even reasonable to adopt an exclusion zone around the river post-construction but site development should in no way impede the use of the river by these two species including barrier installations, lighting or bank access points. If the footbridge across the proposed in the Design and Access Statement is intended as part of this application, then details of construction must be submitted as part of the approval and accommodated in the species' mitigation..

In addition, the recommendations of the ecological report should be encompassed within a ecology mitigation and enhancement plan. This should include a programme of Reasonable Avoidance Measures for two species above. I would also advise that information boards should be installed as part of the interpretation and advisory element of enhancement highlighting the features living adjacent to such a spectacular biodiversity resource. The signs should also indicate controls on disturbance which people should exercise (such as by dogs, vegetation damage and any water-sports intended).

Consequently, the following non-standard conditions should be added to any approval:

Prior to commencement of development, a Construction Environmental Management Plan shall be submitted for approval in writing by the local planning authority and shall include timing of the works, details of storage of materials and measures to minimise the extent of dust, odour, noise and vibration arising from the demolition and construction process. The Plan shall be implemented as approved.

#### Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

AND

The recommendations for species mitigation and habitat enhancements set out in the ecologist's report from Ecology Services dated 2018 should be followed unless otherwise agreed in writing by the local planning authority and the scheme shall be carried out as approved. An enhancement plan for the site including interpretive advice boards for protected riparian species present should be submitted to the local planning authority in writing. The plan shall be implemented as approved.

An appropriately qualified and experienced ecological clerk of works should be appointed (or consultant engaged in that capacity) to oversee the ecological mitigation work.

Reasons:

To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (with amendments and as supplemented by the Countryside and Rights of Way Act 2000), the Natural Environment and Rural Communities Act 2006 and the Conservation of Habitats and Species Regulations 2010 (and 2012 amendment).

To comply Herefordshire Council's Policies LD2 Biodiversity and Geodiversity, LD3 Green Infrastructure of the Herefordshire Local Plan Core Strategy 2013 – 2031 and to meet the requirements of the National Planning Policy Framework (NPPF).

6.4.4 21/5/18 - Thank you for consulting me on this application. My pre-application comments of four years ago welcomed the ecological survey (from 2014). Unfortunately, this application submits the same survey without any updated information. There is a need to at least carry out a walk-over survey as a check on potential changes. For the ecologist to advise on enhancement measures there will be a need to base this on current site conditions in any case. This should be done at the outline stage and not left to reserved matters

Secondly, I note Natural England's comment regarding foul waste treatment. A mains connection is clearly intended and also, a SuD system is proposed for surface water which appears acceptable. Consequently, Natural England's requirement is met provided the condition from Welsh for foul water management is applied.

6.5 Area Engineer (Highways) – comment

6.5.1 10/7/18 –

Site Location and Access

The application site is located on Land adjacent to Spring Cottage Headbrook Kington. The proposal sets out the creation of a new access through land between 43 and 45 Headbrook which is within the ownership of the developer. The proposed development site lies in an area designated in the emerging Kington Neighbourhood Development Plan as a Local Green Space. Headbrook road is subject to 30mpg speed limit however the 85th percentile speed in the transport assessment for the development shows speeds at 33mph.

The new access would adjoin the existing public access. A transport assessment sets out the proposed access and associated works. It must be ensured that the access does not deviate in location from this point as access from another location, between 45 and 47 Headbrook for instance, would not be appropriate.

There is a bus service near the site, including hourly services which connect Hereford with Llandrindod Wells via Kington.

Traffic Generation

The information provided by the transport assessment is for 60 dwellings. Using this as a baseline, 33 two-way trips were associated with the proposal. As the current proposal is indicative of approximately half the number of dwellings, then it is logical to assume that half the number of two-way trips will be associated with this site. The highway network should not be adversely affected by this increase in movement.

#### Visibility

The visibility splays set out in the transport assessment (51m) in line with the 85th percentile speeds are appropriate and achievable at the proposed location of the access.

#### Drainage

The developer should ensure that run off does not flow to the public highway.

#### Waste Collection

A waste collection strategy should be provided by the applicant.

#### Policy

Section 106 contributions are mentioned in the planning statement and the developer is happy to contribute an average of £9,284 per dwelling.

As a new public road and footway is proposed, the developer should adhere to section 38 highways adoption agreement and section 278 of the Highways Act 278.

#### Conclusion

The transportation department has no objections to this application, subject to the following conditions:

#### CAL - Access, turning area and parking

The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan

#### CAJ - Parking - estate development (more than one house)

Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform with the requirements of Policy T11 of Herefordshire Unitary Development Plan

#### CAQ - On site roads - submission of details

Development shall not begin until the engineering details and specification of the proposed roads and highway drains have been submitted to and approved in writing by the local planning authority.

## Informative

### I45 – Works within the highway (Compliance with the Highways Act 1980 and the Traffic Management Act 2004)

This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel. 01432 845900.

### I08 – Section 278 Agreement

No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.

### I07 – Section 38 Agreement & Drainage details

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

### I05 – No drainage to discharge to highway

Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

### I51 – Works adjoining highway

Any work involving the removal or disturbance of ground or structures supporting or abutting the publicly maintained highway should be carried out in accordance with details to be submitted to and approved in writing by the Highway Authority or their agent. Please contact Balfour Beatty Living Places (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel. 01432 349517),

### I35 – Highways Design Guide and Specification

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'.

6.6 HC Strategic Housing – comment

6.6.1 31/5/18 - I have reviewed the above outline planning application and would advise that the applicant is meeting the requirement to provide 35% affordable housing. Local connection in relation to the affordable units would need to be included within the S106 and the units would need to be tenure neutral and will be integrated within the open market units.

The proposed layout for the open market and affordable units are only indicative and I would advise that the exact mix and tenure for both, needs to be agreed prior to the submission of any reserved matters application. Therefore, I would look for a condition to be applied to the outline planning permission to ensure that this happens.

6.7 HC Waste and Recycling – comment

6.7.1 1/6/18 - Please refer to "Guidance Notes for storage and collection of domestic refuse and recycling" for advice with regards to Waste Management arrangements for households.

6.8 HC Environmental Health (Noise and Nuisance) – comment

6.8.1 31/5/18 - The proposal has not yet taken into account the acoustic environment in which the houses are proposed to be built and I note that there are alternative site layout plans which could have different noise exposure risks. I am of the opinion that these risks are a relevant factor when determining site layout.

The applicant is requested to undertake a noise risk assessment using Stage 1 of the ProPG guidance. This would capture the noise levels across the site and will be useful in assisting in the determination of the proposed site layout. Should the noise risks be more than negligible, which is likely at the eastern boundary of the site, the application is also requested to follow Stage 2 of the ProPG guidance and supply an Acoustic Design Statement

6.9 HC Education – comment

6.9.1 30/5/18 - The educational facilities provided for this development site are Kington Primary School and Lady Hawkins High School.

Kington Primary School has a planned admission number of 30. As at the schools spring census 2018:-

- 2 year groups are at or over capacity- Y3=31, Y5=30

Lady Hawkins Secondary School has a planned admission number of 80. As at the schools spring census 2018:-

- All Year groups have spare capacity- no contribution

Approximately 1% of the population are affected by special educational needs and as such the Children's Wellbeing Directorate will allocate a proportion of the monies for Primary, Secondary and Post 16 education to schools within the special educational needs sector. Although there is currently surplus capacity with the catchment secondary school and therefore we are unable to ask for a full contribution as indicated in the SPD towards this element please note that 1% of the contribution will go towards Special Educational Needs provision within the Local Authority maintained Special Schools and therefore we would still be seeking this 1% contribution.

In accordance with the SPD the Children's Wellbeing Directorate would therefore be looking for a contribution to be made that would go towards the inclusion of all additional children generated by this development. The Children's Wellbeing contribution for this development would be as follows:

<b>Contribution by No of Bedrooms</b>	<b>Pre-School</b>	<b>Primary</b>	<b>Post 16</b>	<b>SEN</b>	<b>Total</b>
<b>2+bedroom apartment</b>	£117	£1,084	£87	£89	£1,377
<b>2/3 bedroom house or bungalow</b>	£244	£1,899	£87	£138	£2,368
<b>4+ bedroom house or bungalow</b>	£360	£3,111	£87	£247	£3,805

Although no contribution has been requested for the catchment Secondary schools for this development, please note that parental preference may dictate that children from this development may attend other schools that would ordinarily require a contribution as a result of this development taking place.

Please note this is the contribution that would be requested at this point in time based on the current information available that is pupil census data and the criteria in the SPD. It is therefore likely that this level of contribution will change (increase or decrease) for all subsequent applications made.

If you have any queries please do not hesitate to contact me

6.10 HC Open Space Planning Officer – comment

6.10.1 1/6/18 –

Open Space Requirements.

Core Strategy Policies:

OS1: Requirement for open space, sport and recreation facilities

OS2: Meeting open space and recreation needs

Core Strategy Policies OS1 and OS2 apply. Open space requirements from all new development are to be considered on a site by site basis and in accordance with all applicable set standards which are set out below. Where on-site provision is not appropriate off-site contributions may be sought where appropriate on an equally beneficial basis for the local community.

- Herefordshire Open Space Study 2006 which recommends POS should be at a rate of 0.4ha per 1000 population (to note data for amenity public open space has not changed significantly and it is still considered to be accurate),
- Local Evidence: Herefordshire Play Facilities Study and Investment Plan 2012 and National Evidence: Fields in Trust Guidance: These recommend children's play at a rate of 0.8ha per 1000 population. Of this 0.25ha should be formal equipped play.
- Herefordshire Playing Pitch Assessment 2012 and Outdoor Sports Investment Plan (2016) and National Evidence: Fields in Trust Guidance: These recommends outdoors sports provision of between 1.4 and 1.6ha per 1000 population and where future investment in outdoor sport should be directed to maximise the benefits to the local community.

\*please note this information will form the basis of a separate SPD on POS standards currently being prepared.

On site Provision: The illustrative site plan shows on-site POS /SUDS areas as detailed in both the accompanying Planning Statement and Design and Access Statement.

The POS comprises smaller ancillary areas of play and public open space within the housing areas and a larger green space area which is in the flood plain and bounds the river corridor. The total amount is shown as 1.8ha (4.5 acres) and covers over half of the application site. That said, it is understood from the Planning Statement that should this application go forward the applicant is considering a future phase subject to EA consultation which would potentially mean 0.5ha (1.3acres) of this land would be used for housing.

Taking this into account the applicant has exceeded the policy requirements for POS as outlined above. The illustrative site plan shows 33 houses. For a development of up to

33 houses and an occupancy rate of 2.3 (population 75.9) the developer would be required to provide as a minimum of 0.09ha (900sq m) of on-site green infrastructure comprising:

- 0.03 ha (300sq m) of Public Open Space @ 0.4ha per 1000 population
- 0.06ha (600sq m) of Children's play @ 0.8ha per 1000 population: of this 0.018ha (180sq m) should be formal play @ 0.25ha per 1000 population

However the land does not make provision for outdoor sports and this is supported. An off-site contribution towards Outdoor Sports will be sought based on the Playing Pitch Assessment for Kington and the Outdoor Sports Investment Plan as described below.

It is noted that this is an outline application and the illustrative proposal may change if the application progresses to reserved matters and the areas shown as POS may not necessarily appear as shown in a subsequent detailed proposal. Whilst it is recognised that the provision far exceeds policy requirement the site does provide an opportunity to create an impressive area of open space. Planning for healthier spaces is good practice and as the plan develops any on site provision should be well designed and of a usable size to offer a range of recreation opportunities and experiences appropriate to the site and location. Open space needs to be well connected and safe and accessible networks of green spaces should incorporate both walking and cycling opportunities where possible. The applicant's approach to provide POS for both recreation and biodiversity/wildlife, formal and informal children's play space including a dedicated play area and recreational activity, together with a managed environmental/ wildlife zone based around the River Arrow's tributary brook is supported.

Open space needs to be well connected incorporating both pedestrian and cycling opportunities. The applicant has indicated that the site will be fully integrated into the neighbourhood via existing and new public routes for walking and cycling and possibly a new footbridge across the river towards the north-west of the land, which could connect into existing town walkways and this too is supported.

Any POS and children's play areas should be overlooked and housing should be orientated to provide natural surveillance. Given the size of development proposed the policy requirement for formal play provision is small at 180sq m. In this instance, it may be more appropriate to provide more natural play opportunities in keeping with the nature of the proposed POS.

It is noted that the SuDS will be designed to incorporate balancing ponds into the future open-space and landscaping schemes as appropriate. SuDS areas if designed accordingly to take account of health and safety and standing water issues can provide good opportunities for both informal recreation and biodiversity.

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

The Council's SuDS Handbook provides advice and guidance including national guidance on the inclusion of SuDS on new development. The applicant should seek further advice from the Council at the earliest opportunity.



Off site requirements for outdoor sports: It is noted that the applicant will negotiate with Herefordshire Council the s.106 requirements arising from this development as part of the overall planning application discussions.

An off-site contribution will be sort in accordance with the NPPF and evidence bases: Kington Area Playing Pitch Assessment 2012 and the Outdoor Sports Investment Plan 2018.

The Outdoor Sports Investment Plan, has been prepared by a partnership of Sport England, Herefordshire Council, the National Governing Bodies (NGB) for cricket, football, hockey and rugby and the County Sports Partnership. It is annually reviewed and provides up to date information on clubs and facilities in accordance with Sport England's requirements to review the Playing Pitch Assessment. A list of projects for cricket, football, rugby and hockey are included which are considered to be sustainable and deliverable in helping to meet the needs of both the existing and future populations (future proofed to 2031). All projects have the support of the relevant NGB in both their regional and local facilities development plans.

Summary of Projects for Kington:

Football: Kington Town Football Club: used by Kington Town Football club both senior and junior teams.

- Quality Deficiency: Improvements to the existing changing facilities required. Its quality rating has deteriorated to below a quality required by Sport England since 2011.
- Support: The FA has rated this as a priority project to enable the club to develop and to move up the football pyramid.

Cricket: Kington Recreation Ground: Used by Kington Cricket Club both senior and junior teams.

- Quality Deficiency: improvements to the facility including the 3 lane nets required. Its quality rating has deteriorated to below a quality required by Sport England since 2011.
- Support: The HCB supports this project.

The methodology used to assess requirements arising from new development is considered to be CIL compliant and contributions are calculated using the following methodology:

- Total Investment costs: £285,000:
- Total housing planned for Kington (Core Strategy): 200 new houses
- Cost per market house) £1,425
  
- Total off-site contribution arising from this development of 21 market houses: £29,925

6.11 Natural England – no objection

6.11.1 28/2/23 – Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. This is on the basis of nutrient neutrality being secured.

6.11.2 20/8/18 – Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England's advice on other natural environment issues is set out below.

6.11.3 16/5/18 - As submitted, the application could have potential significant effects on The River Wye SAC.

Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- Clarification of waste water (sewage) treatment.

Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained.

Natural England's advice on other issues is set out below.

6.12 BBLP Land Drainage Engineer – no objection

6.12.1 23/5/18 - We have no objections to this outline planning application but recommend that the Applicant submits the following information within any subsequent reserved matters application:

Amended calculations of the greenfield runoff rates and proposed discharges rates and attenuation volumes using FEH methods and 2013 rainfall data for the site area included within the planning application;

- Results of infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology;
- Confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels;
- Detailed drawings of proposed features such as attenuation features and outfall structures;
- Confirmation that the attenuation pond will not be situated above ground; if it is proposed to be situated above ground level the Applicant must provide an assessment of breach.
- Consideration of the risk of water backing up the drainage system from any proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves;
- Description and drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system;
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features;
- Confirmation where the proposed connection into the foul sewer network will be and if access to third party land will be required.
- If discharge to the public sewerage system is proposed, confirmation that this has been agreed with the relevant authority;
- If access or works to third party land is required, details of these works and agreement in principle with necessary landowners/consenting authorities to cross third party land and/or make a connection to the proposed watercourse/sewer;

If the results of infiltration testing indicate that infiltration will provide a feasible means of managing surface water runoff, an alternative drainage strategy must be submitted to the Council for review and approval. Best practice SUDS techniques should be considered and we promote the use of combined attenuation and infiltration features that maximise infiltration during smaller rainfall events.

6.13 Dwr Cymru Welsh Water

18/5/18 - We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

We have reviewed the information submitted as part of this application with particular focus on the Flood Risk Assessment Statement (HKB4) Ref PJD/pjda.HR.1020908.18 which indicates that foul water will drain to the public combined sewer and surface water will discharge to the nearby watercourse.

We are aware of flooding concerns on the main road but our investigations have concluded that the root cause is not due to hydraulic overload on the sewer network.

Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

#### Conditions

Foul water from the development site shall be allowed to discharge to the public sewerage system and this discharge shall be made between manhole reference number SO60560422 and SO30560529 as indicated on the extract of the Sewerage Network Plan attached to this decision notice. Thereafter, no surface water, land or highway water shall drain directly or indirectly to the public sewerage system.

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

#### Advisory Notes

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

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

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

#### 6.14 Historic England

##### 6.14.1 22/5/18 -

The outline application affects land within the setting of Kington Conservation Area that makes a positive contribution to the conservation area's significance in terms of its historic, aesthetic and communal value. Historic England objects to the application on the grounds that the supporting information does not comply with paragraph 128 of the NPPF and the design, amount, location and density of the development will result in harm to the conservation area that is unjustified in terms of paragraphs 131, 132, 134 and 137.

#### Historic England Advice

Kington Conservation Area encompasses the historic town of Kington established as a borough in the twelfth century. The heart of the conservation area is characterised by a typically tight urban form deriving from the layout of medieval burgage plots along the High Street. This area has dense two and three storey buildings set at the back of pavement providing a high degree

of enclosure to the street and funnelled views with a rich visual texture of historic building materials. A similar plot pattern characterises Bridge Street but the density of development is significantly lower and gaps between buildings and views through carriage arches allow garden greenery and trees to come through into the streetscape experience.

The form of the landscape around the town is such that setting contributes much to the significance of the conservation area. Kington is located between and contained by the course of two rivers, the Arrow and Back Brook which flow from the Radnorshire Hills to the west to form a confluence just east of the town. The rivers cut through higher ground to the north, Bradnor Hill, and west, Hergest Ridge and these hills form a prominent rural setting for the conservation area. At the end of Bridge Street the flood meadows of the River Arrow that form the town's natural southern boundary make themselves apparent particularly to the southeast where views from a public footpath have a distinctly rural feel and layers of trees, open space and topography limit the impact of linear development on the north side of Headbrook and the more substantial new development on rising ground to its south side. The application site forms part of the rural, water meadow setting and the wider landscape setting which contribute to the significance of the conservation area in terms of its aesthetic quality, its historic interest as a settlement developed within the natural constraints of the river confluence and its communal value.

While the detailed impact of the proposed development cannot be assessed due to the outline nature of the application, it is clear to Historic England that the scale and amount of development represents a change in setting that will impact on the significance of the conservation area. The application should therefore be assessed against the policy contained in Section 12 of the NPPF which places great weight on the conservation of heritage assets and most particularly against paragraphs 128, 131, 132, 134 and 137. The Historic England publication 'The setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3' provides relevant advice on the identification of setting and assessment of the impact of change within it on significance.

Historic England is concerned that, for a number of reasons, the Design and Access Statement submitted in support of the application does not meet the requirements of paragraph 128. It relies on a compartmentalised landscape assessment and views analysis that does not draw out the contribution of setting to the historic, aesthetic and communal value of the conservation area and does not follow the staged approach to assessment set out in our guidance referred to above. We are also concerned that, in its outline form, the application does not demonstrate the design quality required by paragraphs 131 and 137. On the basis of the information submitted Historic England considers that, while the proposals have sought to reduce impact by locating housing in the southwest corner of the site, the amount, density and location of the development and loss of green space will result in an urbanisation of the water meadows that will change their character considerably. Taken with the existing development on the south side of Headbrook, the aggregative amount of development in the setting of the conservation area will increase considerably.

We consider that this will harm the significance of the conservation area by obscuring the links between its historic pattern of development and the Arrow's water meadows and diminishing the aesthetic value of its undeveloped, rural, green setting and the communal value of the conservation area that lies in this setting.

We note that the Kington NDP identifies land between Headbrook and the River Arrow as important green space forming part of the river corridor that contributes to the character and setting of Kington Town and that housing would lead to loss of its rural character. Historic England concurs with this conclusion. The NDP indicates that potential for alternative sites to meet the town's housing needs exists and in this context we would suggest that the harm caused by the proposal to the significance of the conservation area is unjustified in terms of paragraphs 132 and 134.

Recommendation

Historic England objects to the application on heritage grounds. We do not consider that the application meets the requirements of the NPPF, in particular paragraph numbers 128, 131, 132, 134 and 137. In determining this application you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise

6.15 Wye Valley NHS Trust – comment

6.15.1 8/6/18 - In the circumstances, it is evident from the above that the Trust's request for a contribution is not only necessary to make the development acceptable in planning terms if it is directly related to the development; and fairly and reasonably related in scale and kind to the development. The contribution will ensure that Health services are maintained for current and future generations and that way make the development sustainable.

## 7. Representations

7.1 Kington Town Council – object

7.1.1 10/1/23 – , Kington Town Council considered the revised documentation for this application at its meeting last night and it was evident that we were unclear what we were being asked to comment on, given that outline permission has, I believe, been granted. I will shortly be updating the website with our comments but there was nothing in the newly uploaded documentation that we felt changed in any way the comments that the Town Council has submitted previously.

However, the renewed interest in this site has meant that we have reviewed the draft s106 material, including the Draft Heads of Terms which I believe has been drawn up by the applicant's agent albeit that it is dated September 2018. It is unclear whether we are being asked to comment on this now and there is reference within the document to a potential liability accruing to Kington Town Council in the form of a possible transfer of land to the Town Council as public open space. I've copied Kevin Bishop into this email in respect of this element and would request that if this current re-consultation is to include the provisions within the draft s106 agreement for this site, Kington Town Council would wish to add further comment on this.

7.1.2 17/9/18 – As was specified in the Council's objection to this application, the Kington and Area Neighbourhood Development plan is now nearing the Regulation 16 Stage. The Plan has been fully revised in relation to the Regulation 14 Consultation and the voluminous consultation appendices have had a final edit. The completed Plan will be submitted to Herefordshire Council's NDP Team on Wednesday Sept 19th. As previously identified the Plan proposes that the whole of application site should be designated Local Green Space and identifies a range of other sites which will fully meet the housing allocation for Kington specified in Herefordshire's Core Strategy. These policies have been strongly supported in the various consultations during the development of the NDP and we trust they will be given full consideration by the Planning Committee when this application is considered.

7.1.3 6/6/18 - Kington Town Council considered this application at its meeting on June 4th and resolved to object to the application for the reasons detailed below.

1. The Council's views on the application are informed by its role in preparing the Kington Area Neighbourhood Plan (KANP) and the central role it has played in identifying housing development sites. This role is a formal requirement of the Herefordshire Core Strategy which delegates the task to the Town Council. (Core Strategy. Policy KGI. Development in Kington)
2. The KANP completed the Regulation 14 stage in 2017 which included consultations which fully "demonstrated engagement and consultation with the community" (KGI). In

light of the consultations the Plan has been revised and in the form of the Draft Regulation 16 Plan is ready to be submitted to Herefordshire Council for the final stages of the Neighbourhood Plan process.

3. In preparing the draft KANP, the Town Council carried out detailed assessment of the sites throughout the town in relation to the criteria in KGI. In this task it received wide ranging professional and technical support through grant provision provided by ocality as agents for the National Government's Neighbourhood Planning policies. Our objection to the application is based on the extensive assessment we undertook to fulfil the delegation of site selection to Kington Council (KGI).
4. Local Green Space - The Kington Area Neighbourhood Plan has designated all the land south of the River Arrow at Headbrook as Local Green Space. The designation has had the strong support of the community . Together with the land on the opposite side of the river it has been described as a 'green lung' linking the eastern area of the town to the western end with its green riversides. As an open green space it is perceived to contribute to the spatial character and form of the town, providing a green entry to the town and a wildlife habitat for birds including owls, bats and riverside trees and plants.
5. Green Infrastructure - Herefordshire Council's Green Infrastructure Study ( 2010) shows this land north of Headbrook as part of a Local Strategic Corridor embracing the south side of the town. A Local Strategic Corridor is defined in the Study as "aconnected linear component of green infrastructure around the town",thus echoing in more technical terms the views of local people. The Study contains a description of the land as being "wet grassland and wet woodland that should be preserved and enhanced" . Core Strategy Policy LD3 Green Infrastructure states that "Development proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructure...". By its nature a housing development on this land will be unable to comply with this policy since it will building on the green infrastructure, thereby removing it and impacting on the adjacent remaining land.
6. Biodiversity - Core Strategy Policy LD2 Biodiversity and geodiversity states "Development proposals should conserve, restore and enhance the biodiversity ...".

Para 5.3.12 "Wildlife is not confined to designated sites and many features serve as wildlife corridors, links and stepping stones. Ecological networks are vital to the survival and dispersal of species. Herefordshire 's biodiversity makes a major contribution to the economy, supporting the tourism sector and providing a healthy and attractive environment for its residents."

The land of this application is not an AONB or SSSI but it is an important feature of the Kington Town landscape and losing this area of biodiversity will diminish the local pool of ecological habitats by urbanising the riverside biodiversity. The application does not comply with LD2.

A development of 33 or so dwellings will inevitably lead to 60 or more vehicles coming and going on this land. This is low-lying area where it is likely that air currents, winds etc are not going to ensure rapid dispersal of emissions such as nitrous oxides. The cumulative impact of N<sub>2</sub> is well documented as being harmful to butterflies, bees and other insects as well as a range of plant life. The likelihood is a deterioration in any remaining green space adjacent to the development rather than enhancement .

7. Landscape and Townscape - The application does not comply with Core Strategy Policy LD1 which requires that "development proposals should demonstrate that the character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements...".

The application site borders the Conservation Area and buildings therein of an historically important small Market Town. The site area is part of the setting of the Town. No evidence is presented as to how the development proposed will meet the objective of LD1.

It does not comply with NPPF paras 132 and 134 which are concerned with the settings of designated heritage assets; settings are important components of the value of historic buildings. The site where development is proposed is a part of the setting of the heritage assets of the Town. Any alteration to the setting such as new build development will inevitably harm the setting and thereby the assets themselves. It would lead to a loss of space and a diminution of the rural setting of the Town.

8. Requirement to Meet the Core Strategy Housing Target for Kington - Any public benefits that might accrue from developing housing on this area can be obtained from other sites that are identified in the draft Neighbourhood Plan which fully meets the target set for housing provision (200 dwellings) and which more adequately meet the requirements of KG1.
9. Relationship of the Application to the draft Settlement Boundary as defined in the draft plan -The implication of development on various sites in the town was assessed at the Regulation 14stage. This led to a revision of the current UDP Settlement Boundary to exclude the application site and its counterpart to the north of the Arrow from within the settlement . This more clearly identifies their long term value as a green setting for the town as open country on the town's border.
10. Previous Site Planning History - The identification of the application site as Local Green Space in the KANP is in line with previous planning guidance for Kington.

The Leominster District Local Plan (1999) which included Kington, strongly emphasised the importance of the site for the setting of the town. "There should be no development on the river meadows of the Arrow and Back Brook which form essential elements in the setting for Kington as defined on the map. Landscape proposals will be encouraged which would enhance the river meadows, enable recent developments to fit more sensitively into the town's setting, encourage a diversity of wildlife and promote a riverside walk.

These river meadows contribute significantly to the character and setting of the town and should be protected from intrusive development in particular in accordance with Policy A.25. Much of the area is subject to serious flooding or is described as flood prone and so is not suitable for development in accordance with Policy A15. The River Arrow is designated a SWS by the Herefordshire Nature Trust "

The Herefordshire Unitary Development Plan (2007) sustained this policy by designating the whole site as "Protection of Open Areas and Green Space" (Inset Map Kingl)

A portion of the site was included in Herefordshire's 2012 Strategic Housing Land Availability Assessment (SHLAA) but identified as "Land that had Significant Constraints". As a result, the site was re-assessed at the first stage of the Neighbourhood Plan process. The Town Council did consider whether a small development of 15 houses might be appropriate but unanimously resolved (December 2015) that the importance of the site as part of the green setting for the town militated against any development and that the whole site should be designated as Local Green Space. This decision has been fully supported in all subsequent public consultations on the Plan and confirmed by Kington Town Council when it signed off the Draft Regulation 16 Plan in December 2017.

11. Ambiguities in the Application - The extensive documentation provided by the applicant provides confusing information about the level of development proposed which vary from 33 to 70 dwellings in the text and attached site plans.
12. Requirement for More Detailed Site Assessment - Though this is an outline application, we would strongly suggest, given the potential impact of the proposed development on the setting and environment of the town, that much more detailed information is required at this stage on:

Landscape assessment including issues of sensitivity and capacity site biodiversity given frequent reports of bats and owls on the site, site archaeology, in view of other investigations in the Arrow Valley impact on the Conservation Area, (See Historic England's objection for detail on this) impact on the river systems (the Arrow, the Lugg SSSI and the Wye Special Area of Conservation) of waste water.

Impact on the sewerage system. The following guidance provide to us by Welsh Water in response to our Regulation 14 Consultation should be noted:

Wastewater treatment works (WwTW) - Kington's WwTW is currently overloaded and there are no improvements planned within Welsh Water's current Capital Investment Programme (AMP6 - 1st April 2015-31st March 2020). An improvement scheme will form part of their submission to the Industry Regulators for the next Capital Investment Programme (AMP7 - 1st April 2020-31<sup>st</sup> March 2025). As such, should a developer wish to progress this site in advance of their future Regulatory Investment they will need to fund the improvements themselves, firstly by commissioning Welsh Water to undertake a feasibility study of the WwTW, before entering into a Section 106 Agreement (of the Town & Country Planning Act 1990) to pay for the improvements required.

A more detailed flood risk assessment by the Environment Agency.

## 7.2 Public consultation

7.2.1 Site Notices displayed on 14 December 2022 and 4 January 2023. 7 representation received objecting to the application (this includes where parties have made successive representations) – the comments can be summarised as follows; -

- Previous committee resolution was based on benefits (allotments and extended gardens) that have not been forthcoming, or do not form part of the application.
- The change in the Council's housing land supply is such which removes any justification for the adverse impacts (loss of important water meadow and impact on conservation area).
- Development would adversely impact on the natural beauty of the area.
- Concerns previously raised by Historic England have not been addressed.
- The river floods and this will only get worse because of climate change.
- Natural drainage provided by a riverside meadow is now more relevant because of Climate Change.
- What has changed in the last 4 years to make this site suitable for development?
- Previous reasons for recommending refusal have not diminished.
- More efficient use should be made of existing housing developed on brownfield sites to protect rights under The Human Rights Act 1998.
- Development would adversely affect the amenities of properties along Headbrook (light, noise and privacy)
- No guarantee of additional garden space.
- Impact of additional population (including light pollution) on natural environment, especially along River Arrow.
- Ecology Survey makes no reference to otters.
- Site is designated as open-space and should be safeguarded for such.
- Would the development provide more funding for local infrastructure?



- Development would lead to increased traffic on a very busy road (Headbrook).
- Parked cars along Headbrook are a hazard.
- Would the development provide traffic calming measures?
- Implications of water table has not been investigated.
- Does the existing sewerage system have sufficient capacity?
- Phosphate calculations have not accurately take account of how the site is used with respect to agriculture.

7.2.2 Site Notices displayed 9 May 2018. 22 representations received objecting to the application – the comments can be summarised as follows; -

- Parts of the field are prone to flooding.
- If the area is surfaced, where will excess water go?
- Development could well result in existing properties in the locality flooding, as well as those proposed.
- The area is a haven for wildlife, including red kites, herons and bats. The land is outstandingly beautiful and an important wildlife habitat; a 'green lung' for the town.
- There is a duty to preserve and conserve the natural environment. This is an ancient meadow and once lost, it can never be replaced.
- Concerns around the safety of the proposed access off Headbrook.
- Access is too narrow and vision will be obscured by parked vehicles.
- Not a suitable road system to support any more housing.
- The application does not accord with the Kington Area Neighbourhood Development Plan.
- The NDP clearly defines the whole of Headbrook meadow as green space.
- Proposals were put forward in the NDP to allow for 15 dwellings on the site. The town council voted unanimously to exclude it as a potential housing site.
- The NDP has established sufficient potential housing sites to meet its targets for growth.
- There are no employment opportunities in the area
- Doctors surgery and local schools are all at capacity
- Earlier plans have all concluded that the site should not be built on. What has changed now?
- Barn conversion scheme adjacent to the site was dismissed on appeal with an Inspector saying it was 'inappropriate' to build on the site
- Construction of affordable housing for elderly people would free up existing housing for families
- The sewerage system in Kington is not able to cope with the increased amount of housing proposed

4 representations received supporting the application – the comments can be summarised as follows; -

- Kington is under pressure to provide new homes and this is the best proposal put forward
- The town would benefit from the opening up of a riverside walk
- Development would be 'in' town and not looming over it from some higher point
- The NDP is still some way from being adopted
- There has been extensive research as part of the application submission with respect to flooding
- The 2011 Herefordshire Strategic Land Availability Assessment deemed that the site was suitable, in part, for housing, unlike other land put forward by the NDP
- Home owners will be able to walk to local shops, schools and other services
- The proposal provides new public open space

7.3 CPRE Herefordshire – object;

7.3.1 8/6/18 – The comments can be summarised as follows; -

- The proposed development would harm the setting of Kington Conservation Area which lies immediately adjacent to the site.
- The site has been identified as a green space in the emerging Kington NDP
- Should this application be allowed then it would set a precedent for further development in green space with the potential to hugely damage the setting of this important historic town.
- It is recognized that Herefordshire Council has not identified a 5 year housing land supply and that the Local Plan may be considered out of date thus invoking paragraph 14 of the NPPF, the presumption in favour of sustainable development.
- However, for the reasons outlined above this development proposal is not sustainable, conflicts with several specific NPPF policies and in line with the final clause of paragraph 14 should be refused: "For decision-taking this means where the development plan is absent, silent or relevant policies are out of date granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole or specific policies in this Framework indicate development should be restricted".

## **8. Officer's Appraisal**

### **Principle of development**

- 8.1 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."
- 8.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). With respect to the Kington Area Neighbourhood Development Plan does not form part of the development plan, a referendum for voters was held on 25 July 2019. Because the number of votes cast in favour of a 'yes' vote did not constitute more than half of those voting, the Kington Area Neighbourhood Development Plan has not been adopted and accordingly does not form part of the development plan. The National Planning Policy Framework (NPPF) is also a significant material consideration. The Kington Area NDP did not pass the referendum and therefore cannot be attributed any weight for the purposes of decision-making.
- 8.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and was updated in November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any applications. In this case the relevant policies have been reviewed and are considered entirely consistent with the NPPF and therefore can be attributed significant weight.
- 8.4 In accordance with the NPPF, the delivery of sustainable housing development to meet objectively assessed need is a central theme of the Core Strategy. Policy SS2 confirms that Hereford City, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable "where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community".
- 8.5 Policy SS2 makes an overall provision for the delivery of a minimum 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. Of these, just over two thirds are directed to Hereford City and the market towns. With specific regard to Kington, Policy KG1 sets out that the town will accommodate around 200 new homes over the plan period.

- 8.6 As set out in Paragraph 1.9 of this report, Herefordshire Council are now able to demonstrate a 5 year housing land supply. Accordingly, this renders the housing supply policies as contained within the Core Strategy as being compliant with the principles as set out within the NPPF and therefore are up-to-date. They therefore attract full-weight for decision-taking purposes in terms of applying the presumption in favour of sustainable development as set out within Paragraph 11 of the NPPF.
- 8.7 As a starting point, Policy KG1 is most relevant, identifying a minimum proportionate housing growth target of around 200 dwellings through the plan period. It also sets out a number of criteria against which new development proposals will be assessed. These are material to the determination of the application.
- 8.8 The site is located to the south of the substantive built part of Kington and to the north of the linear pattern of residential development along Headbrook. More recent development has taken place further south around Old Eardisley Road and this has served to create in effect, a secondary residential area that is somewhat separate from the rest of the town.
- 8.9 It is approximately a 500-metre walk from the town centre along lit footways, providing safe and reasonable means of access to the services and amenities afforded within the town, including the Primary School and Lady Hawkins (Secondary School). In addition, the site lies within very close proximity to the bus stop on Headbrook which provides daily, and relatively frequent services towards Hereford via Lyonshall or Eardisley, and Llandrindod, via Kington town centre and New Radnor. The site is, therefore, spatially well-located with respect to accessibility to services, providing genuine choice in terms of means of movement, and consequentially can be considered sustainable in a locational sense.
- 8.10 The latest (April 2022) Housing Growth Figures for the Kington (Rural) Housing Market Area (HMA) indicate that while the parishes of Kington & Lower Harpton (-17) and Brilley (-2) have so far underperformed with respect to meeting its housing targets, the HMA as a whole has exceeded its target by 176. Although this does not include Kington town itself which as of April 2022 benefits from 39 completions (2011 – 2022) and 21 commitments, so far underperforming noting that Policy KG1 identifies the town will accommodate around 200 new homes in the plan period. As such, the benefits of providing housing within indisputably the most sustainable settlement within the wider HMA should be given considerable weight.
- 8.11 The site is not designated for use as public open space. It is acknowledged that while it was previously earmarked for such as part of the Kington Area NDP, the plan is not adopted. Therefore, while noting any desires locally for the use of the site for open space (or other), these are purely aspirational and there is no policy requirement or designations precluding its use for residential development. Nevertheless, the development would comprise the provision of open-space and thus facilitate walking routes through the site.
- 8.12 However, the proposal must be assessed under the three indivisible dimensions of sustainable development – economic, social and environmental, if it is to be considered as sustainable. Paragraph 8 of the NPPF is clear that these roles are mutually dependent upon one another and that to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The following sections of this report consider aspects of the scheme and the constraints of the site that will be material to the determination as to whether the scheme represents sustainable development in the round.

### **Impact on the character and appearance of Kington Conservation Area**

- 8.13 The application site lies approximately 60-metres to the east of the boundary of the Kington Conservation Area. The Conservation Area covers a large portion of the town, taking in Bridge Street (where it is closest to the application site), the town centre area as well as the recreation ground to the south of Park Avenue and Church Road/Castle Hill whereby prominently stands

the Grade I-listed Church of St Mary, with its spire visible from the application site and along Headbrook.

- 8.14 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or other land in a conservation area “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.
- 8.15 With the above in mind, it must be recognised that considerable importance and weight must be given to this abovementioned duty. It does not allow for a local planning authority to treat the desirability of preserving or enhancing the character or appearance of the area as merely a material consideration to be weighed up in the planning balance. The minimum requirement of ‘preserving’ is set out within the upstanding case of *South Lakeland District Council v Secretary of State for the Environment* whereby it was concluded that ‘to preserve’ meant doing no harm.
- 8.16 Policy LD1 of the Core Strategy makes reference to a need to conserve historic features, amongst which it includes conservation areas, with Policy LD4 of the Core Strategy requiring that heritage assets should be protected, conserved and enhanced, and seeks to ensure that the scope of the work to ensure this is proportionate to the assets significance. Specifically, Policy KG1 of the Core Strategy expresses how development for proposals in Kington will be encouraged where they protect, conserve and where possible enhance the historic character of Kington, in particular the Conservation Area and its significance and setting, including particular features, its heritage assets important buildings, scenic views and the landscape features surrounding the town.
- 8.17 Paragraph 195 of the NPPF states how local planning authorities should identify and assess the particular significance of any heritage assets affected. Although from a legislative perspective no statutory protection is afforded to the setting of conservation areas, the NPPF which proceeds the aforementioned Act, groups together a number of designated heritage assets through the very definition ‘heritage asset’, treating them alike with respect to considering affects of proposals.
- 8.18 The application site in this particular instance forms part of the rural water meadow setting. The pivotal importance of the site in this regard is such that it forms a natural boundary between the main bulk of development lying to the north of the River Arrow and linear development along the northern side of Headbrook. There are views into the southeastern portion of the site from Bridge Street – as well as along the footpath which heads northeast along Tanyard Lane. The views in this direction, but as well north-westwards from Headbrook (close to the access point to the site) offer a distinctly rural feel with layers of trees and open space. Furthermore, from elevated land forming a play area to the north of ‘Sutton Walls Grove’ off the western side of Old Eardisley Road, there is inter-visibility between the majority of the application site and the Kington Conservation Area and the wider setting of Kington, set beneath Bradnor Hill. These attributes contribute demonstrably to the significance of the Kington Conservation Area given the sites aesthetic quality, historic interest in terms of understanding how the town developed within the natural constraints of the River Arrow confluence and its associated communal value, as expressed by Historic England in their consultation response objecting to the application.
- 8.19 The NPPF defines setting of a heritage asset as “the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral”.
- 8.20 Relevant case law is also useful in helping to understand the meaning of setting in practice and its implications thereafter with respect to considering development that may impact upon in it. In *R. (on the application of Miller) v North Yorkshire CC*, it was advised that the extent of a setting was a matter of judgement to be considered “in the round” and can include the view from the heritage asset towards the development, the view from the development towards the heritage asset and; any other relevant view which includes both the heritage asset and the development.

- 8.21 In this case, it is considered that, as detailed above, the site contributes to the setting of the Kington Conservation Area. The proposal in this case would give rise to an urbanisation of the existing water meadows which flank the River Arrow on the eastern fringes of the town. The infilling of this area would obscure but also erode the critical links between the historic pattern of development (to the north of the river and then linear along the northern side of Headbrook). As articulated by Historic England, this would lead to a diminishing of the aesthetic value of its undeveloped, rural, green setting and the communal value of the conservation area that lies in this setting. It would fundamentally and permanently detract from Kington's rural character.
- 8.22 The proposal, therefore, for the above reasons, has failed to demonstrate that it would protect, conserve and where possible enhance the historic character of Kington and the significance of the Conservation Area and its setting – as explicitly required by Policy KG1 of the Core Strategy and reflected through Policy LD4. The harm identified is considered to be 'less than substantial', as set out within the NPPF.
- 8.23 Paragraph 202 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Paragraph 206 also recognises that local planning authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 8.24 Those public benefits can include the economic, educational and socio economic benefits. Only if it is considered that such benefits are substantial enough to outweigh the identified less than substantial harm should policy tension with respect to heritage matters be considered as reconciled.
- 8.25 In this case, the proposal would provide a modest but arguably locally significant supply of housing with an on-site, policy-compliant affordable provision. This would provide benefits in the social sphere and it is also recognised that with this, wider socio-economic benefits would be felt by Kington and its wider hinterland through increased expenditure and trade during the construction phase, and also by occupiers – although the level and extent of these benefits cannot be accurately estimated or guaranteed in any case. Officers acknowledge that the development may facilitate an increased appreciation of the river meadow, through open-space. However, such benefits cannot be substantiated as part of this outline application, and would come at the aforementioned expense of harm to the setting of the Conservation Area. Indeed, while no weight can be attributed to the aspirations of the un-adopted Kington Area NDP, other uses for the site which could provide significant public benefits have not been shown as undeliverable in lieu of residential development.
- 8.26 Furthermore, the proposal now looks to provide the opportunity for gardens along Headbrook – this would be secured through a Section 106 agreement. The National Planning Practice Guidance at Paragraph 20 states that public benefits “should be of benefit to the public at large and not just be a private benefit”. The nature of this benefit would not be genuinely public as it relates ultimately to benefits received by private property as a result of the development and therefore, it is the view of officers that this can only be attributed limited weight.
- 8.27 When taking the above into account and acknowledging the significance of the application site to the setting of the Kington Conservation Area, it is considered that the standard expected benefits of a development of this nature would not sufficiently outweigh the identified less than substantial harm. As such, the inability to reconcile heritage harm solicits tension with Policy LD4 and KG1 of the Core Strategy, as well as the principles set out within the NPPF.

### **Impact on wider landscape**

- 8.28 Policy LD1 requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design, scale, nature and site selection of the development, as well as the protection and enhancement of the setting of settlements and designated areas. Development proposals should conserve and enhance the natural, historic and scenic beauty of important landscapes and features (specifically designated assets) through the protection of the area's character and by enabling appropriate uses, design and management. New landscape schemes along with their management should ensure development integrates appropriately into its surroundings and maintains tree cover. In wider terms, Policy SS6 sets out that development proposals should conserve and enhance environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity, heritage assets, and especially those with specific environmental designations. All proposals should be shaped through an integrated approach to planning to ensure environmental quality and local distinctiveness.
- 8.29 Policy KG1 of the Core Strategy states that development in Kington will be encouraged where it would protect, conserve or enhance scenic views and the landscape features surrounding the town.
- 8.30 The site is very typical of a riverside meadow landscape type as defined by the Council's Landscape Character Assessment (the LCA). It is a flat, well defined, alluvial floodplain with the river lined by trees on either side. A similar flat area of meadow land flanks the river on its northern bank. The LCA suggests that such landscapes are often framed by steeply rising ground and that settlement is typically absent and this is the case as far as the site is concerned. The site forms an attractive setting for this part of Kington and is framed more widely by Bradnor Hill to the northwest, the Radnorshire Hills to the west and Hergest Ridge to the southwest. The site is therefore significant in its contribution to the distinctively rural setting of Kington. The site is especially important to the town's setting when arriving from the east (and traversing west along Headbrook). It forms a green corridor which provides a visual link towards the centre of the town.
- 8.31 The proposal indicatively shows that the areas immediately adjacent to the river are to be kept free from development, in part a result of the flood related constraints discussed in the proceeding sections of this report. This enables the tree-lined bank to remain undisturbed. The hedge line that runs south in the western quadrant of the site is to be retained and enhanced, and; whilst the application is made in outline and landscaping is a matter to be reserved for future consideration, the submission nevertheless indicates that substantial areas of new planting could be proposed.
- 8.32 However, the inherent character of the landscape is of an open meadow that is free from development. As above outlined, the land forms an important setting to Kington and its Conservation Area when approaching the town from an easterly direction, and this will be changed to the detriment of the area through the introduction of development. Although made in outline, the development would invariably require the provision of road access from Spring Cottage, scarring the site to provide access to the development in the southwestern portion of the parcel of land. Together – this would result in a significant and permanent urbanisation of this attractive river meadow.
- 8.33 Attention is also drawn to the fact that, in relation to an appeal in 2007 for a barn conversion adjacent the site (Headbrook Barn Appeal Reference APP/W1850/A/07/2038659), the Inspector commented on the significance of the area of land, stating that:
- “...I consider that it (the site) makes an important contribution to the attractive appearance and open rural setting of this part of Kington.”
- 8.34 In dismissing the appeal on grounds, amongst others, relating to the detrimental impact of the development on the open character of the area, the Inspector considered the benefits of bringing the building back into use and providing an additional dwelling and said that:

“...I consider that these benefits do not outweigh the harm that would be caused to an important open area of green space which contributes to the character and setting of Kington.”

- 8.35 Although the proposal is different from that to which the appeal relates, it does serve to demonstrate the importance of the site in terms of its contribution to the setting of Kington. This has not changed in the intervening period and the setting of settlements carries significant weight. This is simply reinforced by the fact that a significant proportion of the town is designated as a conservation area, as set out within the preceding assessment. It is the view therefore, that the proposal does not respect the landscape character of the area and consequently fails to accord with Policy LD1 and KG1, as it does not protect or enhance the landscape setting of Kington.

#### **Impact on amenity of the site’s neighbours**

- 8.36 Policy SD1 of the Core Strategy seeks to ensure development does not give rise to any adverse impacts on the amenity of existing or future occupiers. For a residential scheme, this could be as a result of overlooking, overshadowing and loss of light. Additionally, during the construction phase there could be impacts in terms of noise, dust and other pollution.
- 8.37 In this case, the application is made in outline with all matters reserved for further consideration as part of any reserved matters application. The site is essentially level but there is a closer inter-relationship with many of the dwellings along Headbrook, especially to the southwestern corner where development is proposed. The boundary treatments are limited which enables views from these dwellings across the site and river meadow. Although the right to a private view is not protected, and is not a material planning consideration, ensuring acceptable and adequate outlook certainly is.
- 8.38 It is noted that following the previous Planning Committee resolution, the application confirmed their commitment to provide a continuous 5-metre wide area of land between numbers 31 to 43 Headbrook to enable the gardens of these properties to be extended. This would be planted and landscaped in accordance with the details submitted as part of any forthcoming reserved matters application approved by the authority. This would be where this has been agreed with the respective property owners. This would be secured by the Section 106 agreement and is set out in the draft agreement submitted by the applicant.
- 8.39 As such, it would be for any forthcoming reserved matters submission to suitably demonstrate how the quantum of proposed development could come forward without adversely impacting the relationship between the site and adjacent properties in an unacceptable manner. At this stage, the submitted indicative plans provide officers with sufficient comfort that this can be addressed at a later stage.
- 8.40 Given the proximity of the site to residential areas, conditions requiring details of the construction process and how this would be managed, together with restrictions on hours of construction are recommended, should approval of this application be forthcoming.

#### **Access and highway safety**

- 8.41 Policy MT1 of the Core Strategy relates to the highways impacts of new development, and requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. It also requires that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space, having regard to the standards of the Council’s Highways Development Design Guide. This approach accords with the principles outlined in section 9 of the NPPF, in particular Paragraphs 108-9 which advises that it should ensure that safe and suitable access

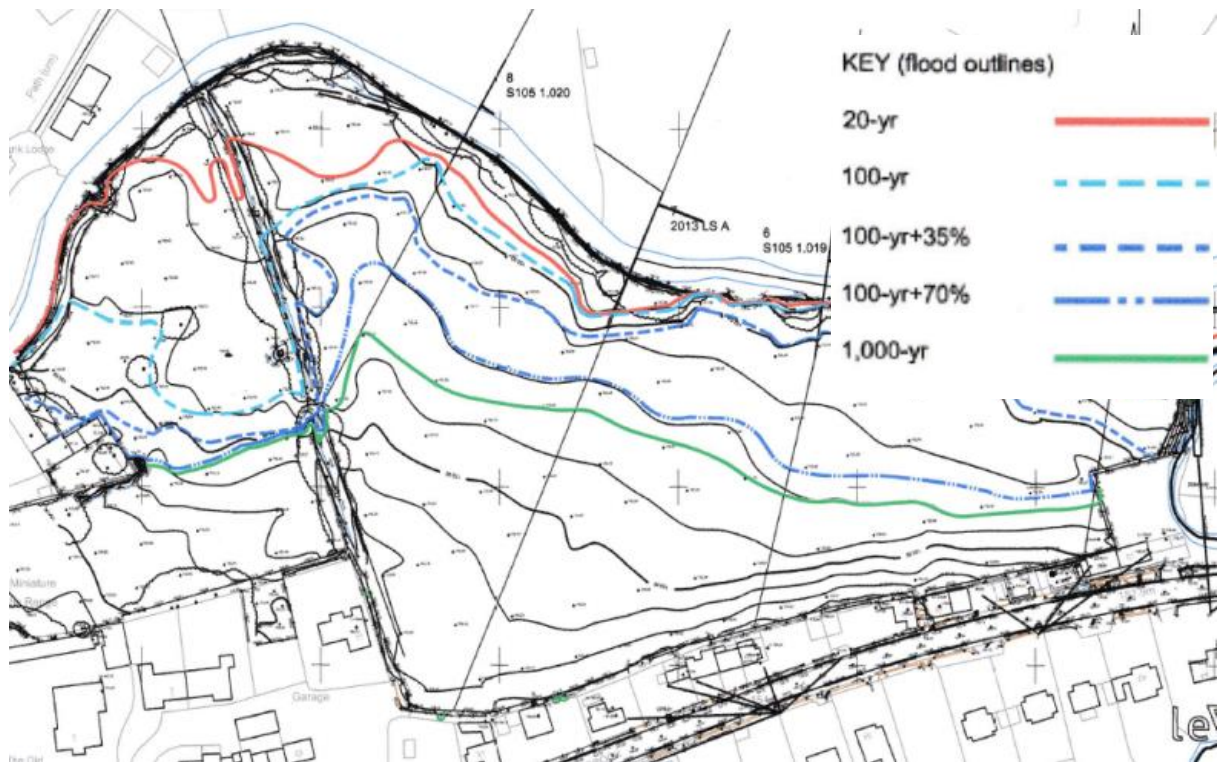
can be achieved for all users and that development should only be refused on highways grounds if there would be an unacceptable impact on highways safety.

- 8.42 Whilst the application reserves all matters for future consideration, the opportunities for the provision of access are limited to a single point onto Headbrook. Concerns have been raised by some local residents about the impacts of a new access and increased vehicle movements on highway safety, particularly given that there are limited off-street parking opportunities for existing properties on Headbrook and that on-street parking could obscure visibility from the proposed new access.
- 8.43 The application is supported by a Transport Statement (TS) that has been written on the basis of an initial proposal for a development of up to 60 dwellings. The Council's Area Engineer (Highways) has commented in detail on this aspect of the submission and has also been mindful of the objections received. As the information provided by the TS is for 60 dwellings. It assumes 33 two-way trips at peak hourly periods. As the current proposal is for just over half the number of dwellings, it is considered reasonable to assume that it would generate 15 to 20 two-way trips. The view of the Area Engineer (Highways) is that there is sufficient capacity and that the highway network should not be adversely affected by this increase in movement.
- 8.44 The proposal is therefore considered acceptable when having regard to Policy MT1 of the Core Strategy and the principles as set out within Paragraph 111 of the NPPF.

### **Drainage and flooding**

- 8.45 Policy SD3 expects that new development comprises effective and sustainable water management in order to reduce flood risk. This includes ensuring that development proposals are located in accordance with the sequential test and exception tests where appropriate, consistent with the overarching guidance and principles as set out within the NPPF. Furthermore, development should include appropriate sustainable drainage systems (SuDS) to manage surface water, appropriate to the hydrological setting of the site.
- 8.46 The majority of the letters of objection received express concerns about the potential for the development to increase the risk of flooding in areas immediately surrounding the application site. They note the proximity of development to the River Arrow and the fact that the land is a water meadow.
- 8.47 When having regard to the Environment Agency's 'Flood Map for Planning', it is indicated that the site is located outside of, but within very close proximity Flood Zones 2 and 3. This is confirmed by the Flood Risk Assessment (FRA) submitted with the application and in the response from the BBLP Land Drainage Team.
- 8.48 The submitted FRA clarifies the extent and depth of fluvial flood risk within the site boundary and considers the potential effects of climate change. It also identifies how flood risk to the proposed development has been minimised, how the development has been made safe, and how the impacts of the development on people and property elsewhere have been avoided.
- 8.49 The FRA considers the risk of flooding on site from all sources, including surface water, groundwater, sewers, reservoirs and any other manmade sources. The FRA also assesses the potential effects of climate change on the probability and extent of the flood risk, this being shown on the plan in **Figure 2**.





**Figure 2 – Flood Risk Map**

- 8.50 The detailed consultation response from the Land Drainage Engineer confirms that the FRA includes an update of the Environment Agency’s hydraulic model of the River Arrow. The Flood Appraisal drawing (above) shows the flood extents derived from the updated model for the 1 in 100yr +35%CC, 1 in 100yr +70%CC and the 1 in 1000yr return periods. The illustrative site plan drawing indicates the residential dwellings will be located outside of the modelled 1 in 1000 year flood extent. On this basis the proposed development does not displace flood water from the floodplain to other parts of the town during periods of heavy rainfall and is not considered to increase flood risk elsewhere. It demonstrates sequentially that the site has capacity to accommodate some development, outwith areas at risk of flooding. This would importantly also allow for the access from Spring Cottage.
- 8.51 The submission also provides a draft strategy for surface water attenuation which confirms that runoff rates will not exceed existing Greenfield runoff rates. The BBLP Land Drainage Engineer is content with the assumptions made and confirms that there is no objection to the proposal subject to the imposition of conditions to require the submission of a detailed drainage strategy. This would factor into concerns with respect to water table but wider issues relating to impact on stability would be considered a Building Regulations issue. Therefore, in light of the fact that the area proposed for development indicatively lies outside of Flood Zones 2 and 3, the application of the Sequential Test as outlined in the NPPF, which requires ‘more vulnerable’ development to be steered away from areas at flood risk, is not required. Furthermore, although officers acknowledge that the former draft Kington Area NDP allocated for housing land that are at a significantly lower risk of flooding, no weight can be attributed to this given that the NDP does not form part of the development plan.
- 8.52 On the basis of the consultation responses received, officers are satisfied that the proposal takes full account of the risk of flooding and that any potential impacts can be mitigated through the imposition of conditions and dealt with suitably at the reserved matters stage. The proposal is therefore considered to comply with Policy SD3 of the Core Strategy.

## **Ecology**

- 8.53 Policy LD2 of the Core Strategy seeks to ensure that development proposals conserve, restore and enhance biodiversity assets of Herefordshire. Important sites, habitats and species shall be retained and protected in accordance with their status. Relevant guidance and principles are set out within the NPPF at Chapter 15.
- 8.54 In terms of impacts on biodiversity and protected species, the presence of two particular riparian species; otter and white clawed crayfish, have been raised and confirmed as present along this stretch of the River Arrow. The application has been accompanied by an updated Ecology Assessment (November 2022) which reflects the time in which the application has been on hold rendering the previous 2018 submission out of date. The Ecology Team have reviewed the submission and note that there have been limited substantial changes since 2018.
- 8.55 The submission is such which demonstrates that habitat creation along the river corridor could be achieved and secured through detail submitted at a later stage, either as part of the reserved matters or details to be submitted and required by conditions. The bulk of the development would fall outwith the flood zone and will lie some distance from the course of the River Arrow but that a Construction Environmental Management Plan (CEMP) should be produced to ensure no construction materials/fuels etc. will be placed near the buffer zone. This is a matter that could be secured by way of condition.
- 8.56 On the basis of the above, it is considered the potential impacts of development on ecology and biodiversity can be mitigated. Policy LD2 places a requirement on development to conserve, restore and enhance biodiversity assets and, whilst this is not entirely evident from this outline submission, officers are sufficiently content that further details as part of a reserved matters submission and by way of a detailed Biodiversity Enhancement Plan could adequately address this.

## **Impact on the River Lugg / Wye Special Area of Conservation**

- 8.57 The application site lies within the hydrological catchment of the River Lugg, which forms part of the River Wye Special Area of Conservation (SAC) currently failing its conservation status as a result of phosphate levels within the river.
- 8.58 As the competent authority, Herefordshire Council is required to complete an Appropriate Assessment of the implications of the plan or project for that site in view of that site's conservation objectives. Regulation 63 (5) directs that the competent authority may agree to the project (i.e. grant planning permission) only after having ascertained that it will not adversely affect the integrity of the European site. Regulation 63 (3) requires consultation and regard to representations made by the relevant statutory body, which in this case is Natural England.
- 8.59 The Applicant in this case has utilised Natural England's 'Nutrient Neutrality Budget Calculator – River Lugg Catchment' to determine that the development would create an annual phosphorus load of 4.47kg TP/year which must be managed against in order to avoid detriment to the River Lugg. The Council's Built and Natural Environment Manager (Ecology) has quality checked and confirmed these figures as accurate.
- 8.60 The comments received querying the existing land use calculations have been also been reviewed by Ecology. The land use element is intended to be an average of the last ten years so if the use is on and off (i.e that the site is not or has not always been used for dairy production), then it does not render the calculations as inaccurate. The coefficients in the model which generate the 0.48 existing use figure are set by Natural England and Ricardo, taking data from a large number of research studies and building in precautionary buffers in order to allow the model to be considered sufficiently certain for the purposes of HRA.

- 8.61 Noting the above, the Applicant has applied for, and received, an allocation of phosphate credits from Herefordshire Council. In purchasing these credits, the Applicant will be funding the delivery of the wetland project which, in turn, will mitigate for the effects of their development and deliver net betterment to the Lugg. The amount of credits to be purchased must therefore be commensurate with the impact that requires mitigation. The Council's Phosphate Credit Pricing and Allocation Policy April (2022) sets a charge of £14,000 per Kg of phosphate generated. Based upon the annual phosphorus load of 4.47kg TP/year, the Applicant is required to purchase credits to the value of £62,580. This would be secured by a Section 106 legal agreement.
- 8.62 The Council's Built and Natural Environment Team (Ecology) has completed an appropriate assessment. This assessment concludes, subject to appropriate mitigation being secured in the form of Phosphate Credits, that the proposal would not give rise to any adverse effects on the integrity of the River Lugg / River Wye SAC. It is therefore the view of the Council, as the competent authority, that the proposal is compliant with the Conservation of Habitats Regulations (2017) (as amended) and that there is no conflict with policies LD2 and SD4 of Core Strategy.
- 8.63 This assessment has been submitted to Natural England for consideration and a response was received on 28 February 2023 to confirm that the statutory body agreed with the LPA's conclusions. The proposed development would be made nutrient neutral by purchasing credits to a constructed wetland and Natural England agrees that with this nutrient neutrality in place, there are no adverse effects on the integrity of the River Wye SAC. They hence offer no objection.

#### **Section 106 – Planning Obligations**

- 8.64 A development of this scale and nature attracts various financial contributions which would need to be secured via a Section 106 Agreement. The provision of a policy compliant level of affordable housing would also need to be secured within such an agreement. Consultation comments have been provided in respect of certain requirements, for example for health care provision and education. These are set out within the draft Section 106 agreement, which now also includes the mechanism for the securing of the requisite purchase and allocation of phosphate credits to mitigate the phosphate impacts of the development as above set out. While the Section 106 has been progressed, as the application is recommended for refusal, it has not been completed. Therefore, presently, in the absence of a completed Section 106 agreement which is considered necessary to mitigate the impacts of the development, the proposal runs contrary to the requirements of Policy ID1 of the Core Strategy.

#### **Conclusion**

- 8.65 Policy SS1 of the Core Strategy and Paragraph 11 of the NPPF engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The NPPF encompasses the government's view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.
- 8.66 The application sites lies immediately adjacent to Kington's main built form and in simple terms therefore, is locationally sustainable. The town offers a range of local services and the site is readily accessible to all of these. The proposal would also contribute to a local under supply of housing within Kington (also enabling the provision of affordable housing), although it is recognised that less sustainable settlements within the wider rural Kington HMA have performed well.
- 8.67 Notwithstanding the above, the proposal would give rise to harm to the significance of the Kington Conservation Area and it is not possible to reconcile the harm with the public benefits accruing from the development. Similarly, the proposal would unacceptably result in harm to the

riverside meadow and the significance of such with respect to the rural setting of Kington and the wider landscape.

- 8.68 In accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development. In recognising that the Council are able to demonstrate a 5 year housing land supply – the development plan is considered up-to-date for the purposes of decision-taking. In applying the aforementioned presumption, this means approving development that accords with an up-to-date development plan. In this case, the proposal has been found to conflict with the relevant policies as contained within the development plan, as discussed within the officer's appraisal section of the report. Therefore, the proposed development cannot be taken as according with the development plan in the round and therefore, is considered to be representative of a unsustainable form of development.
- 8.69 The application is therefore recommended for refusal for the reasons as set out below.

**RECOMMENDATION; - That planning permission be refused for the following reasons:**

1. **The application site forms part of the rural, water meadow setting and the wider landscape setting which contribute to the significance of the Kington Conservation Area in terms of its aesthetic quality and its historic interest as a settlement. The proposal will harm the significance of the Conservation Area by obscuring the links between its historic pattern of development and the River Arrow's water meadows and diminishing the aesthetic value of its undeveloped, rural, green setting and the communal value of the conservation area that lies in this setting. Whilst these impacts are considered to be less than substantial in terms of the significance of the conservation area as a heritage asset, they are towards the upper end of the less than substantial spectrum. The local planning authority does not consider that there are other public benefits that outweigh the harm caused by permitting the development. The proposal is therefore contrary to Policies LD1 and LD4 of the Herefordshire Local Plan – Core Strategy and paragraph 202 of the National Planning Policy Framework.**
2. **The application site is described as a Riverside Meadow in the Council's Landscape Character Assessment. These are landscapes that are typically absent of built development. The introduction of a residential development in this location is contrary to the landscape character which also makes an important contribution to the attractive appearance and open rural setting of this part of Kington. The proposals fail to demonstrate that they have been positively influenced by the landscape and townscape character of their surroundings. Accordingly the proposal is contrary to Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**
3. **Therefore, in light of the environmental harm caused by permitting the development and in considering the three overarching objectives of sustainable development the local planning authority does not consider that the proposal represents a sustainable form of development. The proposal is therefore contrary to Policy SS1 of the Herefordshire Local Plan – Core Strategy and paragraph 11 of the National Planning Policy Framework.**
4. **The application is not accompanied by a completed Section 106 Agreement which is considered necessary to mitigate the impacts of the development and to ensure the delivery of affordable housing. In the absence of such an agreement the proposal is contrary to Policy ID1 of the Herefordshire Local Plan – Core Strategy and the Council's Supplementary Planning Document – Planning Obligations.**

Decision: .....

Notes: .....

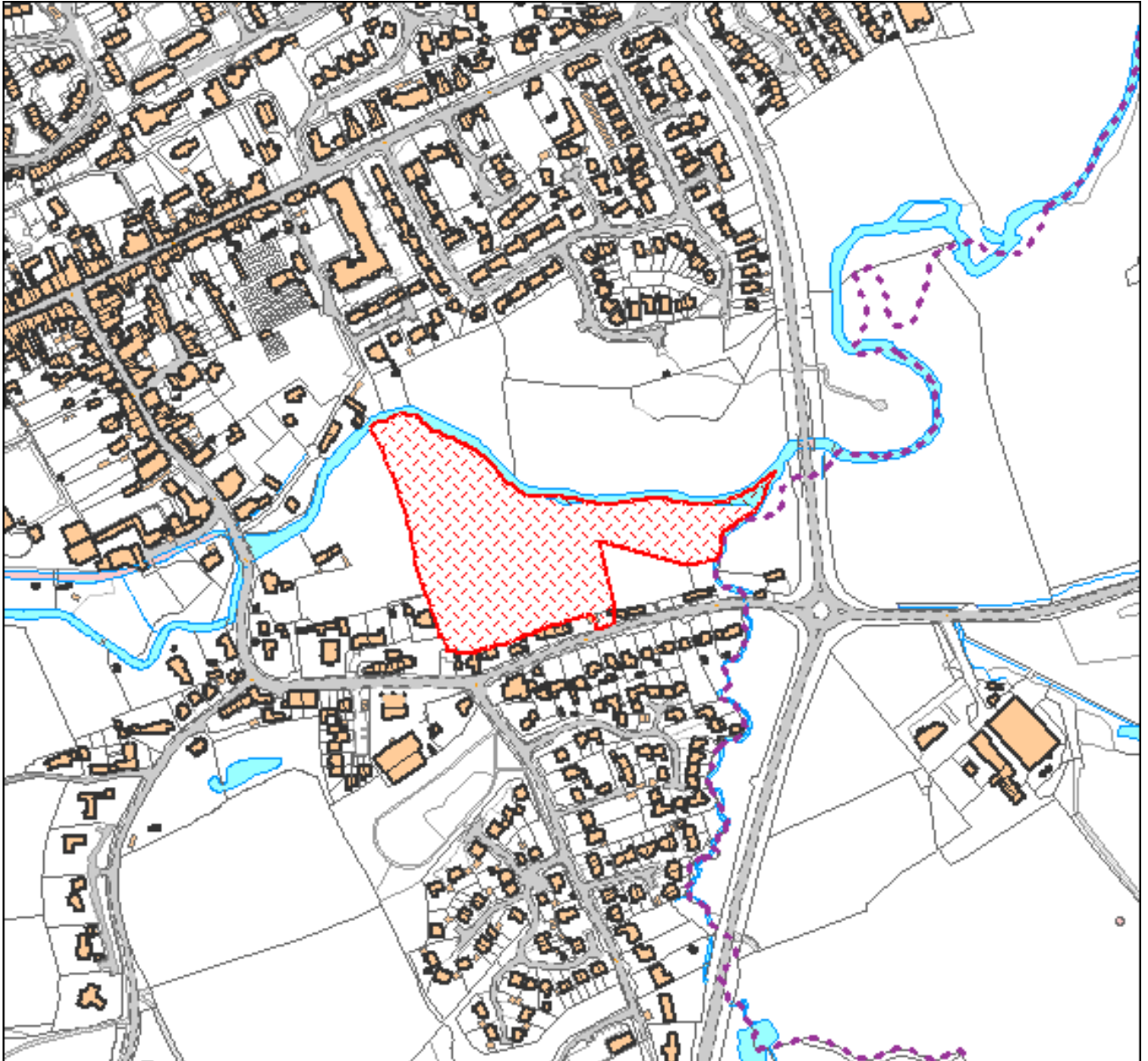
.....

**Appendices**

- Appendix 1 – Minutes of Planning and Regulatory Committee meeting – 18 December 2018
- Appendix 2 – Officer report to Planning and Regulatory Committee meeting – 18 December 2018
- Appendix 3 – Habitats Regulation Assessment

**Background Papers**

None identified.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** 181494

**SITE ADDRESS :** LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

## Agenda item

### **181494 - LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY**

Proposed land for residential development and associated work together with public open space and local green space.

**Decision:**

The application was approved contrary to the Case Officer's recommendation.

**Minutes:**

*(Proposed land for residential development and associated work together with public open space and local green space.)*

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

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

In accordance with the criteria for public speaking, Mr M Fitton, of Kington Town Council spoke in opposition to the Scheme. Mr B Brown, a local resident, spoke in objection. Mr M Turner, the applicant, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor TM James, spoke on the application.

He made the following principal comments:

- The question was whether the environmental harm outweighed the community benefit.
- One benefit would be that land by the riverside would be opened up for community use. There was a recreation area at the other end of the town but a lack of outdoor community space in the part of the town where the application site was.
- Discussions were taking place as to whether some land could be made available for allotments. There was a shortfall in provision in Kington.
- In relation to the representations by Heritage England he observed that the conservation area was a considerable distance from the application site. It could only be viewed from one small part of the conservation area.

- There was considerable opposition to the draft Neighbourhood Development Plan and questions as to whether it was deliverable.
- Part of the site had been included in the 2012 Strategic Housing Land Availability Assessment (SHLAA).
- The houses on Headbrook had no gardens. The proposal might offer the opportunity to provide them with some garden space.

In the Committee's discussion of the application the following principal points were made:

- The proposal was sustainable development close to an area of open space from which residents would benefit. It was within walking distance of Kington. It would provide housing that Kington needed, noting the concerns about the deliverability of the NDP.
- The access was achievable.
- There would be benefit if garden space could be provided for the houses currently backing onto the site.
- The outdoor sports investment plan would provide welcome benefits for young people.
- It was questioned whether there was an adverse effect on the conservation area.
- The draft NDP stated that the whole site should be designated as Local Green Space. The proposed development offered a way of providing affordable green space accessible to the public in a part of the town where there was currently no such provision.
- The development would link the newer Eardisley Road development to the historic core of the Town.
- The riverside was an important element of the town contributing to its character. The site was unimproved meadow land, which was in short supply.
- There were few letters in support of the application and a considerable number opposing it. The Town Council, the draft NDP, the CPRE, Historic England, the Conservation Officer (Landscapes) and the Conservation Manager (Historic Buildings) objected to the proposal.
- The draft NDP identified other housing sites and they should be explored before considering the application site.

The Development Manager commented that the indicative layout suggested land would be given to existing properties on Headbrook but no assurance had been given and this could not be required by condition. Similarly allotments



may be provided as part of a reserved matters application but could not be required to be provided.

The Lead Development Manager confirmed that if approved a S106 agreement would be required.

The local ward member was given the opportunity to close the debate. He commented that it was a difficult issue. The benefit of preserving a lovely meadow had to be set against the benefit of public access and provision of housing including affordable housing.

Councillor Greenow proposed and Councillor Edwards seconded a motion that the application be approved on the grounds that it was consistent with policies SS1, SS2 OS2 and MT1, with a S106 agreement also to be provided. The motion was carried with 11 votes in favour, 1 against and 1 abstention.

**RESOLVED: That planning permission be granted on the grounds that the application was supported by policies SS1, SS2 OS2 and MT1, with approval to be subject to a S106 agreement to be prepared by officers after consultation with the Chairman and local ward member, and officers named in the scheme of delegation to officers be authorised to detail the conditions and reasons put forward for approval.**



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>18 DECEMBER 2018</b>
<b>TITLE OF REPORT:</b>	<b>181494 - PROPOSED LAND FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORK TOGETHER WITH PUBLIC OPEN SPACE AND LOCAL GREEN SPACE AT LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY</b>  <b>For: Mr &amp; Mrs Turner per Mr Peter Draper, Yew Tree Cottage, Byford, Hereford, Herefordshire HR4 7LB</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181494&amp;search=181494">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181494&amp;search=181494</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

**Date Received: 23 April 2018**

**Ward: Kington**

**Grid Ref: 330174,256478**

**Expiry Date: 30 July 2018**

Local Members: Cllr T James

### **1. Site Description and Proposal**

- 1.1 The site is situated on the north side of Headbrook, east of Kington's town centre and west of the A44 by-pass. It is currently in agricultural use but is adjacent to existing residential areas along Headbrook, Old Eardisley Road and Bridge Street.
- 1.2 The site amounts to 3.83 hectares (9.46 acres) of land. It is an irregularly shaped, flat area, bounded to the north by the River Arrow and to the south by dwellings that front onto Headbrook. There are good views into and across the site from its edges and there are defined visual boundaries created by the existing development and the mature trees and hedgerows within and along the boundaries, especially to the north and east.
- 1.3 Properties arranged in a linear fashion along Headbrook are all set in narrow plots with little in the way of residential curtilage to the rear. The aerial photograph below shows the site and its immediate environs:



- 1.4 The Council's Landscape Character Assessment describes the site as part of a Riverside Meadow landscape character designation. The description of such areas reads as follows:

*These are linear, riverine landscapes associated with a flat, generally well defined, alluvial floodplain, in places framed by steeply rising ground. They are secluded pastoral landscapes, characterised by meandering tree lined rivers, flanked by riverside meadows which are defined by hedge and ditch boundaries. Settlement is typically absent. Throughout these landscapes, the presence of extensive areas of seasonally grazed waterside meadows has in the past provided a strong sense of visual and ecological unity. These are landscapes that accommodate a degree of annual flooding, a factor which has been reflected in the traditional patterns of land use, the lack of settlement and development.*

- 1.5 There is an existing field accesses to the site; a narrow field gate between 45 and 47 Headbrook. This is considered to be inadequate to serve the proposed housing development and consequently the application site includes land immediately to the west of 45 Headbrook.
- 1.6 There are no definitive Public Rights of Way into or across the site, but north of the site and river and within 300 to 400 metres are several local public footpaths and stretches of Offa's Dyke Path and the Herefordshire Trail, both National and Local Long Distance Paths. The application submission highlights opportunity for new footpath and cycle routes to be created and linked into existing routes, and includes the possibility of a new footbridge across the River Arrow in the north-west corner of the land.
- 1.7 At its closest the site is approximately within 300 metres of the town centre, which includes a post office, the bulk of shops, services and public transport facilities. The site is all within easy walking and cycling distance of the town centre and its full range of services.
- 1.8 The application is made in outline and is for residential development, associated works and the provision of public open space and green space, with all matters reserved for future consideration. The submission is accompanied by illustrative plans as shown below, and a suite of documents which include the following:
- Design & Access Statement
  - Planning Statement
  - Housing Assessment
  - Design & Development Brief
  - Flood Risk Assessment (including a detailed Drainage Strategy)
  - Heritage Impact Assessment
  - Landscape and Visual Impact Assessment



## Kington Area Neighbourhood Development Plan

- 2.2 The Kington Area Neighbourhood Development Plan is post Regulation 16; its public consultation period having expired on 14<sup>th</sup> November. Details of examination are currently to be confirmed. At this stage the plan has moderate weight at the moment as there are ten unresolved objections following the regulation 16 consultation. The policies that are of relevance to the determination of this application are considered to be as follows:

ENV1 – A Valued Natural Environment – Amongst other matters, this policy makes specific provision to:

- protecting and enhance the River Arrow and the Back Brook from the impacts of development;
- respect, protect and enhance important open spaces, views and the area's landscape quality as identified in the Characterisation Assessment and the list of 'Cherished' Places
- conserve, protect and enhance local habitats and areas of biodiversity value;

ENV3 – A Valued Built Environment – The stated aim of this policy is to ensure that development proposals will be required to conserve, protect and where possible enhance the heritage assets and the wider historic environment within the neighbourhood area

ENV 4 – Flood Risk & Drainage – Requires that new development takes appropriate account of flood risk and provides appropriate drainage arrangements.

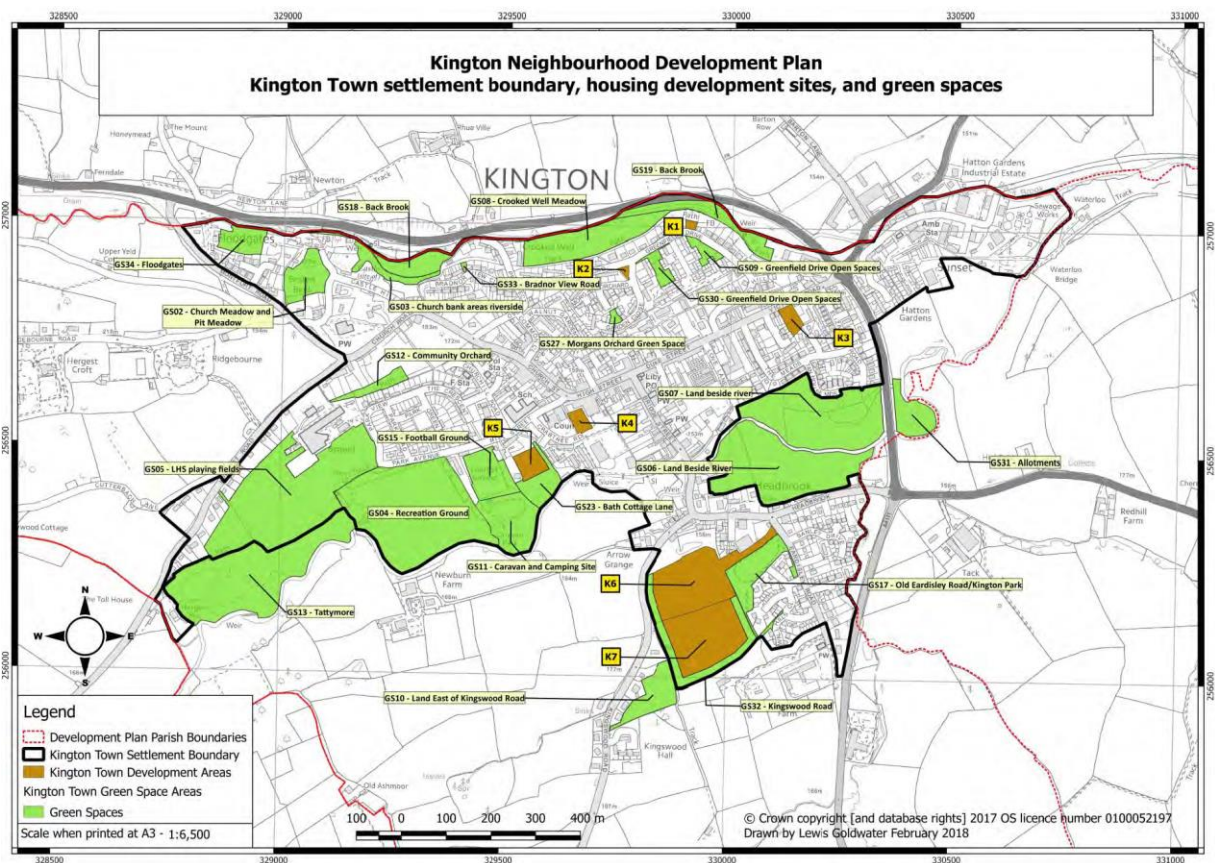
SB1 – Settlement Boundaries – Identifies a settlement boundary for Kington. The policy states that the town will seek to accommodate around 200 new dwellings and development proposals will be directed to sites that fall within this boundary.

H1 – Housing Delivery Kington Town – Reinforces the need to deliver around 200 new homes and that these will be delivered on allocated sites, and within the settlement boundary.

LGS1 – Local Green Spaces – Recognises the special recreational, wildlife, historic and setting value of certain areas, and their importance to the community. The policy requires that these are to be protected from development and the list includes the application site.

GI1 – Green Infrastructure – Advises that development proposals will be assessed for the contribution they make to the enhancement of biodiversity.

- 2.3 A copy of the plan identifying particular designations, including the settlement boundary for Kington, allocated housing sites and green open spaces is shown below:



## National Planning Policy Framework

2.4 The following sections of the NPPF are considered to be of relevance to this proposal:

- Section 2 - Achieving sustainable development
- Section 4 - Decision-making
- Section 5 - Delivering a sufficient supply of homes
- Section 9 - Promoting sustainable transport
- Section 11 - Making effective use of land
- 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
- Section 16 - Conserving and enhancing the historic environment

2.5 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](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

## 3. Planning History

3.1 There is no planning history that relates specifically to this site

## 4. Consultation Summary

### Statutory Consultations

#### 4.1 Welsh Water – **Recommend Conditions** and comment as follows:

We have reviewed the information submitted as part of this application with particular focus on the Flood Risk Assessment Statement (HKB4) Ref PJD/pjda.HR.1020908.18 which indicates that foul water will drain to the public combined sewer and surface water will discharge to the nearby watercourse.

We are aware of flooding concerns on the main road but our investigations have concluded that the root cause is not due to hydraulic overload on the sewer network.

Therefore, if you are minded to grant planning permission we request that the following Condition is included within any subsequent consent:

#### Condition

Foul water from the development site shall be allowed to discharge to the public sewerage system and this discharge shall be made between manhole reference number SO60560422 and SO30560529 as indicated on the extract of the Sewerage Network Plan attached to this decision notice. Thereafter, no surface water, land or highway water shall drain directly or indirectly to the public sewerage system.

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

#### 4.2 Natural England – **No objection**. Comments as follows:

##### European site - River Wye SAC - No objection

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

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

##### River Lugg SSSI – No objection

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

#### 4.3 Historic England – **Objects** to the application on heritage grounds. Their comments are as follows:

##### **Summary**

The outline application affects land within the setting of Kington Conservation Area that makes a positive contribution to the conservation area's significance in terms of its historic,



aesthetic and communal value. Historic England objects to the application on the grounds that the supporting information does not comply with paragraph 128 of the NPPF and the design, amount, location and density of the development will result in harm to the conservation area that is unjustified in terms of paragraphs 131, 132, 134 and 137.

### **Historic England Advice**

Kington Conservation Area encompasses the historic town of Kington established as a borough in the twelfth century. The heart of the conservation area is characterised by a typically tight urban form deriving from the layout of medieval burgage plots along the High Street. This area has dense two and three storey buildings set at the back of pavement providing a high degree of enclosure to the street and funnelled views with a rich visual texture of historic building materials. A similar plot pattern characterises Bridge Street but the density of development is significantly lower and gaps between buildings and views through carriage arches allow garden greenery and trees to come through into the streetscape experience.

The form of the landscape around the town is such that setting contributes much to the significance of the conservation area. Kington is located between and contained by the course of two rivers, the Arrow and Back Brook which flow from the Radnorshire Hills to the west to form a confluence just east of the town. The rivers cut through higher ground to the north, Bradnor Hill, and west, Hergest Ridge and these hills form a prominent rural setting for the conservation area. At the end of Bridge Street the flood meadows of the River Arrow that form the town's natural southern boundary make themselves apparent particularly to the southeast where views from a public footpath have a distinctly rural feel and layers of trees, open space and topography limit the impact of linear development on the north side of Headbrook and the more substantial new development on rising ground to its south side. The application site forms part of the rural, water meadow setting and the wider landscape setting which contribute to the significance of the conservation area in terms of its aesthetic quality, its historic interest as a settlement developed within the natural constraints of the river confluence and its communal value.

While the detailed impact of the proposed development cannot be assessed due to the outline nature of the application, it is clear to Historic England that the scale and amount of development represents a change in setting that will impact on the significance of the conservation area. The application should therefore be assessed against the policy contained in Section 12 of the NPPF which places great weight on the conservation of heritage assets and most particularly against paragraphs 128, 131, 132, 134 and 137. The Historic England publication 'The setting of Heritage Assets, Historic Environment Good Practice Advice in Planning Note 3' provides relevant advice on the identification of setting and assessment of the impact of change within it on significance.

Historic England is concerned that, for a number of reasons, the Design and Access Statement submitted in support of the application does not meet the requirements of paragraph 128. It relies on a compartmentalised landscape assessment and views analysis that does not draw out the contribution of setting to the historic, aesthetic and communal value of the conservation area and does not follow the staged approach to assessment set out in our guidance referred to above. We are also concerned that, in its outline form, the application does not demonstrate the design quality required by paragraphs 131 and 137. On the basis of the information submitted Historic England considers that, while the proposals have sought to reduce impact by locating housing in the southwest corner of the site, the amount, density and location of the development and loss of green space will result in an urbanisation of the water meadows that will change their character considerably. Taken with the existing development on the south side of Headbrook, the aggregative amount of development in the setting of the conservation area will increase considerably.

We consider that this will harm the significance of the conservation area by obscuring the links between its historic pattern of development and the Arrow's water meadows and diminishing the aesthetic value of its undeveloped, rural, green setting and the communal value of the conservation area that lies in this setting.

We note that the Kington NDP identifies land between Headbrook and the River Arrow as important green space forming part of the river corridor that contributes to the character and setting of Kington Town and that housing would lead to loss of its rural character. Historic England concurs with this conclusion. The NDP indicates that potential for alternative sites to meet the town's housing needs exists and in this context we would suggest that the harm caused by the proposal to the significance of the conservation area is unjustified in terms of paragraphs 132 and 134.

### **Recommendation**

Historic England objects to the application on heritage grounds.

We do not consider that the application meets the requirements of the NPPF, in particular paragraph numbers 128, 131, 132, 134 and 137. In determining this application you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

### Internal Council Consultations

#### 4.4 Transportation Manager

### **Site Location and Access**

The application site is located on Land adjacent to Spring Cottage Headbrook Kington. The proposal sets out the creation of a new access through land between 43 and 45 Headbrook which is within the ownership of the developer. The proposed development site lies in an area designated in the emerging Kington Neighbourhood Development Plan as a Local Green Space. Headbrook road is subject to 30mpg speed limit however the 85<sup>th</sup> percentile speed in the transport assessment for the development shows speeds at 33mph.

The new access would adjoin the existing public access. A transport assessment sets out the proposed access and associated works. It must be ensured that the access does not deviate in location from this point as access from another location, between 45 and 47 Headbrook for instance, would not be appropriate.

There is a bus service near the site, including hourly services which connect Hereford with Llandrindod Wells via Kington.

### **Traffic Generation**

The information provided by the transport assessment is for 60 dwellings. Using this as a baseline, 33 two-way trips were associated with the proposal. As the current proposal is indicative of approximately half the number of dwellings, then it is logical to assume that half the number of two-way trips will be associated with this site. The highway network should not be adversely affected by this increase in movement.

### **Visibility**

The visibility splays set out in the transport assessment (51m) in line with the 85<sup>th</sup> percentile speeds are appropriate and achievable at the proposed location of the access.

### Drainage

The developer should ensure that run off does not flow to the public highway.

### Waste Collection

A waste collection strategy should be provided by the applicant.

### Policy

Section 106 contributions are mentioned in the planning statement and the developer is happy to contribute an average of £9,284 per dwelling.

As a new public road and footway is proposed, the developer should adhere to section 38 highways adoption agreement and section 278 of the Highways Act 278.

### Conclusion

The transportation department has **no objections to this application, subject to conditions**

#### 4.5 Conservation Manager (Landscapes) – **Objects** to the application on the following grounds:

The proposed development site lies in an area designated in the emerging Kington Neighbourhood Development Plan as a Local Green Space. Even though the NDP is not in an advanced stage, this green space should be protected as a valued community and environmental resource for the future.

The proposed development would deplete the size of the existing Riverside Meadows adjacent to the River Arrow flood plain. This existing green space is an historic, aesthetic and communally valued open space. This depletion of existing environmental, historical and locally valued aesthetic would therefore not contribute or enhance the natural, historical and locally valued landscape.

This proposal is adjacent to the River Arrow flood plain. With climate change there is the potential to exacerbate the present flood issues and water quality issues in this area with this proposed development.

#### 4.6 Conservation Manager (Historic Buildings) – **Objects** to the application and comments as follows:

The River Arrow makes a strong visual and historic contribution to the significance of the Conservation Area. Historically this is a primary reason for the Town being in this location, the crossing point allowed for traders to meet and also the means for a Mill, tanneries and other industries to develop. In terms of the character of the Conservation Area there are key views from the Bridge to the South of the town, looking East and from the East towards the Town. It is the view from the Conservation Area which would be most affected by the proposals, in particular the proposed housing towards the north of the site. The transition from Headbrook to the River Arrow Corridor is an important aspect of views from the Conservation Area. Those views from the south extremity of the town looking directly south should not be entirely discounted, although it is noted that this is an area of more modern housing and not within the Conservation Area.

The corridor of the River Arrow makes a strong contribution to the setting of the Conservation Area and the housing proposed to the North of the site would cause less than substantial harm to this setting. Policy 196 of the NPPF would apply.

#### 4.7 Conservation Manager (Archaeology) – **No objection**

#### 4.8 Conservation Manager (Ecology) – **No objection** subject to conditions

I note my colleague has completed the HRA assessment process for this satisfactorily. With regard to the ecological assessment, I welcome the updated survey which finds much remains unchanged. However, the presence of two riparian species (otter and white clawed crayfish) have been raised and confirmed as present along this stretch of the R. Arrow. I believe the plans to be ultimately adequate in habitat creation along the stream corridor here and so good water quality and lack of disturbance will be of utmost importance to maintain before and after construction. The bulk of the development will fall outside the flood plain and will lie some distance from the course of the river but a Construction Environmental Management Plan (CEMP) should be produced to ensure no construction materials/fuels etc. will be placed near the buffer zone. Except for planting there should be no need to enter this buffer zone during construction. Certainly no heavy machinery should be allowed the CEMP should clearly designate this zone as fenced off from the rest of the site. I do not believe it is possible, enforceable or even reasonable to adopt an exclusion zone around the river post-construction but site development should in no way impede the use of the river by these two species including barrier installations, lighting or bank access points. If the footbridge across the proposed in the Design and Access Statement is intended as part of this application, then details of construction must be submitted as part of the approval and accommodated in the species' mitigation..

In addition, the recommendations of the ecological report should be encompassed within a ecology mitigation and enhancement plan. This should include a programme of Reasonable Avoidance Measures for two species above. I would also advise that information boards should be installed as part of the interpretation and advisory element of enhancement highlighting the features living adjacent to such a spectacular biodiversity resource. The signs should also indicate controls on disturbance which people should exercise (such as by dogs, vegetation damage and any water-sports intended).

#### 4.9 Housing Officer – **No objection** and comments as follows:

I have reviewed the above outline planning application and would advise that the applicant is meeting the requirement to provide 35% affordable housing. Local connection in relation to the affordable units would need to be included within the S106 and the units would need to be tenure neutral and will integrated within the open market units.

The proposed layout for the open market and affordable units are only indicative and I would advise that the exact mix and tenure for both, needs to be agreed prior to the submission of any reserved matters application. Therefore, I would look for a condition to be applied to the outline planning permission to ensure that this happens.

#### 4.10 Parks & Countryside Officer

The illustrative site plan shows on-site POS /SUDS areas as detailed in both the accompanying Planning Statement and Design and Access Statement.

The POS comprises smaller ancillary areas of play and public open space within the housing areas and a larger green space area which is in the flood plain and bounds the river corridor. The total amount is shown as 1.8ha (4.5 acres) and covers over half of the application site. That said, it is understood from the Planning Statement that should this application go forward the applicant is considering a future phase subject to EA consultation which would potentially mean 0.5ha (1.3acres) of this land would be used for housing.

Taking this into account the applicant has exceeded the policy requirements for POS as outlined above. The illustrative site plan shows 33 houses. For a development of up to 33 houses and an occupancy rate of 2.3 (population 75.9) the developer would be required to provide as a minimum of 0.09ha (900sq m) of on-site green infrastructure comprising:

- 0.03 ha (300sq m) of Public Open Space @ 0.4ha per 1000 population
- 0.06ha (600sq m) of Children's play @ 0.8ha per 1000 population: of this 0.018ha (180sq m) should be formal play @ 0.25ha per 1000 population

However the land does not make provision for outdoor sports and this is supported. An off-site contribution towards Outdoor Sports will be sought based on the Playing Pitch Assessment for Kington and the Outdoor Sports Investment Plan as described below.

It is noted that this is an outline application and the illustrative proposal may change if the application progresses to reserved matters and the areas shown as POS may not necessarily appear as shown in a subsequent detailed proposal. Whilst it is recognised that the provision far exceeds policy requirement the site does provide an opportunity to create an impressive area of open space. Planning for healthier spaces is good practice and as the plan develops any on site provision should be well designed and of a usable size to offer a range of recreation opportunities and experiences appropriate to the site and location. Open space needs to be well connected and safe and accessible networks of green spaces should incorporate both walking and cycling opportunities where possible. The applicant's approach to provide POS for both recreation and biodiversity/wildlife, formal and informal children's play space including a dedicated play area and recreational activity, together with a managed environmental/ wildlife zone based around the River Arrow's tributary brook is supported.

Open space needs to be well connected incorporating both pedestrian and cycling opportunities. The applicant has indicated that the site will be fully integrated into the neighbourhood via existing and new public routes for walking and cycling and possibly a new footbridge across the river towards the north-west of the land, which could connect into existing town walkways and this too is supported.

Any POS and children's play areas should be overlooked and housing should be orientated to provide natural surveillance. Given the size of development proposed the policy requirement for formal play provision is small at 180sq m. In this instance, it may be more appropriate to provide more natural play opportunities in keeping with the nature of the proposed POS.

It is noted that the SuDS will be designed to incorporate balancing ponds into the future open-space and landscaping schemes as appropriate. SuDS areas if designed accordingly to take account of health and safety and standing water issues can provide good opportunities for both informal recreation and biodiversity.

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

The Council's SuDS Handbook provides advice and guidance including national guidance on the inclusion of SuDS on new development. The applicant should seek further advice from the Council at the earliest opportunity.

**Off site requirements for outdoor sports:** It is noted that the applicant will negotiate with Herefordshire Council the s.106 requirements arising from this development as part of the overall planning application discussions.

An off-site contribution will be sought in accordance with the NPPF and evidence bases: Kington Area Playing Pitch Assessment 2012 and the Outdoor Sports Investment Plan 2018.

The Outdoor Sports Investment Plan, has been prepared by a partnership of Sport England, Herefordshire Council, the National Governing Bodies (NGB) for cricket, football, hockey and rugby and the County Sports Partnership. It is annually reviewed and provides up to date information on clubs and facilities in accordance with Sport England's requirements to review the Playing Pitch Assessment. A list of projects for cricket, football, rugby and hockey are included which are considered to be sustainable and deliverable in helping to meet the needs of both the existing and future populations (future proofed to 2031). All projects have the support of the relevant NGB in both their regional and local facilities development plans.

Summary of Projects for Kington:

Football: Kington Town Football Club: used by Kington Town Football club both senior and junior teams.

- Quality Deficiency: Improvements to the existing changing facilities required. Its quality rating has deteriorated to below a quality required by Sport England since 2011.
- Support: The FA has rated this as a priority project to enable the club to develop and to move up the football pyramid.

Cricket: Kington Recreation Ground: Used by Kington Cricket Club both senior and junior teams.

- Quality Deficiency: improvements to the facility including the 3 lane nets required. Its quality rating has deteriorated to below a quality required by Sport England since 2011.
- Support: The HCB supports this project.

The methodology used to assess requirements arising from new development is considered to be CIL compliant and contributions are calculated using the following methodology:

- **Total Investment costs:** £285,000:
- **Total housing planned for Kington (Core Strategy):** 200 new houses
- **Cost per market house)** £1,425
  
- **Total off-site contribution arising from this development of 21 market houses:** £29,925

4.11 Land Drainage Engineer – **No objection subject to conditions.** Comments as follows:

We have no objections to this outline planning application but recommend that the Applicant submits the following information within any subsequent reserved matters application:

- Amended calculations of the greenfield runoff rates and proposed discharges rates and attenuation volumes using FEH methods and 2013 rainfall data for the site area included within the planning application;
- Results of infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology;
- Confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels;
- Detailed drawings of proposed features such as attenuation features and outfall structures;
- Confirmation that the attenuation pond will not situated above ground; if it is proposed to be situated above ground level the Applicant must provide an assessment of breach.

- Consideration of the risk of water backing up the drainage system from any proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves;
- Description and drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system;
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features;
- Confirmation where the proposed connection into the foul sewer network will be and if access to third party land will be required.
- If discharge to the public sewerage system is proposed, confirmation that this has been agreed with the relevant authority;
- If access or works to third party land is required, details of these works and agreement in principal with necessary landowners/consenting authorities to cross third party land and/or make a connection to the proposed watercourse/sewer;

If the results of infiltration testing indicate that infiltration will provide a feasible means of managing surface water runoff, an alternative drainage strategy must be submitted to the Council for review and approval. Best practice SUDS techniques should be considered and we promote the use of combined attenuation and infiltration features that maximise infiltration during smaller rainfall events.

#### 4.12 Environmental Health Officer (noise) – **Qualified comment**

The proposal has not yet taken into account the acoustic environment in which the houses are proposed to be built and I note that there are alternative site layout plans which could have different noise exposure risks. I am of the opinion that these risks are a relevant factor when determining site layout.

The applicant is requested to undertake a noise risk assessment using Stage 1 of the ProPG guidance. This would capture the noise levels across the site and will be useful in assisting in the determination of the proposed site layout. Should the noise risks be more than negligible, which is likely at the eastern boundary of the site, the application is also requested to follow Stage 2 of the ProPG guidance and supply an Acoustic Design Statement.

## 5. **Representations**

### 5.1 Kington Town Council

Kington Town Council considered this application at its meeting on June 4th and resolved to object to the application for the reasons detailed below.

1. The Council's views on the application are informed by its role in preparing the Kington Area Neighbourhood Plan (KANP) and the central role it has played in identifying housing development sites. This role is a formal requirement of the Herefordshire Core Strategy which delegates the task to the Town Council. (Core Strategy. Policy KGI. Development in Kington)
2. The KANP completed the Regulation 14 stage in 2017 which included consultations which fully "demonstrated engagement and consultation with the community" (KGI). In light of the consultations the Plan has been revised and in the form of the Draft Regulation 16 Plan is ready to be submitted to Herefordshire Council for the final stages of the Neighbourhood Plan process.

3. In preparing the draft KANP, the Town Council carried out detailed assessment of the sites throughout the town in relation to the criteria in KGI. In this task it received wide ranging professional and technical support through grant provision provided by locality as agents for the National Government's Neighbourhood Planning policies. Our objection to the application is based on the extensive assessment we undertook to fulfil the delegation of site selection to Kington Council (KGI).
4. Local Green Space - The Kington Area Neighbourhood Plan has designated all the land south of the River Arrow at Headbrook as Local Green Space. The designation has had the strong support of the community . Together with the land on the opposite side of the river it has been described as a 'green lung' linking the eastern area of the town to the western end with its green riversides. As an open green space it is perceived to contribute to the spatial character and form of the town, providing a green entry to the town and a wildlife habitat for birds including owls, bats and riverside trees and plants.
5. Green Infrastructure - Herefordshire Council's Green Infrastructure Study ( 2010) shows this land north of Headbrook as part of a Local Strategic Corridor embracing the south side of the town. A Local Strategic Corridor is defined in the Study as "aconnected linear component of green infrastructure around the town",thus echoing in more technical terms the views of local people. The Study contains a description of the land as being "wet grassland and wet woodland that should be preserved and enhanced" .

Core Strategy Policy LD3 Green Infrastructure states that "Development proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructure...". By its nature a housing development on this land will be unable to comply with this policy since it will building on the green infrastructure, thereby removing it and impacting on the adjacent remaining land.

6. Biodiversity - Core Strategy Policy LD2 Biodiversity and geodiversity states "Development proposals should conserve, restore and enhance the biodiversity ...".

Para 5.3.12 "Wildlife is not confined to designated sites and many features serve as wildlife corridors, links and stepping stones. Ecological networks are vital to the survival and dispersal of species. Herefordshire 's biodiversity makes a major contribution to the economy, supporting the tourism sector and providing a healthy and attractive environment for its residents."

The land of this application is not an AONB or SSSI but it is an important feature of the Kington Town landscape and losing this area of biodiversity will diminish the local pool of ecological habitats by urbanising the riverside biodiversity. The application does not comply with LD2.

A development of 33 or so dwellings will inevitably lead to 60 or more vehicles coming and going on this land. This is low-lying area where it is likely that air currents,winds etc are not going to ensure rapid dispersal of emissions such as nitrous oxides.The cumulative impact of NO2 is well documented as being harmful to butterflies, bees and other insects as well as a range of plant life. The likelihood is a deterioration in any remaining green space adjacent to the development rather than enhancement .

7. Landscape and Townscape - The application does not comply with Core Strategy Policy LDI which requires that "development proposals should demonstrate that the character of the landscape and townscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements...".

The application site borders the Conservation Area and buildings therein of an historically important small Market Town. The site area is part of the setting of the Town. No evidence is presented as to how the development proposed will meet the objective of LDI.



It does not comply with NPPF paras 132 and 134 which are concerned with the settings of designated heritage assets; settings are important components of the value of historic buildings. The site where development is proposed is a part of the setting of the heritage assets of the Town. Any alteration to the setting such as new build development will inevitably harm the setting and thereby the assets themselves. It would lead to a loss of space and a diminution of the rural setting of the Town.

8. Requirement to Meet the Core Strategy Housing Target for Kington - Any public benefits that might accrue from developing housing on this area can be obtained from other sites that are identified in the draft Neighbourhood Plan which fully meets the target set for housing provision (200 dwellings) and which more adequately meet the requirements of KGI.
9. Relationship of the Application to the draft Settlement Boundary as defined in the draft plan - The implication of development on various sites in the town was assessed at the Regulation 14 stage. This led to a revision of the current UDP Settlement Boundary to exclude the application site and its counterpart to the north of the Arrow from within the settlement. This more clearly identifies their long term value as a green setting for the town as open country on the town's border.
10. Previous Site Planning History - The identification of the application site as Local Green Space in the KANP is in line with previous planning guidance for Kington.

The Leominster District Local Plan (1999) which included Kington, strongly emphasised the importance of the site for the setting of the town. "There should be no development on the river meadows of the Arrow and Back Brook which form essential elements in the setting for Kington as defined on the map. Landscape proposals will be encouraged which would enhance the river meadows, enable recent developments to fit more sensitively into the town's setting, encourage a diversity of wildlife and promote a riverside walk.

These river meadows contribute significantly to the character and setting of the town and should be protected from intrusive development in particular in accordance with Policy A.25. Much of the area is subject to serious flooding or is described as flood prone and so is not suitable for development in accordance with Policy A15. The River Arrow is designated a SWS by the Herefordshire Nature Trust "

The Herefordshire Unitary Development Plan (2007) sustained this policy by designating the whole site as "Protection of Open Areas and Green Space" (Inset Map Kingl)

A portion of the site was included in Herefordshire's 2012 Strategic Housing Land Availability Assessment (SHLAA) but identified as "Land that had Significant Constraints". As a result, the site was re-assessed at the first stage of the Neighbourhood Plan process. The Town Council did consider whether a small development of 15 houses might be appropriate but unanimously resolved (December 2015) that the importance of the site as part of the green setting for the town militated against any development and that the whole site should be designated as Local Green Space. This decision has been fully supported in all subsequent public consultations on the Plan and confirmed by Kington Town Council when it signed off the Draft Regulation 16 Plan in December 2017.

11. Ambiguities in the Application - The extensive documentation provided by the applicant provides confusing information about the level of development proposed which vary from 33 to 70 dwellings in the text and attached site plans.
12. Requirement for More Detailed Site Assessment - Though this is an outline application, we would strongly suggest, given the potential impact of the proposed development on the setting and environment of the town, that much more detailed information is required at this stage on:

Landscape assessment including issues of sensitivity and capacity site biodiversity given frequent reports of bats and owls on the site, site archaeology, in view of other investigations in the Arrow Valley impact on the Conservation Area, (See Historic England's objection for detail on this) impact on the river systems (the Arrow, the Lugg SSSI and the Wye Special Area of Conservation) of waste water,

Impact on the sewerage system. The following guidance provided to us by Welsh Water in response to our Regulation 14 Consultation should be noted:

Wastewater treatment works (WwTW) - Kington's WwTW is currently overloaded and there are no improvements planned within Welsh Water's current Capital Investment Programme (AMP6 - 1st April 2015-31st March 2020). An improvement scheme will form part of their submission to the Industry Regulators for the next Capital Investment Programme (AMP7 - 1st April 2020-31st March 2025). As such, should a developer wish to progress this site in advance of their future Regulatory Investment they will need to fund the improvements themselves, firstly by commissioning Welsh Water to undertake a feasibility study of the WwTW, before entering into a Section 106 Agreement (of the Town & Country Planning Act 1990) to pay for the improvements required.

A more detailed flood risk assessment by the Environment Agency.

The following additional comments have also been submitted:

*As was specified in the Council's objection to this application, the Kington and Area Neighbourhood Development plan is now nearing the Regulation 16 Stage. The Plan has been fully revised in relation to the Regulation 14 Consultation and the voluminous consultation appendices have had a final edit. The completed Plan will be submitted to Herefordshire Council's NDP Team on Wednesday Sept 19th. As previously identified the Plan proposes that the whole of application site should be designated Local Green Space and identifies a range of other sites which will fully meet the housing allocation for Kington specified in Herefordshire's Core Strategy. These policies have been strongly supported in the various consultations during the development of the NDP and we trust they will be given full consideration by the Planning Committee when this application is considered.*

- 5.2 Lyonshall Parish Council – Observe that consideration should be taken regarding the extra traffic using the Headbrook road, as this is the main entrance to Kington for locals living East of the town.
- 5.3 Wye Valley NHS Trust – Request a financial contribution through the completion of a Section 106 Agreement and comments as follows:

In the circumstances, it is evident from the above that the Trust's request for a contribution is not only necessary to make the development acceptable in planning terms it is directly related to the development; and fairly and reasonably related in scale and kind to the development. The contribution will ensure that Health services are maintained for current and future generations and that way make the development sustainable.

- 5.4 CPRE – **Object** to the application. In summary the points raised are as follows:

- The proposed development would harm the setting of Kington Conservation Area which lies immediately adjacent to the site.
- The site has been identified as a green space in the emerging Kington NDP
- Should this application be allowed then it would set a precedent for further development in green space with the potential to hugely damage the setting of this important historic town

- It is recognized that Herefordshire Council has not identified a 5 year housing land supply and that the Local Plan may be considered out of date thus invoking paragraph 14 of the NPPF, the presumption in favour of sustainable development.
- However, for the reasons outlined above this development proposal is not sustainable, conflicts with several specific NPPF policies and in line with the final clause of paragraph 14 should be refused: *“For decision-taking this means where the development plan is absent, silent or relevant policies are out of date granting permission **unless** any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole or specific policies in this Framework indicate development should be restricted”.*

5.5 Twenty two letters of objection have been received in response to the statutory consultation period. In summary the comments made are as follows:

#### Flood Risk

- Parts of the field are prone to flooding
- If the area is surfaced, where will excess water go?
- Development could well result in existing properties in the locality flooding, as well as those proposed.

#### Ecology / Biodiversity

- The area is a haven for wildlife, including red kites, herons and bats
- The land is outstandingly beautiful and an important wildlife habitat; a ‘green lung’ for the town
- There is a duty to preserve and conserve the natural environment. This in an ancient meadow and once lost, it can never be replaced

#### Highway Safety

- Concerns around the safety of the proposed access off Headbrook.
- Access is too narrow and vision will be obscured by parked vehicles
- Not a suitable road system to support any more housing

#### Compliance with Kington area NDP

- The application does not accord with the Kington Area Neighbourhood Development Plan
- The NDP clearly defines the whole of Headbrook meadow as green space
- Proposals were put forward in the NDP to allow for 15 dwellings on the site. The town council voted unanimously to exclude it as a potential housing site
- The NDP has established sufficient potential housing sites to meet its targets for growth

#### Other Issues

- There are no employment opportunities in the area
- Doctors surgery and local schools are all at capacity
- Earlier plans have all concluded that the site should not be built on. What has changed now?
- Barn conversion scheme adjacent to the site was dismissed on appeal with an Inspector saying it was ‘inappropriate’ to build on the site
- Construction of affordable housing for elderly people would free up existing housing for families
- The sewerage system in Kington is not able to cope with the increased amount of housing proposed

- 5.6 Four letters of support have also been received. In summary the points raised are as follows:
- Kington is under pressure to provide new homes and this is the best proposal put forward
  - The town would benefit from the opening up of a riverside walk
  - Development would be 'in' town and not looming over it from some higher point
  - The NDP is still some way from being adopted
  - There has been extensive research as part of the application submission with respect to flooding
  - The 2011 Herefordshire Strategic Land Availability Assessment deemed that the site was suitable, in part, for housing, unlike other land put forward by the NDP
  - Home owners will be able to walk to local shops, schools and other services
  - The proposal provides new public open space

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=181494&search=181494](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=181494&search=181494)

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). It is also noted that the site falls within the Kington Neighbourhood Area, which published a draft Neighbourhood Development Plan (NDP) for Regulation 16 consultation on 3 October 2018. The consultation period expired on 14 November and confirmation is awaited as to when the plan will go to Examination. There are outstanding representations and so for the purposes of the determination of this application the plan is considered to have moderate weight.

6.3 The National Planning Policy Framework (NPPF) is also a significant material consideration.

6.4 In accordance with the National Planning Policy Framework (the NPPF), the delivery of sustainable housing development to meet objectively assessed need is a central theme of the Core Strategy. Policy SS2 'Delivering new homes' confirms that Hereford, with the market towns in the tier below, is the main focus for new housing development. In the rural areas new housing development will be acceptable "where it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community."

6.5 Policy SS2 of the Core Strategy makes an overall provision for the delivery of a minimum 16,500 homes in Herefordshire between 2011 and 2031 to meet market and affordable housing need. Of these, just over two thirds are directed to Hereford and the market towns. With specific regard to Kington, Policy KG1 says that the town will accommodate around 200 new homes over the plan period.

6.6 It has been well rehearsed in many previous reports to Planning Committee that a failure to maintain a supply of housing land will render the housing supply policies of the Core Strategy as

---

Further information on the subject of this report is available from Mr A Banks on 01432 383085

being non compliant with the NPPF and therefore out-of-date. Policy SS3 'Ensuring sufficient housing land delivery' thus imposes requirements on the Council in the event that completion rates fall below the trajectory set out in Appendix 4 of the Core Strategy.

- 6.7 Despite the adoption of the Core Strategy, a housing land supply deficit persists. The Council's most recently published position advises of a supply of 4.55 years (April 2018).
- 6.8 The Core Strategy sets out a number of policies in chapters 3, 4 and 5 for the supply of housing which are relevant to the present application. As a consequence of the housing land supply position, the policies in the Core Strategy relating to the supply of housing are out of date by reason of paragraph 74 of the NPPF. Although these policies are out of date, the weight that they should receive is a matter of planning judgment for the decision-maker. This is a matter that has been reinforced in the recent Richborough Estates Supreme Court ruling.
- 6.9 Policy KG1 is most relevant in this regard. While it identifies a minimum proportionate growth target of around 200 dwellings and is clearly a housing supply policy, it also sets out a number of criteria against which new development proposals will be assessed. These are material to the determination of the application and, in your officer's view, can be attributed weight in the planning balance.
- 6.10 Policies SB1 and H1 of the Kington Area NDP are also policies for the delivery of housing, reiterating the requirement to deliver 200 new homes across the neighbourhood area. Representations have been made through the Regulation 16 consultation process to the housing delivery policies and they are to be given moderate weight.
- 6.11 The site is located to the south of the substantive residential part of Kington, and to the north of the linear pattern of residential development along Headbrook. More recent development has taken place further north around Eardisley Road and this has served to create a secondary residential area that is separate from the rest of the town. It is approximately a 500 metre walk from the town centre and the location of the site is considered to be sustainable. However, the proposal must be assessed under the three indivisible dimensions of sustainable development – economic, social and environmental, if it is to be considered as sustainable. Paragraph 8 of the NPPF is clear that these roles are mutually dependent upon one another and that to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The following sections of this report consider aspects of the scheme and the characteristics of the area that will be material to the determination as to whether the scheme represents sustainable development.

#### Impact on designated heritage assets

- 6.12 The proposed development site is just 60 metres separate of the Kington Conservation Area within which are a number of listed buildings; those closest being on Bridge Street.
- 6.13 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting:
- “to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
- 6.14 With particular regard to Conservation Areas, Section 72 of the Act goes on to say:
- “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*

- 6.15 Appeal decisions have subsequently informed the precise meaning of “preserving” in that it means doing no harm.
- 6.16 It follows that the duties in section 66 do not allow a local planning authority to treat the desirability of preserving the setting of listed buildings merely as material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm “considerable importance and weight”.
- 6.17 Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.
- 6.18 The NPPF offers further guidance about heritage assets, recognising that they are irreplaceable resources that should be conserved; ‘...in a manner appropriate to their significance.’ Paragraphs 189 to 196 offer particular clarity about the assessment to be made of the significance of heritage assets. Paragraph 192 outlines three criteria to be taken account of in the determination of planning applications. These are as follows:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.19 Paragraph 193 reiterates the presumption of great weight being afforded to the preservation of heritage assets and is clear that; ‘The more important the asset, the greater the weight should be.’
- 6.20 It is also clear that significance can be harmed or lost through alteration or destruction of a heritage asset, and that proposals that require this should be fully justified and wholly exceptional.
- 6.21 Paragraph 195 is clear that;
- ‘Where a proposed development will lead to substantial harm to or loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss...’*
- 6.22 Paragraph 196 has been confirmed through case law to be a restrictive policy and deals with development that would lead to less than substantial harm. It has two limbs, stating that harm should be weighed against the public benefits of the proposal. The same case law confirms that the second limb; the public benefits, should go first, and that the test is effectively different to paragraph 195 – the identification of harm does not immediately direct one to refuse planning permission.
- 6.23 Policy LD1 also makes reference to a need to conserve historic features, amongst which it includes conservation areas, while Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. 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.

Paragraphs 4-10 of Historic England's Good Practice Advice Note 2 (Managing Significance in Decision-Taking in the Historic Environment) explains that applications have a greater likelihood of success and better decisions will be made when applicants and local planning authorities assess and understand the particular nature of the significance of an asset and, in this case, the contribution the setting makes to significance.

6.24 The National Planning Policy Framework provides a very similar message in paragraphs 189 and 190 expecting both applicant and local planning authority to take responsibility for understanding the significance of a heritage asset and the impact of a development proposal, seeking to avoid unacceptable conflict between the asset's conservation and any aspect of the proposal.

6.25 The detailed consultation response from Historic England is clear that the landscape that surrounds the town contributes to its significance as a conservation area:

*"The form of the landscape around the town is such that setting contributes much to the significance of the conservation area."*

*"The application site forms part of the rural, water meadow setting and the wider landscape setting which contribute to the significance of the conservation area in terms of its aesthetic quality, its historic interest as a settlement developed within the natural constraints of the river confluence and its communal value."*

6.26 The advice from Historic England and the Council's Historic Buildings Officer is clear that they are concerned about the impact of the proposed development on the significance of the conservation area. Your officers are of the view that the impact on the setting of the conservation area is less than substantial but that it will be towards the upper end of that spectrum. In particular, Historic England's consultation response acknowledges that the site has some significance in terms of forming the setting for the conservation area. The landscape character of the area and its visual relationship to the conservation area is integral to this. In the words of Historic England the proposal will result;

*"... in an urbanisation of the water meadows that will change their character considerably. Taken with the existing development on the south side of Headbrook, the aggregative amount of development in the setting of the conservation area will increase considerably. We consider that this will harm the significance of the conservation area by obscuring the links between its historic pattern of development and the Arrow's water meadows and diminishing the aesthetic value of its undeveloped, rural, green setting..."*

6.27 Whilst the harm to the significance of the conservation area as a heritage asset is less than substantial it is clear from the advice of Historic England as a statutory consultee and in the minds of your officers that significant weight should be attributed to these impacts. The proposal will cause harm that renders the proposal contrary to Policy LD4 of the Core Strategy, but this will need to be balanced against the public benefits of permitting the scheme.

#### Landscape impact and effects on the setting of Kington

6.28 The site is very typical of a riverside meadow landscape type as defined by the council's Landscape Character Assessment (the LCA). It is a flat, well defined, alluvial floodplain with the river lined by trees on either side. A similar flat area of meadow land flanks the river on its northern bank. The LCA suggests that such landscapes are often framed by steeply rising ground and that settlement is typically absent and this is the case as far as the site is concerned. The site forms an attractive setting for this part of Kington.

- 6.29 Policy LD1 of the Core Strategy covers matters relating to landscape and townscape. It advises that development proposals should demonstrate that the character of the landscape and townscape has been a positive influence on its design, scale, nature and site selection. It also suggests that proposals should incorporate new landscape schemes in order to integrate development, and that existing tree cover should be maintained and extended where it is important to amenity.
- 6.30 The proposal shows that the areas immediately adjacent to the river are to be kept free from development. This enables the tree-lined bank to remain undisturbed. The hedge line that runs south in the western quadrant of the site is to be retained and enhanced, and; whilst the application is made in outline and landscaping is a matter to be reserved for future consideration, the submission indicates that substantial areas of new planting would be proposed.
- 6.31 However, the inherent character of the landscape is of an open meadow that is free from development. It is the view of your officers that the land forms an important setting to Kington and its conservation area when approaching the town from an easterly direction, and this will be changed to the detriment of the area through the introduction of development. This is reinforced by the fact that the site has been designated as a local green space by Policy LGS1 of the Kington Area NDP.
- 6.32 The setting of settlements is an important material planning consideration and one that has been found to have significant weight on appeal. In recent cases in Bridstow, Bosbury and Lea separate Inspectors all found that the setting of the respective villages would be harmed and that this was not outweighed by the council's lack of a five year housing land supply (Appeal references APP/W1850/W/15/3003671, 3010446, and 3053084).
- 6.33 Members attention is also drawn to the fact that, in relation to an appeal in 2007 for a barn conversion adjacent the site (Headbrook Barn Appeal Reference APP/W1850/A/07/2038659), the Inspector commented on the significance of the area of land to which your enquiry relates, stating that:
- "...I consider that it (the site) makes an important contribution to the attractive appearance and open rural setting of this part of Kington."*
- 6.34 In dismissing the appeal on grounds, amongst others, relating to the detrimental impact of the development on the open character of the area, the Inspector considered the benefits of bringing the building back into use and providing an additional dwelling and said that:
- "...I consider that these benefits do not outweigh the harm that would be caused to an important open area of green space which contributes to the character and setting of Kington."*
- 6.35 Although the proposal is entirely different from that to which the appeal relates, it does serve to demonstrate the importance of the site in terms of its contribution to the setting of Kington. This has not changed in the intervening period and the other recent appeal decisions show that the setting of settlements carries significant weight in the planning balance. This is simply reinforced by the fact that a significant proportion of the town is designated as a conservation area. It is your officer's view that the proposal does not respect the landscape character of the area and consequently fails to accord with Policy LD1 as it does not protect or enhance the landscape setting of Kington.

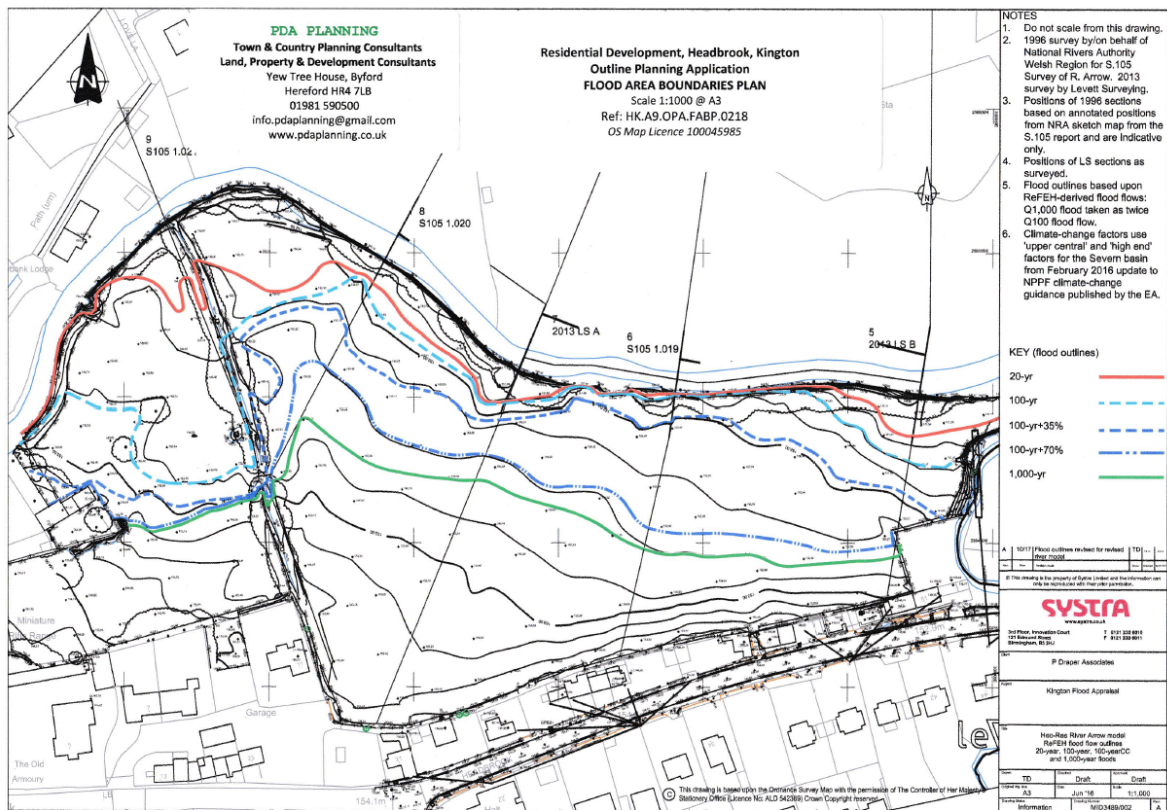
#### Drainage and Flood Risk

- 6.36 The majority of the letters of objection received express concerns about the potential for the development to increase the risk of flooding in areas immediately surrounding the application



site. They note the proximity of development to the River Arrow and the fact that the land is a water meadow.

- 6.37 Review of the EA's Flood Map for Planning indicates that the site is located outside of, but close to Flood Zones 2 and 3. This is confirmed by the Flood Risk Assessment (FRA) submitted with the application and in the response from the Council's Land Drainage Engineer.
- 6.38 In accordance with Environment Agency standing advice, the FRA clarifies the extent and depth of fluvial flood risk within the site boundary and considers the potential effects of climate change. It also identifies how flood risk to the proposed development has been minimised, how the development has been made safe, and how the impacts of the development on people and property elsewhere have been avoided.
- 6.39 The FRA considers the risk of flooding on site from all sources, including surface water, groundwater, sewers, reservoirs and any other manmade sources. The FRA also assesses the potential effects of climate change on the probability and extent of the flood risk, this being shown on the plan below:



- 6.40 The detailed consultation response from the Land Drainage Engineer confirms that the FRA includes an update of the Environment Agency's hydraulic model of the River Arrow. The Flood Appraisal drawing (above) shows the flood extents derived from the updated model for the 1 in 100yr +35%CC, 1 in 100yr +70%CC and the 1 in 1000yr return periods. The illustrative site plan drawing indicates the residential dwellings will be located outside of the modelled 1 in 1000 year flood extent. On this basis the proposed development does not displace flood water from the floodplain to other parts of the town during periods of heavy rainfall and is not considered to increase flood risk elsewhere.
- 6.41 The submission also provides a draft strategy for surface water attenuation which confirms that runoff rates will not exceed existing Greenfield runoff rates. The Land Drainage Engineer is

content with the assumptions made and confirms that there is no objection to the proposal subject to the imposition of conditions to require the submission of a detailed drainage strategy.

- 6.42 In light of the fact that the site lies outside of flood zone 2 and 3, the application of the Sequential Test as outlined in the NPPF, which requires 'more vulnerable' development to be steered away from areas at flood risk, is not required. Notwithstanding, it is clear that the Kington Area NDP does allocate areas for housing land that are at a significantly lower risk of flooding.
- 6.43 On the basis of the consultation responses received, your officers are satisfied that the proposal takes full account of the risk of flooding and that any potential impacts can be mitigated through the imposition of conditions. The scheme is therefore considered to comply with Policy SD3 of the Core Strategy.

#### Ecology

- 6.44 The Council's Ecologist has considered the application, both in terms of its impacts on water quality in accordance with Policy SD4 of the Core Strategy and also in respect of its potential impacts on biodiversity and protected species.
- 6.45 With regard to the first point, and in accordance with its duties as a 'responsible authority' a Habitat Regulations Assessment has been completed by the Council's Ecologist, and this finds 'no likely significant effects' on water quality in either the River Wye Special Area of Conservation (SAC) or the River Lugg Site of Special Scientific Interest (SSSI). Natural England have confirmed that they have no objection to the HRA findings.
- 6.46 In terms of impacts on biodiversity and protected species, the presence of two particular riparian species; otter and white clawed crayfish, have been raised and confirmed as present along this stretch of the River Arrow.
- 6.47 The application is supported by an Ecological Assessment, the detail of which has been considered by the Council's Ecologist. He concludes that the plans are adequate in habitat creation along the stream corridor, but emphasises the importance of good water quality and lack of disturbance along the river corridor. He notes that the bulk of the development will fall outside the flood plain and will lie some distance from the course of the river but that a Construction Environmental Management Plan (CEMP) should be produced to ensure no construction materials/fuels etc. will be placed near the buffer zone. This is a matter that could be addressed through the imposition of an appropriately worded condition.
- 6.48 On the basis of the above, officers find that the potential impacts of development on ecology and biodiversity can be mitigated. Responses for the Council's Ecologist and Natural England confirm 'no likely significant effects' on the River Wye SAC and therefore Policy SD4 of the Core Strategy is complied with. Policy LD2 places a requirement on development to conserve, restore and enhance biodiversity assets and, whilst this is not entirely evident from this outline submission, officers are sufficiently content that further details as part of a Reserved Matters submission by way of a detailed Biodiversity Enhancement Plan could address this.

#### Highway Impacts

- 6.49 Core Strategy Policy MT1 relates to the highways impacts of new development, and requires that proposals demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. It also requires under (4) that developments are designed and laid out to achieve safe entrance and exit and have appropriate operational and manoeuvring space, having regard to the standards of the Council's Highways Development

Design Guide. This approach accords with the principles outlined in section 9 of the NPPF, in particular Paragraphs 108-9 which advises that it should ensure that safe and suitable access can be achieved for all users and that development should only be refused on highways grounds if there would be an unacceptable impact on highways safety.

- 6.50 Whilst the application reserves all matters for future consideration, the opportunities for the provision of access are limited to a single point onto Headbrook. Concerns have been raised by some local residents about the impacts of a new access and increased vehicle movements on highway safety, particularly given that there are limited off-street parking opportunities for existing properties on Headbrook and that on-street parking will obscure visibility from the proposed new access.
- 6.51 The application is supported by a Transport Statement that has been written on the basis of an initial proposal for a development of up to 60 dwellings. Council's Traffic Manager has commented in detail on this aspect of the submission and has also been mindful of the objections received.
- 6.52 As referred to previously, the information provided by the transport statement is for 60 dwellings. It assumes 33 two-way trips at peak hourly periods. As the current proposal is for just over half the number of dwellings it is reasonable to assume that it would generate 15 to 20 two-way trips. The view of the Traffic Manager is that there is sufficient capacity and that the highway network should not be adversely affected by this increase in movement.
- 6.53 The transport statement includes a speed survey along Headbrook which shows 85<sup>th</sup> percentile speeds to be 33 and 34mph in each direction respectively. The visibility splays set out in the transport statement are set at 51 metres in each direction and reflect the know speeds along the road. The Traffic Manager is content that the splays are achievable at the proposed location of the access and therefore officers are content that the application is compliant with Policy MT1 of the Core Strategy.

#### Planning Balance and Conclusions

- 6.54 Both Core Strategy policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that development should be approved where they accord with the development plan. The NPPF encompasses the government's view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.
- 6.55 The application in this case is for housing and in the light of the housing land supply deficit must be considered in accordance with the tests set out by paragraph 11 and SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole, or if specific policies in the NPPF indicate development should be restricted.
- 6.56 Kington is identified by the Core Strategy as a sustainable settlement where there is a presumption in favour of proportionate housing growth. The Kington Area NDP is post Regulation 16. Some representations have been made in respect of its housing delivery policies and therefore it attracts moderate weight in the determination of this application.
- 6.57 Officers are content that the site is immediately adjacent to Kington and, in simple terms of its location, it is sustainable. The town has a range of local services and the site is readily accessible to all of these. This will have some benefit in economic terms, as will the engagement of local trades during the construction period of the development. Some moderate benefits will be delivered through biodiversity enhancements and this weighs in favour of the development in environmental terms. There are also some social benefits as the site will provide affordable housing. The application also outlines the delivery of a riverside walk. Given

that the area in question is not currently accessible to the public this is also considered to be a social benefit.

- 6.58 However, the harm caused to the significance of Kington Conservation Area carries considerable weight in determining whether the proposal represents sustainable development, as does the impact on the riverside meadow as a valuable landscape resource. Officers have not been able to reconcile these negative impacts in environmental terms against the benefits of permitting development. For these reasons the proposal is not considered to represent a sustainable form of development and the application is consequently recommended for refusal.

## **RECOMMENDATION**

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

- 1. The application site forms part of the rural, water meadow setting and the wider landscape setting which contribute to the significance of the Kington Conservation Area in terms of its aesthetic quality and its historic interest as a settlement. The proposal will harm the significance of the Conservation Area by obscuring the links between its historic pattern of development and the River Arrow's water meadows and diminishing the aesthetic value of its undeveloped, rural, green setting and the communal value of the conservation area that lies in this setting. Whilst these impacts are considered to be less than substantial in terms of the significance of the conservation area as a heritage asset, they are towards the upper end of the less than substantial spectrum. The local planning authority does not consider that there are other public benefits that outweigh the harm caused by permitting the development. The proposal is therefore contrary to Policies LD2 and LD4 of the Herefordshire Local Plan – Core Strategy and paragraph 196 of the National Planning Policy Framework.**
- 2. The application site is described as a Riverside Meadow in the Council's Landscape Character Assessment. These are landscapes that are typically absent of built development. The introduction of a residential development in this location is contrary to the landscape character which also makes an important contribution to the attractive appearance and open rural setting of this part of Kington. The proposals fail to demonstrate that they have been positively influenced by the landscape and townscape character of their surroundings. Accordingly the proposal is contrary to Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**
- 3. Therefore, in light of the environmental harm caused by permitting the development and in considering the three overarching objectives of sustainable development the local planning authority does not consider that the proposal represents a sustainable form of development. The proposal is therefore contrary to Policy SS1 of the Herefordshire Local Plan – Core Strategy and paragraph 11 of the National Planning Policy Framework.**
- 4. The application is not accompanied by a completed Section 106 Agreement which is considered necessary to mitigate the impacts of the development and to ensure the delivery of affordable housing. In the absence of such an agreement the proposal is contrary to Policy ID1 of the Herefordshire Local Plan – Core Strategy and the Council's Supplementary Planning Document – Planning Obligations.**

Informative:

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

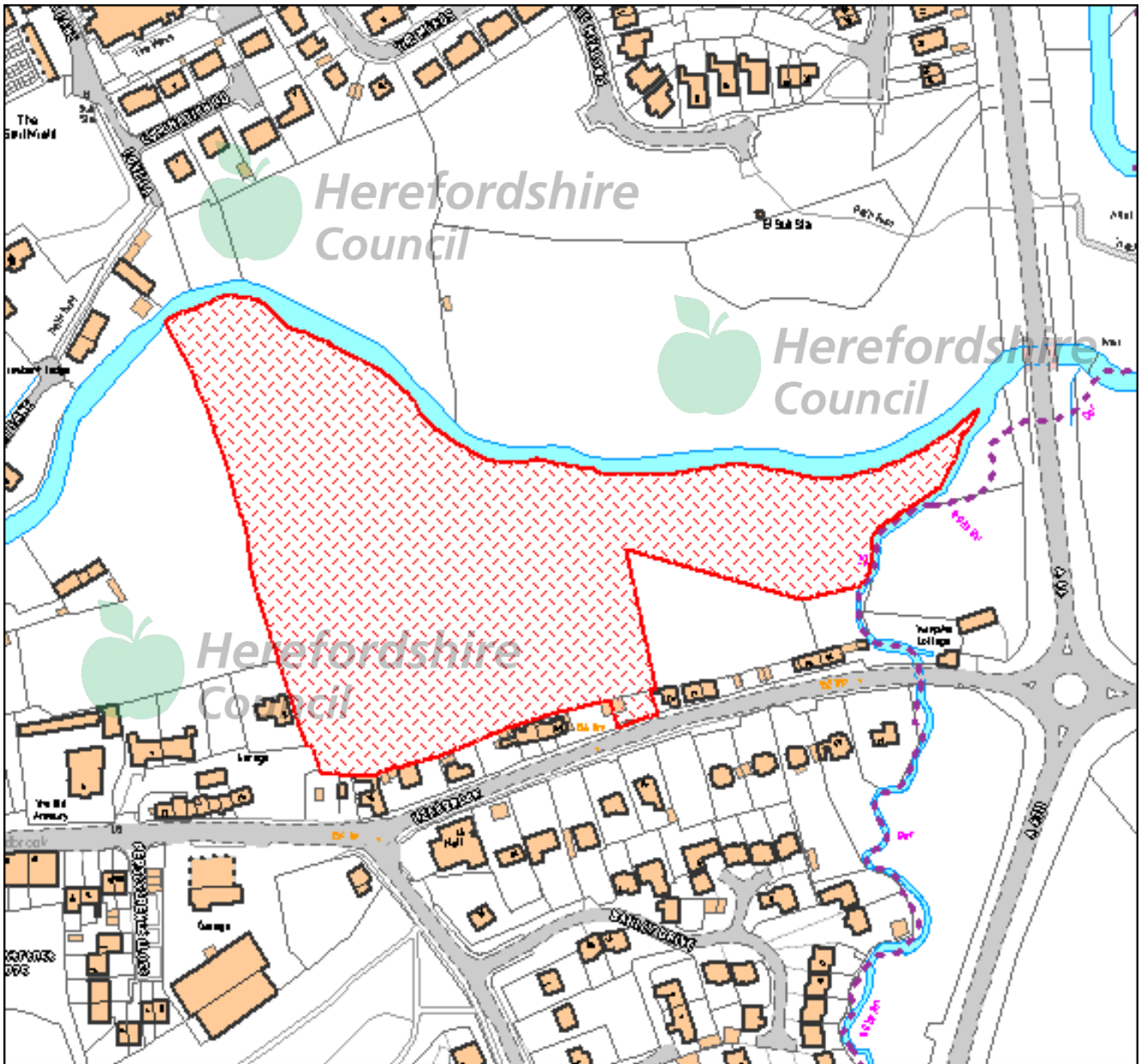
Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.

2018 Committee Report



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** 181494

**SITE ADDRESS :** LAND ADJACENT TO SPRING COTTAGE, HEADBROOK, KINGTON, HR5 3DY

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Mr A Banks on 01432 383085

## The Conservation of Habitats and Species Regulations (2017) Part 6, section 63

'Assessment of implications for European sites and European offshore marine sites'

### Habitats Regulation Assessment

This is a record of the Habitat Regulations Assessment (HRA) (including Screening for Likely Significant Effects and Appropriate Assessment where required) carried out by Herefordshire Council (the competent authority) as required by Regulation 63 of the Conservation of Habitats & Species Regulations 2017 (the 'Habitats Regulations') relating to the following **planning application**.

This HRA is carried out in accordance with the relevant guidance documents including those by Natural England at <https://www.gov.uk/guidance/appropriate-assessment>, and David Tyldesley Associates <https://www.dtapublications.co.uk/>

The HRA is carried out by Herefordshire Council. Detailed information will need to be provided by the applicant to enable the authority to make the assessment.

### **The Project / Plan**

#### 1.1 Planning Application Reference Number, Description and Address

Application reference number: 181494  
Address: Land adjacent to Spring Cottage Headbrook Kington HR5 3DY  
Description: Proposed land for residential development and associated work together with public open space and local green space.  
Applicant: Mr & Mrs M & J Turner  
Case officer: Ollie Jones  
  
Location OSGR: 330174 – 256478  
Link to Planning Application on Herefordshire Council Website: [Planning Search – Herefordshire Council](#)

#### 1.2 Description of the plan or project (details)

Outline application for the erection of 35 dwellings.

#### 1.3 Documents and plans considered – *delete/ add as appropriate*

Herefordshire Local Plan Core Strategy 2011 – 2031.  
River Wye SAC Nutrient Management Plan.

#### 1.4 Planning *Policy context*:

None

#### 1.5 Size (ha) and description (habitats etc.) of existing site

2.47ha of agricultural land primarily used for meadow grazing.

#### 1.6 Surrounding land use and context in relation to designated sites

Site is 8.8km south of River Lugg SSSI and 9.5km north of the River Wye SAC. The site is closely adjacent to the River Arrow which feeds into the River Lugg SSSI and on then into the River Wye SAC. The site itself is within the settlement of Kington. The River Arrow flows out of the settlement into the rural environment through agricultural land with woodlands present until it meets the River Wye.

## **Relevant Habitats (Natura 2000) site(s)**

Please select all that apply from:

- River Wye Catchment SAC (including schemes impacting on the linked River Lugg SSSI)
- River Clun SAC
- Wye Valley Woodlands SAC
- Downton Gorge SAC
- Wye Valley & Forest of Dean Bat Sites SAC (Wigpool Iron Mines SSSI)
- Other site (SAC, Ramsar)

### **Details of the Site:**

#### **1. River Wye SAC**

The River Wye SAC covers an area of 2234.89 ha in Gloucestershire, Herefordshire, Monmouthshire and Powys.

#### **Designated features**

##### Qualifying habitats

The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

- Transition mires and quaking bogs. (Very wet mires often identified by an unstable 'quaking' surface).
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche Batrachion vegetation. (Rivers with floating vegetation often dominated by water crowfoot)

##### Qualifying species

The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following species listed in Annex II:

- Allis shad *Alosa alosa*
- Atlantic salmon *Salmo salar*
- Brook lamprey *Lampetra planeri*
  - Bullhead *Cottus gobio*
- Otter *Lutra lutra*
- River lamprey *Lampetra fluviatilis*
  - Sea lamprey *Petromyzon marinus*
- Twaite shad *Alosa fallax*
- White-clawed (or Atlantic stream) crayfish *Austropotamobius pallipes*

#### **Conservation Objectives of the Designated features:**

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.



### Site Condition

Site condition, for the area of the site in England, is taken from the constituent SSSI units for the River Wye SSSI and the River Lugg SSSI.

## River Wye SSSI

Unit	Unit name	Condition	Condition Threat Risk	Habitat	Area (ha)	GridRef
001	TIDAL RIVER - ESTUARY TO BROCKWEIR BRIDGE	Favourable	High	RIVERS AND STREAMS	114.9234 ha	ST 537 956
002	BROCKWEIR BRIDGE TO MONMOUTH	Unfavourable - Recovering	High	RIVERS AND STREAMS	36.3835 ha	SO 534 055
003	MONMOUTH TO ROSS	Unfavourable - Recovering	High	RIVERS AND STREAMS	157.0946 ha	SO 573 185
004	ROSS TO HEREFORD	Unfavourable - Recovering	High	RIVERS AND STREAMS	293.5648 ha	SO 568 320
005	HEREFORD TO BREDWARDINE BRIDGE	Unfavourable - Recovering	High	RIVERS AND STREAMS	150.1955 ha	SO 418 415
006	BREDWARDINE BRIDGE TO WHITNEY TOLL	Unfavourable - Recovering	High	RIVERS AND STREAMS	122.4429 ha	SO 300 461
007	WHITNEY TOLL TO HAY	Unfavourable - Recovering	High	RIVERS AND STREAMS	30.8778 ha	SO 242 458

## River Lugg SSSI

Unit	Unit name	Condition	Condition Threat Risk	Habitat	Area (ha)	GridRef
001	RIVER LUGG (WYE SAC)	Unfavourable - Recovering	High	RIVERS AND STREAMS	58.8726 ha	SO 530 455
002	BODENHAM WEIR TO LEOMINSTER	Unfavourable - Recovering	High	RIVERS AND STREAMS	20.4404 ha	SO 503 573
003	LEOMINSTER TO MORTIMERS CROSS	Unfavourable - Declining	High	RIVERS AND STREAMS	36.2719 ha	SO 448 623
004	MORTIMERS CROSS TO PRESTEIGNE	Unfavourable - Recovering	High	RIVERS AND STREAMS	26.8469 ha	SO 366 648

### Other Relevant Documents

There is a Site Improvement Plan for the River Wye which can be found at [SIP141201FINALv1.0River Wye.pdf](#)

## Stage1: Preliminary Screening including Likely Significant Effects (LSE)

Completed by:

Fran Lancaster

Date: 6<sup>th</sup> January 2023

### Table 1: Initial Screening

Does the project or plan qualify for exemption from the HRA process?

Is the project or plan directly connected with or necessary for the conservation management of the habitat site (provide details)?	No
--	----

If so the project may be considered exempt from the HRA process.	
If the proposal is considered exempt from the HRA process? Has this been consulted upon and agreed with Natural England?	N/A – Not exempt

**Table 2: Screening for Likely Significant Effects (LSE)**

**Key issues considered:**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Foul water                                      | <input type="checkbox"/> Water pollution                      |
| <input type="checkbox"/> Surface water  | <input type="checkbox"/> Water abstraction                    |
| <input type="checkbox"/> Aerial Emissions (ammonia, N deposition & acid deposition) | <input type="checkbox"/> Recreational impacts                 |
| <input type="checkbox"/> Construction or Demolition processes                       | <input type="checkbox"/> Protected species impacts (direct)   |
| <input type="checkbox"/> Direct impacts inside SAC boundary (habitats)              | <input type="checkbox"/> Protected species impacts (indirect) |
| <input type="checkbox"/> Impacts upon supporting habitats                           | <input type="checkbox"/> Other                                |

Details of key issues & identification of potential effect pathways

The proposed development includes a mains foul sewerage connection for 35 new dwellings which will be treated at the Kington Waste Water Treatment Works which sits within the River Lugg SSSI/River Wye SAC catchment in which Natural England's Nutrient Neutrality applies.

The additional phosphate load generated by the proposed development has the potential to result in a likely significant effect on the River Wye SAC. A potential effect pathway has been identified and an Appropriate Assessment is therefore required.

No other potential effect pathways have been identified.

***NB:*** Where avoidance and mitigation measures do not form an integral part of the project/ plan and are to be put in place to reduce the impacts, these must not be considered in order to avoid impacts at the Screening stage and will require consideration at the Appropriate Assessment stage (in line with the People Over Wind judgement).

Are there any potential effects of the project or plan when considered alone?	Yes An Appropriate Assessment is required.
Are there any potential effects of the project or plan in <u>combination</u> with other projects or plans?	Potentially yes. A range of other developments resulting in additional foul flows within the catchment could potentially act in-combination with this proposal.  <i>If 'yes' then proposal must be carried forward to the Appropriate Assessment Stage.</i>

Natural England consultation reference and summary (if available):

Natural England responded to the proposed development in August 2018 stating 'no objection' however since that time Nutrient Neutrality has been introduced in the catchment. This HRA and the comments on Natural England subsequent to today's date shall replace those made in 2018.

**Summary of LSE test conclusions**

**No likely significant effects – no Appropriate Assessment required and planning permission can be legally granted. A consultation with NE is not required where a proposal is 'screened out'.**

**Likely significant effects – Appropriate Assessment required.**

*And, where relevant:*

**Further information to inform the Appropriate Assessment required** – the applicant is advised to provide the relevant information as detailed below.

Further information required to inform the Appropriate Assessment	None
---	------

**Stage 2: Appropriate Assessment**

Completed by:

Fran Lancaster
Date: 6 <sup>th</sup> February 2023

**Appropriate Assessment statement including alone, impacts in-combination and discussion of proposed mitigation measures**

Complete the tables and boxes below, deleting as necessary. Where information is taken from supporting documents this should be quoted and fully referenced. Any documents not available on the Council's website should be provided to Natural England when they are consulted.

**Table 3: Impacts of the plan/ project alone**

Complete boxes as appropriate below and delete boxes for potential effect pathways which are not relevant:

<p><b>Foul Water Mains Connection – Phosphate Credit Purchase</b></p> <p>The proposal is for 35 new dwellings under this outline application. The proposal has been assessed using the standard Natural England methodology and budget calculator.</p> <p>Assumed occupancy is 2.3 person per dwelling (agreed as locally acceptable).  Water usage is 110L per person per day (agreed as locally acceptable).  The site is 2.47ha.</p> <p>Waste Water will be discharged from the site via a connection to mains sewer and will be treated at the Kington WwTW. Kington WwTW has a phosphate limit of 1mg/l which has been used in the calculations in line with the NE methodology.</p>
---

The **Waste Water P load** of the development is calculated to be:

Development	35 dwellings
Occupancy	2.3 per dwelling
Additional population	80.5 people
Water usage	110l per person per day
Waste water volume	8855l per day
Receiving WwTW environmental permit	1mg/l (next step uses permit level * 0.9)
Total phosphate after treatment	7,969.5mg/TP/day
Convert mg/TP/day to kg/TP/day	0.0079695kg/TP/day
Per year	2.91kg/TP/year

**Waste Water Total Phosphate Load** is 2.91kg/TP/year.

The **Current Land Use** is agriculture – dairy.

The **Current P Leaching Load** is 0.48kg TP.

The **Post Development Land Use** is 0.76 residential urban land and 1.71ha greenspace which equates to an **Annual Phosphorus Nutrient Export** of 1.29kg TP.

The **Phosphate Balance for the Site** is:

TP Waste Water post treatment	2.91kg/TP/year
Historic landuse P export	0.48kg TP
Post development P export	1.29kg TP
Landuse net change	0.81kg TP
Phosphate budget	3.72kg TP/year
Phosphate budget including 20% buffer	4.47kg TP/year

The Natural England Nutrient Neutrality Budget Calculator – River Lugg Catchment has been used correctly for this proposed development and the outcome of the nutrient budget is that there is an annual phosphorous load to mitigate = 4.47 kg TP/year.

Mitigation is proposed in this case as an alternative to purchasing Phosphate credits and is set out in table 4 below.

**Table 4: Mitigation Requirements and Outcomes**

**For cases purchasing Phosphate Credits**

The development has applied for, and received, an allocation of phosphate credits from Herefordshire Council at a cost of £14,000 per kg as follows:

Annual phosphorous load to mitigate 4.47kg TP/year \* £14,000 (plus VAT) per kg

= 4.47 \* £14,000

= £62,580 (Plus VAT)

This proposal is a valid Planning Application awaiting a positive determination subject to receipt of Phosphate Credits and the developer is prepared to enter into legal agreement with the Council through either a S106 agreement or a S106 agreement including a S111 agreement for phased development to secure the financial payment for phosphate credits.

## **Herefordshire Council's Phosphate Credit Allocation Process (taken from the Council's Phosphate Credit Pricing and Allocation Policy April 2022):**

'The Phosphate Credit Allocation Process is a staged process setting out how Phosphate credits that are generated by Herefordshire Council Integrated Wetlands can be secured by developers to offset the phosphate load of their development. The process necessitates a number of steps which can be run in tandem simultaneously. This process is monitored throughout and will span several services as well as requiring engagement with, statutory consultees, and developers themselves. Credits will only be released as they become available.

The process starts with developers working out the number of credits needed using the Council's Phosphate Calculator Budget Tool supplied by Natural England. The developers are then kept on a list according to 'first come first served' policy as stated above. As credits become available and when applications are ready for determination, case officers will contact developers and provide them with an invitation to apply for credits. The developer submits this alongside their phosphate calculations, a S106 legal document and an online payment for their allocated credits. Their application is reviewed internally by Legal and Ecology and in consultation with Natural England.

Permission can then be granted or refused. If refused, developers have a set amount of time to go through the appeals procedure, credits will be held as stated above. Where permission is granted, HRA conditions are applied and they have a set amount of time and requirements they must fulfil otherwise the credits are returned to Herefordshire Council and payment is reimbursed to developers as stated above.'

Phosphate Credits in Herefordshire are being generated through the delivery, by Herefordshire Council, of a program of integrated wetlands associated with existing Waste Water Treatment Works (Wwtw). The first integrated wetland was delivered in 2022 on land adjacent to the Luston Wwtw. As set out in the feasibility study for the wetland<sup>1</sup> 'The purpose of the wetland would be to provide enhanced treatment for removal of phosphorus from the final effluent of the Luston Waste Water Treatment Works (WWTW), to contribute to the resolution of the current embargo on housing development and to deliver nutrient neutrality for future housing.'

The aim, in creation of the Luston Integrated Wetland is reducing the Total Phosphorus (TP) in the effluent leaving the Luston WWTW from 4.24mg/L TP to less than 1mg/L TP.

The Council, working with partners, has assessed potential for integrated wetlands at 8 sites of which Luston is the first to be granted planning permission (under application 213571) and constructed. Natural England have been engaged with the development of the integrated wetland program and did not object to the planning application to create the Luston wetland for the purpose of selling Phosphate Credits.

The precautionary principal has been applied to the construction of the Luston wetland, and will be applied to any further integrated wetlands created under the project:

'To provide a robust wetland design and provide certainty, WUF applied a number of steps to ensure that the design can be considered to provide certainty under the Habitats Directive. These are outlined below and presented in the following sections:

- The primary objective of the wetland is to provide an effluent quality that leaves the wetland at less than 1mgTP/l. To achieve this, and provide certainty around the design, WUF have designed the wetland on the basis of

---

<sup>1</sup> Wetland Feasibility, Design and Offsetting. Wetland Development on the River Wye – Luston. Wye and Usk Foundation. (May 2022).

a reduction to 0.8mg/l. This has effectively introduced a 20% buffer and oversized the wetland to provide greater certainty in its overall future performance, thus adopting a precautionary approach.

- A water balance has been developed and the design has been tested against UK Climate Projections (UKCP) estimates for rainfall and evapo-transpiration in 2070. Understanding the water balance is essential to ensure that the wetland design is robust under current and future climate change conditions and that the hydrology of the system will not be compromised.
- Due to uncertainties with wetland design models, WUF has adopted an approach outlined in the Treatment Wetlands publication (Dotro et al., V7 2017) which recommends application of multiple models to provide sensitivity in terms of calculation of overall design.
- Continued monitoring of phosphorus and flow data at the site to provide increasing and greater understanding of the current operation of the treatment works.'

Text taken from the WUF feasibility study.

The full technical design and modelling work for the Luston wetland can be found at in the Wetland Feasibility, Design & Offsetting Report for the Luston Wetland by Wye & Usk Foundation (May 2022).

Additionally, the precautionary principle is applied to the allocation of Phosphate Credits with 80% of the capacity generated by the creation of each integrated wetland being allocated to development and 20% of the capacity generated being allocated to providing river betterment. [HC Global Template \(herefordshire.gov.uk\)](https://www.herefordshire.gov.uk)

The sale of phosphate credits to developers will allow the Council to recoup its expenditure in delivering the Strategic Wetlands (and credit costs will be regularly reviewed as new wetlands are brought forward) and will also provide ongoing income for the long term management and maintenance of the wetland features.

**On the basis of the program of integrated wetland delivery and the phosphate credit system developed by Herefordshire Council in partnership with a number of organisations including Natural England and given that the development can secure a mains drainage connection and has committed to purchasing the phosphate credits required to address the phosphate load generated by the development this proposal it is not considered to have a likely impact on the integrity of the SAC and planning permission can therefore be granted.**

**Table 5: Remaining Impacts**

None

**Table 6: Consequences for Conservation Objectives of the Designated Site**

Impacts on maintaining the favourable condition of the site	No – not with proposed mitigation taken into account
Disruptions or delays in progress towards achieving the conservation objectives of the site	No – not with proposed mitigation taken into account
Alterations to natural progression or other	No – not with proposed mitigation taken into account <a href="#">Details</a>

natural changes within the site	
Loss of key habitat/species features. Fragmentation or isolation of key species and habitats. Impacts to diversity, distribution, density, balance, area or population(s) of key species or habitats that are indicators of the favourable condition of the site, including from disturbance	No – not with proposed mitigation taken into account
Alterations to the ecological relationships and balance between species and habitats that are key to the structure/ function of the site	No – not with proposed mitigation taken into account
Alterations to nutrient balance or other processes vital to the functioning of the ecosystem	No – not with proposed mitigation taken into account

**Table 7: Integrity Test**

Will there be an impact upon the Integrity of the Designated Site?

There will be no adverse impact upon the integrity of the River Wye SAC once the proposed mitigation taken into account and legally secured.

**Table 8: Are there Alternative Solutions to the proposal?**

If adverse effects on the integrity of the site, either alone or in combination, cannot be ruled out through avoidance or mitigation then alternative solutions must be considered.

N/A

**Please Note:** Where there are no satisfactory alternatives then consideration may be given to whether the proposal could follow the Imperative Reasons of Overriding Public Interest (IROPI) route. Is this option is under consideration for a plan or project then specialist legal advice should be sought and followed.

**Table 9: Recommended planning conditions to secure mitigation which is required in order to achieve no effect on integrity of the Designated Site.**

No conditions relevant to HRA required in this case.

**Conclusion of the Appropriate Assessment:**

Herefordshire Council, as a Competent Authority under the Habitat Regulations 2017, Part 6, section 63(5) concludes that **there would be NO** adverse effects on the integrity of the Special Area of Conservation; subject to appropriate mitigation being secured via the planning conditions listed above. Planning Permission can legally be granted.

Or

Herefordshire Council, as a Competent Authority under the Habitat Regulations 2017, Part 6, section 63(5) concludes that **there would be an** adverse effect on the integrity of the Special Area of Conservation. Planning permission **CANNOT** legally be granted.

**Please Note:** The authority must consult Natural England on the draft HRA and must have regard to the advice of Natural England before granting planning permission.



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>16 AUGUST 2023</b>
<b>TITLE OF REPORT:</b>	<p><b>223281 - OUTLINE PERMISSION FOR PROPOSED MIXED USE DEVELOPMENT TO PROVIDE COMMUNITY HUB WITH ENHANCED RECREATION FACILITIES INCLUDING A 3G PITCH, CAR PARK AND ACCESS ROADS, CHANGE OF USE OF LAND FROM AGRICULTURAL TO ALLOTMENTS AND PRODUCTIVE GARDENS NEW BUILDINGS TO PROVIDE CHANGING FACILITIES, CLASSROOMS, EQUIPMENT STORAGE, POLYTUNNELS, CAFE AND KITCHEN AT LAND AT ASHLEY FARM, GRAFTON COURT CLOSE, GRAFTON, HEREFORD, HR2 8BL</b></p> <p><b>For: Ms Foti per Mr Ian Kilby, 41-43 Shiretown House, Broad Street, Hereford, HR49AR</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=223281&amp;search-term=223281">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=223281&amp;search-term=223281</a>
<b>Reason Application submitted to Committee - Council Owned land</b>	

<b>Date Valid: 29 September 2022</b>	<b>Ward: Newton Farm and Wormside</b>	<b>Grid Ref: 349473,237420</b>
<b>Expiry Date: 18 August 2023</b>		
<b>Local Members: Cllr Carwardine (Newton Farm) &amp; Cllr Thomas (Wormside) (in both)</b>		

## 1. Site Description and Proposal

- 1.1 The application site forms part of an area which covers approximately 9 hectares and is located on the southern edge of Hereford City. The application site is located to the south of Grafton Court Close. The site can be accessed from a number of points via the residential areas to the north via Vernon Williams Close and from Grafton Lane on the South Eastern corner of the site. There is agricultural access (which is via a railway level crossing) located on the eastern site of the site. Albeit it is noted that this does not include public access.
- 1.2 The northern half of the site consists of a large area of public open space and recreation grounds with grassed areas, groups of trees and a mature belt of trees to its boundary. This area is an amenity space for adjacent residential areas and links to the Belmont Country Park to the North West of the site. There are tarmac foot/cycle paths connecting with the residential areas to the north (Shaws Path) and a further footpath / cyclepath connecting through to Merryhill Lane in the South. The open grassed areas are used for football and is the home of Belmont Wanderers Football Club. Currently the site provides for up to 6 pitches of different sizes across the space. A mature tree lined hedgerow divides the existing recreational area from land to the south which

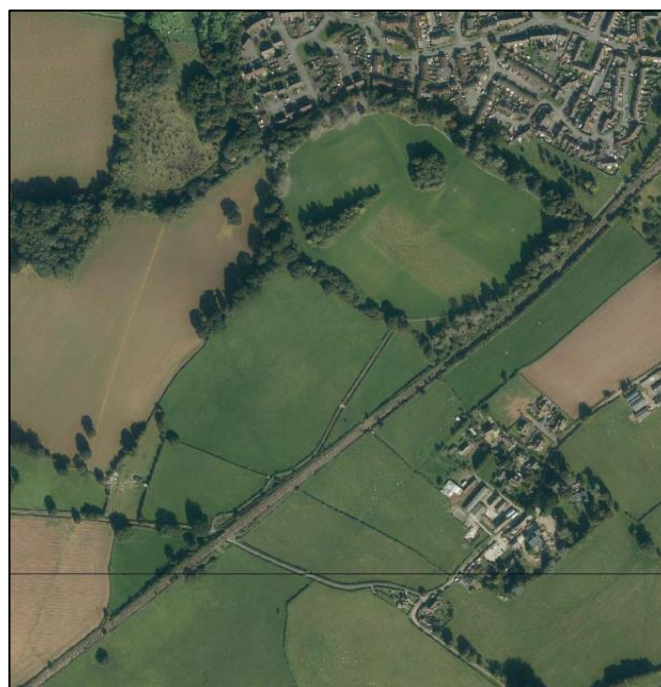
---

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

falls away from the hedge boundary. This is currently agricultural land divided into one large and two smaller fields. The footpath/cycle way connects Hereford through to Grafton Lane bisecting the field and then runs parallel to the railway before joining Grafton Lane.



**Figure 1: Site Location plan**



**Figure 2: Aerial View of the site**

- 1.3 The site is currently accessed from an existing vehicular access from Vernon Williams Close, north of the site which currently has a gated access and with an anti-motorcycle barrier to the eastern side of the access. There is an existing car park on-site which is primarily provided for users associated with the football club as well changing room facilities provided at the northern extent of the car park.
- 1.4 There are two pedestrian accesses provided at the southern extent of the car park onto the existing fields where the football pitches are located, whilst a vehicular access onto the fields is also provided from the south-east extent of the car park, which is used as an informal over-flow car parking area.
- 1.5 There are also footpaths within the site, which are utilised by pedestrians, whilst National Cycle Network (NCN) Route 46 also routes through the site, within the vicinity of the sites' eastern boundary.
- 1.6 The application is made in Outline with all matters with the exception of the means of access, reserved for future consideration. The application seeks permission for the construction of a new purpose built facility on a green field/recreation field site to provide:-
  - Fully accessible community hub building with changing facilities, classrooms and education space and cafe
  - 3G sports pitch
  - The establishment of an accessible community owned market garden
  - Polytunnels
  - Erection of a food and horticultural skill centre
  - Ancillary Farm Shop
  - Educational garden/kitchen garden
  - Associated parking including disabled parking spaces and cycle storage provision
  - Packing shed/machinery/crop/cold store/office and kitchen building

---

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

- On-teaching rooms for gardening, wildlife, horticulture, art and other workshops as well as private hire events, parties, seminars, meeting and classes
- on site toilets, cloak room and storage facilities

The application has been supported by the following:

- Public Consultation Report
- Application Form
- Noise impact Assessment Report
- Transport Statement
- Travel Plan
- Landscape and Visual Appraisal
- Landscape Character and Designations
- Ecological Appraisal
- Flood Risk Assessment
- Aboricultural Impact Assessment
- Drainage Strategy
- Planning Statement
- Design and Access Statement
- Road Safety Audit Stage

1.7 An Illustrative layout/framework plan (see fig 3) has been produced which demonstrates how the proposal can be delivered on the site along with car parking, landscaping and associated infrastructure (suds). The application is also accompanied by a range of supporting material as detailed above. Albeit the masterplan below (figure 3) does include areas outside of the application red line boundary as detailed in figure 1.



**Figure 3 illustrative Masterplan of the Site**

- 1.8 As defined within The Town and Country Planning (Development Management Procedure) (England) Order 2015: “reserved matters” in relation to an outline planning permission, or an application for such permission, means any of the following matters in respect of which details have not been given in the application. For this application Access is being considered.

**Access:** In relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where “site” means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made;

The following matters are reserved for future consideration

**Appearance:** Means the aspects of a building or place within the development which determines the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;

**Landscaping:** In relation to a site or any part of a site for which outline planning permission has been granted or, as the case may be, in respect of which an application for such permission has been made, means the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes—

- (a) screening by fences, walls or other means;
- (b) the planting of trees, hedges, shrubs or grass;
- (c) the formation of banks, terraces or other earthworks;
- (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and
- (e) the provision of other amenity features;

**Layout:** Means the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;

**Scale:** Except in the term ‘identified scale’, means the height, width and length of each building proposed within the development in relation to its surroundings;

- 1.9 This application and the Southside project will be supported through the Government’s Stronger Towns’ Fund as it was part of Hereford’s successful bid for £22.4m to support 15 projects which all aim to create a greener, fairer city.

The Southside Project has been developed by three local partners:

- Belmont Wanderers FC
- Growing Local
- NMITE

## 2. Policies

### 2.1 Herefordshire Local Plan – Core Strategy

- SS1 - Presumption in favour of sustainable development
- SS4 - Movement and transportation
- SS6 - Environmental quality and local distinctiveness
- SS7 - Addressing climate change
- OS1 - Open Space
- MT1 - Traffic management, highway safety and promoting active travel

---

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

- LD1 - Landscape and townscape
- LD2 - Biodiversity and geodiversity
- LD3 - Green Infrastructure
- SC1 - Social and community facilities
- SD1 - Sustainable design and energy efficiency
- SD3 - Sustainable water management and water resources
- SD4 - Waste water treatment and river water quality

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

[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](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. This was completed in November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application.

## 2.2 Neighbourhood Development Plan

### **Callow and Haywood Neighbourhood Development Plan (Made 1 December 2016)**

- Policy CH1 Protect and Enhance Rural Landscape
- Policy CH2 Design and Access
- Policy CH4 Urban Fringe Sensitivity
- Policy CH8 Provision and Protection of Local Community Facilities

## 2.3 National Planning Policy Framework (2021) (NPPF)

- Chapter 2: Achieving sustainable development
- Chapter 4: Decision making
- Chapter 9: Promoting sustainable transport
- Chapter 11: Making effective use of land
- Chapter 12: Achieving well-designed places
- Chapter 14: Meeting the challenge of climate change, flooding and coastal change
- Chapter 15: Conserving and enhancing the natural environment
- Chapter 16: Conserving and enhancing the historic environment

## 3. Planning History

- 3.1 None relevant

## 4. Consultation Summary

### Statutory Consultations

#### 4.1 Sport England: Amended comments: July 2023: No objection

Many thanks for re-consulting Sport England on this application, and further to our recent meeting with the applicant, Sport England understands that the applicant has revised the application description to remove layout as a matter under consideration within the outline application, such that layout will now form a reserved matter, and that the submitted masterplan is to be treated as an illustrative plan.

---

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

We would reiterate our advice provided previously that Sport England are supportive of the proposal to develop the 3G AGP and associated facilities within the existing playing field. We commented previously:

As such, the principle of developing a 3G AGP at this site is accepted as being required to meet local needs. Sport England would therefore wish to see this given significant weight in the assessment of the application.

The broad location of the 3G AGP is acceptable, providing an appropriate configuration of grass pitches on the remainder of the site. The size and dimensions of the AGP does need to be clarified, as does the proposed technical specification of the AGP, including the overall dimensions including run-off areas, the provision of associated hard surfaced areas for goal storage and spectators, the proposed carpet pile length, shockpad specification, infill material containment and de-contamination zones, sports fencing design, proposed pitch line markings for various pitch sizes to be provided, sports lighting design etc. If these details cannot be provided at this stage, they will need to be conditioned. The size and dimensions of the AGP will have an impact on how it can be used for football and rugby. For instance, as shown on the masterplan, the AGP is likely to be suitable for senior rugby training activities and for some mini and junior rugby activities, but would be too small for use for senior rugby matchplay. In addition, the dimensions of the AGP will have a bearing on the options for overmarked football pitches.

There is also insufficient details in respect of the design of the communal building as no detailed floor plans have been provided at this stage. There will be a need to ensure that the changing rooms and associated facilities are designed in accordance with relevant guidance from Sport England and relevant NGB's. Also, the changing rooms will be required to service the AGP so it will be important to secure their implementation prior to the first use of the AGP to ensure they are available when needed.

A community use agreement will need to be secured to ensure that the proposed 3G pitch and ancillary pavilion facilities is made available for wider community use so that this benefits users wider than the host football club. Without this, we would be unable to agree to the 3G AGP under Exception E5 of our Playing Fields Policy. A suitable condition is recommended.

So, subject to the various conditions listed below to address these points, we consider that the proposed 3G AGP can be agreed under Exception E5 of our Playing Fields Policy and that the pavilion can be agreed under Exception E2. The car parking is agreed under both E2 and Exception E3.

Sport England's understanding is that with the amendments now made to the description of the development, the conditions recommended previously could now be agreed with the applicant and the LPA. I have adjusted the wording of conditions 1 and 2 to reflect the change made. These are on the basis that the layout of the site now needs to be agreed. As such we wish to raise no objection subject to the inclusion of the following conditions:

#### **Condition 1**

No development of the proposed 3G Artificial Grass Pitch (AGP) shall commence until full details of the siting, design and specification of the AGP have been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The submitted details shall include plans and information to show the proposed location of the AGP within the existing playing field (based upon the approved illustrative masterplan no \*\*\*) the overall AGP dimensions including run-off areas, proposed hard-surfaced areas for goal storage, spectator viewing/circulation, the proposed carpet pile length, shockpad specification, infill material containment and de-contamination zones, sports fencing design, proposed pitch line markings for various pitch sizes to be provided, and detailed sports

lighting design. The AGP shall not be constructed other than in accordance with the approved details.

Reason: To ensure the development is fit for purpose and sustainable and to accord with Development Plan Policy \*\*.

Informative : The submitted details should demonstrate that the AGP meets relevant design guidance from FA and RFU to meet relevant requirements for training and matchplay use (where relevant).

## **Condition 2**

No development shall commence until details of the siting, design and internal layout of the proposed communal building/pavilion have been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The communal building/pavilion and proposed additional car parking shall not be constructed other than in accordance with the approved details and shall be made available for use prior to the approved Artificial Grass Pitch (AGP) being first brought into use.

Reason: To ensure the development is fit for purpose and sustainable and to accord with Development Plan Policy \*\*.

## **Condition 3**

Use of the development shall not commence until:

(a) certification that the Artificial Grass Pitch hereby permitted has met FIFA Quality Concept for Football Turf – FIFA Quality or equivalent International Artificial Turf Standard (IMS) and

(b) confirmation that the facility has been registered on the Football Association's Register of Football Turf Pitches have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is fit for purpose and sustainable, provides sporting benefits and to accord with Development Plan Policy \*\*.

## **Condition 4**

Before the 3G AGP is brought into use, a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. This shall include proposed measures to ensure the replacement of the Artificial Grass Pitch when the surface needs to be replaced. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the 3G AGP.

Reason: To ensure that a new facility/ies is/are capable of being managed and maintained to deliver [a facility/facilities] which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport and to accord with Development Plan Policy \*\*.

## **Condition 5**

No development of the 3G AGP shall commence until a scheme setting out the type, design, lux levels and measures to control glare and overspill light from sports lighting, and measures to ensure sports lights are switched off when not in use, has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The scheme shall accord with [Sport England's "Outdoor Sports Lighting" Briefing Note published in 2012].

---

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

After commencement of use of the 3G AGP the sports lighting shall be operated in accordance with the approved scheme.

Reason: To balance illuminating the [playing field/sports facility] for maximum use and benefit to sport with the interest of amenity and sustainability and to accord with Development Plan Policy \*\*.

### **Condition 6**

The 3G AGP and its associated sports lighting shall not be used outside the hours of:

- a) [8 a.m.] and [10 p.m.] Monday to Friday;
- b) [8 a.m.] and [8 p.m.] on Saturday; and
- c) [8 a.m.] and [8 p.m.] on Sunday [and public holidays].

Reason: To balance illuminating the [playing field/sports facility] for maximum use and benefit to sport with the interest of amenity and sustainability and to accord with Development Plan Policy \*\*.

### **Condition 7**

Use of the 3G AGP shall not commence until a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to 3G AGP, associated communal building/pavilion and car parking and include details of pricing policy, hours of use, access by non-members, management responsibilities and a mechanism for review. The development shall not be used otherwise than in strict compliance with the approved agreement.

Reason: To secure well managed safe community access to the sports facility/facilities, to ensure sufficient benefit to the development of sport and to accord with Development Plan Policy \*\*.

Informative: Guidance on preparing Community Use Agreements is available from Sport England. <http://www.sportengland.org/planningapplications/> For artificial grass pitches it is recommended that you seek guidance from the Football Association/England Hockey/Rugby Football Union on pitch construction when determining the community use hours the artificial pitch can accommodate.

### **Conclusion**

Given the above assessment, Sport England does not wish to raise an objection to this application as it is considered to meet exceptions E2, E3 and E5 of the above policy. The absence of an objection is subject to the above condition(s) being attached to the decision notice should the Local Planning Authority be minded to approve the application:

Should the conditions recommended above not be imposed on any planning consent, Sport England would consider the proposal to not meet exception 5 of our playing fields policy, and we would therefore object to this application.

If you wish to amend the wording of the recommended condition(s), or use another mechanism in lieu of the condition(s), please discuss the details with the undersigned. Sport England does not object to amendments to conditions, provided they achieve the same outcome and we are involved in any amendments.



Sport England would also like to be notified of the outcome of the application through the receipt of a copy of the decision notice.

The absence of an objection to this application, in the context of the Town and Country Planning Act, cannot be taken as formal support or consent from Sport England or any National Governing Body of Sport to any related funding application, or as may be required by virtue of any pre-existing funding agreement.

Previous sport England's comments (March 2023) can be viewed via the link below: <https://myaccount.herefordshire.gov.uk/documents?id=8f6750bb-dd0b-11ed-9068-f1a77d314b00>

#### 4.2 **Network Rail: Comments: No objection**

Network Rail has no objection in principle to the above proposal but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission.

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3 months notice before works start. Initially the outside party should contact [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk).

#### FENCING

If not already in place, the Developer/applicant must provide at their expense a suitable trespass proof fence (of at least 1.8m in height) adjacent to Network Rail's boundary and make provision for its fixture maintenance and renewal without encroachment upon Network Rail land. Network

Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must also not be disturbed.

#### DRAINAGE

Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels — if altered, to be such that water flows away from the railway. Drainage does not show up on Buried service checks.

#### CHILDRENS PLAY AREAS/OPEN SPACES/AMENITIES

Children's play areas, open spaces and amenity areas must be protected by a secure fence along the boundary of one of the following kinds, concrete post and panel, iron railing, steel palisade or such other fence approved by the Local Planning Authority acting in consultation with the railway undertaker to a minimum height of 2 metres and the fence should be not able to be climbed.

#### LANDSCAPING

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary.

Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway.

Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fence. Lists of trees that are permitted and those that are not are provided below and these should be added to any tree planting conditions:

Permitted:

Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrus Communis*), Fir Trees - Pines (*Pinus*), Hawthorne (*Cretaeagus*), Mountain Ash - Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (Shrubby *Salix*), Thuja Plicatata "Zebrina"

Not Permitted:

Alder (*Alnus Glutinosa*), Aspen - Poplar (*Populus*), Beech (*Fagus Sylvatica*), Wild Cherry (*Prunus Avium*), Hornbeam (*Carpinus Betulus*), Small-leaved Lime (*Tilia Cordata*), Oak (*Quercus*), Willows (*Salix Willow*), Sycamore - Norway Maple (*Acer*), Horse Chestnut (*Aesculu Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), London Plane (*Platanus Hispanica*).

LIGHTING

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. A glint and glare study should be submitted as part of the reserved matters application.

**4.3 Welsh Water: Comments: No objection**

We can advise that Eign WwTW has a phosphate permit. This matter will need to be considered further by the local planning authority. We can confirm capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. We advise that a connection should be made at or downstream of chamber reference S049373646.

It seems the proposal is to utilise sustainable drainage to manage surface water on this site, Dwr Cymru Welsh Water have no objection to this however we would advise that the applicant seek advice from the Environment Agency and the Building Regulations Authority as both are responsible to regulate alternative methods of drainage.

POTABLE WATER SUPPLY

We anticipate this development will require the installation of a new single water connection to serve the new premises, we are currently unsure to whether our network can sufficiently supply the proposed development without causing detriment to existing customers' water supply. The provisions of Section 45 of the Water industry Act 1991 apply. We therefore rely on the Local Planning Authority to control the delivery of any required reinforcement works by way of planning condition at planning application stage.

Notwithstanding this, we would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes listed below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Conditions

No premise shall be occupied until a potable water scheme to serve the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall demonstrate that the existing water supply system can suitably accommodate the proposed

development. If necessary, a scheme to reinforce the existing public water supply system in order to accommodate the development shall be delivered prior to the occupation of any building. Thereafter, the agreed scheme shall be constructed in full and remain in perpetuity.

Reason: To ensure the development is served by a suitable potable water supply.

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.

Only foul water from the development site shall be allowed to discharge to the public sewerage system and this discharge shall be made at: or downstream of manhole reference number S049373646 as indicated on the extract of the Sewerage Network Plan attached to this decision notice. No building shall be occupied until it is served by the approved connection.

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

#### Advisory Notes

The proposed development site is crossed by public sewers with the approximate position being marked on the attached Statutory Public Sewer Record. The positions shall be accurately located, marked out on site before works commence and no operational development shall be carried out within a specified easement zone either side of the centreline of the public sewers. The applicant is advised to contact Welsh Water to discuss.

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 other 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](http://www.dwrcymru.com). The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011.

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.

In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements. The approved use should investigate an adequate grease trap to be fitted, in accordance with environmental health regulations, and maintained thereafter so as to prevent grease entering the public sewerage system.

## Internal Council Consultations

### 4.4 **Principal Natural Environment Officer (Landscape): Amended comments: No objection**

It is my understanding that proposed masterplan is illustrative, and that my comments are in relation to principle of the access only (with access details and other matters reserved).

In terms of landscape, there are no obvious impacts due to the access. There are trees within close proximity to the access, and these should be accessed in terms of possible harm to roots and health, with suitable mitigation put in place if needed.

No objection

#### **Previous comments: March 2023**

In principle the ambition to provide sport, recreation, leisure, community and local food production is supported in accordance with NPPF, chapter 8: Promoting healthy and safe communities, however I am not convinced the development achieves the details of inclusive and safe places in accordance with the policies, 92 b and c.

There does not seem to be an inclusive and safe pedestrian strategy. I see roads and a car park, but no footpaths to the building. I see a public building, but no appropriate pedestrian access from the local residential area (i.e. John Tarrant Close) that would serve users of the building. I see a path that cuts through or goes around the back of the communal building (awkwardly) and then goes to the community farm building, but then stops short of the building.

In terms of appearance and visual impacts, the buildings are exposed, light masts are introduced, and general lighting will impact dark skies contrary to Local Plan, Core Strategy policy LD1. This is not to say that with quality architectural design, and integrated landscape this could not be influenced. Lighting could be addressed with timing controls, and appropriate 'thin' engineered infrastructure, fittings and colour to reduce visual impacts.

There is evidence of some tree planting to the sports precinct that would account for some degree of compensation for soil sealing (hard surfacing of natural ground) in accordance with LD2 and LD3. However there are no trees associated with the community farm area, offering no mitigation to the exposed building and polytunnels viewed from a range of receptors.

It is not a holistically resolved masterplan, and missing the cohesive pedestrian orientated community spirit, a project of this nature should demonstrate.

I provide further detailed comments, and recommendations:

#### Sports Fields

##### Access

The access from the existing car park is within close proximity to an existing tree, and would require an arboricultural survey, and method statement as per BS5837:2012 'Trees in relation to design, demolition and construction – recommendations'.

Provide tree root protection zone (RPA) and mitigation proposals

The road crosses a pedestrian and cycle path, and would cause potential pedestrian safety conflicts.

Provide further details and a drawing to how conflict is avoided. The transport report discusses this interface, but in a general way. A drawing or detail would be beneficial to understand the proposal. Is there a change of material, tactile paving for the blind and

visually impaired, barriers, and signage etc.? What stops people driving onto the grass, or onto the pavement?

How to pedestrians get from John Tarrant Close to the Communal Building in an inclusive and safe way? In general the pedestrian circular needs to be reviewed.

Provide a pedestrian circulation strategy as part of the application.

#### Layout

In terms of the layout of the carpark and functionality, is this provision suitable for the realistic use of the Communal building (i.e. buses, drop-off and collect, turnaround and servicing). As it is drawn, it appears that pedestrians are required to walk along the road to get to the communal building. This is unacceptable, particularly as children and groups would be using the facility.

Provide information outlining the traffic and pedestrian circulation rationale.

The disabled car park, and service area is located in the best place (in my view) to observe both sports fields north-west/ south-east.

Confirm the building programme in relationship with its context and users.

The building is central to the precinct, but appears to put its back onto the existing playing field (flexible grass pitches) and therefore the building is not visually a centralised focus for people arriving from the north (The main access off Vernon Williams Close), and does not welcome or invite people to the building. This seems to be a missed architectural opportunity.

Provide an explanation of the building brief as an important communal building and enhancement to place making.

The attenuation pond is within close proximity to the car park and the pedestrian path. There are level differences and this does not seem to be taken into account. The main concern is safety between pedestrians and potentially water depths and edge conditions that could be unsafe.

Provide further detail of grading and levels, including sections. Is the pond ecological? Is the pond integrated as part of the park amenity with seating?

In general there is a lack of detail in relation to earthworks to form pitches and interfaces.

Provide further detail of grading and levels (cut and fill), with slopes and access.

#### Community Farm

##### Access

There does not appear to be vehicle service or emergency access to the building (that is to contain storage, kitchen and café).

Provide further information to explain servicing and emergency access to the building (and the precinct in general).

## Layout

The landscape and visual appraisal states there is a medium/ low sensitivity to change, and the nature of effect is negligible adverse impacts at completion and +15 years. This is difficult to ascertain as the buildings and polytunnels are exposed, and there is no mitigation of any sort within the red line boundary.

Confirm the foundation of the landscape and visual appraisal.

The layout is schematic, it would be useful to have an understanding of the look and feel and the atmosphere of the community farm and facilities. What is the vision of the picnic/ play area? What is an education garden?

Provide further detail.

How can the layout of the new gravel path to allow maintenance access to market gardens be defined (by a red line boundary), when the detail of the actual spaces/use surrounding the path has not been designed? The path comes to a dead end. Are maintenance type vehicles turning at this point? The pedestrian path joins directly onto this maintenance path how are pedestrians or cyclist able to negotiate this path as it turns into a maintenance track, when the perceived path of travel would be to connect onto the existing path.

- Provide further detail regarding the function and design of the external spaces and uses, including an understanding of pedestrian circulation.

### 4.5 **Principal Natural Environment Officer (Trees): no objection**

The drawings show arboreal constraints on this site are low. This is reinforced in the tree report, which describes that two trees will be affected by a new footway but this is likely to have little impact on the long term viability of either tree.

The recommended tree protection measures will ensure trees are suitably protected for the entirety of development.

No objection.

#### Condition.

Trees In accordance with plans

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan:

Bearwood Associates Ltd – BS5837:2012 Arboricultural Impact Assessment Oct 2022

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.

### 4.6 **Principal Building Conservation Officer: No objection**

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.

The proposal is for Proposed mixed use development to provide community hub with enhanced recreation facilities including a 3G pitch, car park and access roads, change of use of land from agricultural to allotments and productive gardens new buildings to provide changing facilities, classrooms, equipment storage, poly tunnels café and kitchen, at Ashley Farm Grafton Court Close.

There are no listed buildings on the site, however a number surround the site namely;  
UID 1196833 Grafton Lodge on Grafton Lane a mid C19th Villa  
UID 1280105 Grafton Bank on Grafton Lane a mid C19th Villa  
UID 1167443 Merryhill Farmhouse C18th farmhouse probably with earlier origins  
UID 1099674 Stables NW of Merryhill Farmhouse – now dwellings.

Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on decision makers to pay special regard to preserving listed buildings and their setting. This obligation does not prevent change from occurring but merely requires that change is properly informed and does not affect any special architectural or historic interest. This national legislation is repeated in Core Strategy Policy LD4 which seeks to protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance.

The application is made in outline with the detailed design of the building to be submitted at reserved matters stage, however it is noted that a single storey building was supported subject to details at pre-application stage. It is therefore assumed that the building will be single storey. Landscaping is also deferred for reserved matters stage.

The site is large comprising of 8.126ha with the northern area retaining 2 flexible grass pitches, and the existing car park. constructing a 3G pitch and 2 smaller pitches along with the communal building.

The existing tree cover that surrounds the site is to be retained, with some additional planting.

The south will provide a growing area , 4 polytunnels, and a small Store/Office/packing building.

The football pitches and building will be separated from UID 1196833 Grafton Lodge and UID 1280105 Grafton Bank by a line of trees to the SW of the site adjacent to the railway line, and both properties are in relatively large gardens with mature planting.

As such it is not considered that the proposal would harm the visual setting of these 2 buildings. I note that setting also includes less tangible elements such as noise, light and other pollution that contribute to the experience of a sense of place. However as these matters are to be considered by other more relevant regulators in respect of the dwellings in closer proximity to the proposal I shall defer consideration of these matters to the relevant consultees.

UID 1167443 Merryhill Farmhouse is on an elevated site which affords views over the countryside. There is limited existing planting between this listed building and the southern section of the site, with the northern area screened by the existing trees. It is noted that the proposed polytunnels have been located to the northern section of the site where there is some existing tree cover. As the proposal is to grow produce in the southern most part of the site, and noting the fields between the site and the listed Merryhill Farmhouse are a mixture of arable and pasture, it is not considered that the proposal would harm the visual setting of Merryhill Farmhouse.

UID 1099674 Stables NW of Merryhill Farmhouse are sited to the west of Merryhill Farmhouse, and is not readily viewed with the application site, as such it is not considered that the proposal would harm the visual setting of this group of buildings.

Noting the distance and screening between the development site and the nature of the proposal, I would raise no objections on the grounds of setting of listed buildings.

#### 4.7 **Team Leader Area Engineer: Updated comments: No objection**

Further to the local highway authority's (LHA) previous consultation response further information has been submitted to address the issues raised, including the provision of a Stage 1 Road Safety Audit. In response to the additional submissions the LHA has the following comments:

- It is noted that an assessment of available pedestrian routes to the site has been undertaken and this highlights that that most pedestrians would arrive at alternative access points to the Vernon Williams Close access. Therefore the proposed access arrangement from Vernon Williams Close is considered acceptable.
- A Stage 1 Road Safety Audit has been undertaken and no issues directly related to the safety of the scheme have been raised. Recommendations were made in relation to the design of the crossing of Shaw's Path so that it appeared to be more of a standard Zebra. The LHA note though that cyclists should dismount to use a Zebra crossing which isn't appropriate in this instance, therefore it is recommended that national guidance provided by LTN 1/20, TfL and the DfT is considered, alongside designs for the new style Zebra/Tiger crossings prior to the S278 being submitted.

To conclude, the LHA has no objection to the application subject to the below conditions.

Conditions: CAE, CAJ, CAP (crossing of Shaw's Path), CAR, CAT (including how interaction with Shaw's Path will be managed), CB2, CB3. A condition should also be included which requires the funding of a TRO if parking restrictions are found to be required on Vernon Williams Close following the opening of the site

#### **Previous comments May 2023**

The application is for a range of uses including a new 3G pitch, changing facilities, café, kitchen, classrooms and allotments/market garden served by two car parks, one where the existing car park is located and another to the south of the footway/cycleway known as Shaw's Path with disabled parking/delivery area provided adjacent to the building housing the changing rooms and café.

The site is ideally situated to be accessed by a range of non-car modes including walking, cycling and public transport with off-road cycle access available from the City Centre via the Great Western Way/National Cycle Network Route 46 and Shaw's Path. Travel to the site by sustainable modes is to be further promoted via a Travel Plan which will increase awareness of and encourage the use of travel by non-car modes or car sharing.

The Transport Statement submitted details of the likely attendance at various events, classes and groups that the site would support and a rationale for the proposed car parking numbers is provided. Whilst the Local Highway Authority (LHA) agree that in the main the number of parking spaces being proposed is adequate there may be times when careful management may be required, for example, when seasonal Growing Local weekend events occur, potentially at the same time as a tournament or match day. In the interests of not over-providing car parking, particularly if it is not required regularly every day/week, it is deemed appropriate for the users of the site to manage event timings to ensure such clashes do not occur. Considering this the LHA are accepting of the number of car parking spaces being proposed.



As mentioned during pre-app the LHA are concerned that if car parking should overspill onto the neighbouring streets or if existing on-street parking causes access issues then this could be addressed via a TRO to prevent on-street parking. This is not deemed necessary from the start but a period of time, for example, 12 months from opening, should be allowed to see how the site operates. However, it is necessary for some form of mechanism such as a condition to be attached to planning consent, should it be granted, to secure the funding of a TRO should it become necessary.

It is noted that the access from Vernon Williams Close is to allow two-way traffic by opening up the full width, whilst this is beneficial for vehicular traffic there isn't any provision for pedestrians. It is necessary to understand where the most popular pedestrian links to the site likely to be located to establish if this access point should be provided with some sort of pedestrian facility.

The main concern for the LHA is the crossing of Shaw's Path by the access road to the overflow car park and delivery area/disabled parking. A Stage 1 Road Safety Audit was requested during pre-app and it is stated in the Transport Statement that one will be provided during the course of the application, however, to date one has not been received. The LHA will need sight of the Audit prior to deciding on the acceptability of the crossing.

It is noted that give-way markings require vehicles to give-way to pedestrians/cyclists on the path, however, in our experience vehicles often do not observe this instruction and assume pedestrians/cyclists will wait for them. Interestingly, there are two examples very close to each other on the same stretch of cycleway (the Great Western Way) whereby one has a much higher rate of compliance than the other. The first is located at Aldi where the cycleway crosses the entrance to the car park and has give-way markings as proposed here as well as a raised table but it is poorly observed by cars. However, a different arrangement has been provided upon the entrance to the neighbouring Sainsbury's store car park whereby the crossing is in the form of a Zebra crossing and has a much higher rate of vehicles giving way to cyclists. Would it be possible for a similar arrangement (which complies with the necessary standards/regulations to enable cyclists to use it) to be looked at here and included as an option in the Safety Audit brief. Consideration should also be given to moving the path southwards so that it does not cross the access road so close to the northern car park because it is likely that vehicles will be pre-occupied with finding a space when exiting almost immediately onto the path and therefore may be distracted.

To conclude, in general the LHA is supportive of the proposals, however, a Stage 1 Road Safety Audit will need to be received before a recommendation of no objection can be considered.

#### 4.8 **Archaeology advisor comments: No objection.**

In view of the essentially negative results of the archaeological assessment and exploratory works on site, I have no objections or further requirements to advise.

#### 4.9 **Open Spaces Planning Officer: Amended comments No objection. July 2023**

Comments: Open Space

Amendments: It is understood that the applicant has revised the application description to remove layout as a matter under consideration within the outline application, such that the layout will now form a reserved matter and that the submitted masterplan is to be treated as illustrative plan.

Sports 3G and community hub: I have no further comments to make and I remain in support of the principal of the proposed community hub and 3G. Picking up my previous comments regarding the details for these facilities I can see that these have been considered by Sport

England in their response following a meeting they had with the applicant and the Case Officer. I was unable to attend the meeting.

I understand that based on the amendments now made to the description of the development that Sport England has provided recommendations accordingly on the basis that the layout of the site now needs to be agreed as conditions to meet with their exceptions E2, E3 and E5.

I support the conditions proposed by Sport England.

GI, SuDs, Car parking: I have no further comments to make and I remain in support of the principal of the proposal and associated GI to support people, place and nature. Picking up my previous comments in relation to details, it is understood that the proposed masterplan is illustrative only with all details reserved matters, and this should include the proposed picnic/play area and educational garden.

### **Previous comments April 2023**

**Relevant Policies:** In this instance the following national and local planning policies are relevant.

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

- Chapter 8: Promoting healthy and safe communities.

#### **Core Strategy (CS)**

- SC1: Social and Community Facilities:
- OS3: Loss of Open Space, Sport and Recreation Facilities.
- LD3: Green Infrastructure:

#### **Evidence Bases**

- Football Foundation: Local Football Facility Plan for Herefordshire (LFFP):
- Herefordshire Playing Pitch and Outdoor Sports(PPOS) Assessment September 2022
- Herefordshire Playing Pitch and Outdoor Sports(PPOS) Strategy and Action Plan Feb 2023

#### **Proposal**

This planning application is for "The Southside Project" which has 3 key elements and has been developed as part of the Herefordshire Council's programme of Towns-fund Projects. I have previously commented on at pre-application stages as follows:

Pre-applications:

- 21812 - Proposed community hub building 950 sq metres in size. Relates to 211796/CE
- 212797 - Addition of 4g pitch and improvement of parking on the facility
- 211796 Proposed community owned market garden, food and horticultural skills centre, café, farm shop and an educational garden.

The scheme is a collaborative proposal between the 3 end users: Growing Local, Belmont Wanderers FC and NMITE with the intention to support communities across the South of the city and provide better access to facilities which provide sports, leisure, education and health and well-being opportunities. This intention is supported by NPPF chapter 8 paragraphs 91, 92 and 96 and Core Strategy Policy SC1, which support development proposals that enhance existing community infrastructure where they are close to settlements and have considered the potential for co-location of facilities and are safely accessible.

The proposal is for a mixed used development comprising a community hub with enhanced recreation facilities including a 3G pitch, car park and access roads, change of use of land from agricultural to allotments and productive gardens, new building to provide changing facilities,

---

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

classrooms, equipment storage, café and kitchen. The community hub will be multi-functional, to accommodate the needs of the 3 partners.

The proposed site location forms two halves (north and south) bisected by an existing line of mature hedgerow and trees which will remain untouched.

My comments will deal with the northern and southern halves separately given the nature of the proposal.

**Northern site:** To the north the site consist of a large area of POS and recreation grounds with a mature belt of trees to the boundary. It provides amenity open space for the adjacent residential areas and ultimately links through to the Belmont country park to the NW of the site forming part of the wider Green Infrastructure (GI) in the area. The open grassed areas are used by Belmont Wanderers Football Club and provides for up to 5 pitches of different sizes across the space.

Loss of Open Space: NPPF Chapter 8 Paragraph 98: requires provision of what open space, sports and recreational opportunities are required in a local area to be based on robust assessments of need.

As shown on the masterplan for the site (drawing HA43595\_PL\_02\_L) the proposed community hub will be located in the northern side along with the 3G AGP requirements for Belmont Wanderers FC and the car-parking.

Both the community hub and 3G AGP will both involve the loss of Open Space which will impact on both land currently being used as grass playing pitches and the wider GI.

In accordance with Core Strategy policy OS3, in determining the appropriateness of proposals which result in the loss of open space, sports or recreation facility the principals of Core Strategy Policy OS3 need to be taken into account.

Community Hub: The proposed siting of the communal building sits on land that has been previously used to provide a mini football pitch, so there is some quantitative loss of playing field to accommodate this building. The proposed car parking is located on land incapable of forming a playing pitch.

In accordance with Core Strategy Policy OS3 the provision of a new community hub will need to demonstrate that:

- The loss of open space, sports or recreation facility is for the purpose of providing an ancillary development which improves the functioning, usability or viability of the open space, sport and recreation use, e.g. changing rooms, toilets and function uses.

The community hub will provide improved ancillary facilities for football. Both the PPOS and the LFFP recommend improved changing and ancillary facilities at Newton Farm and support facilities which can benefit the wider sporting and community offer. The current facility has been audited as “poor” in the PPOS.

On this basis the principal of the community hub is supported. Details of the building have not been submitted with this application. In order to be policy compliant the design of the changing rooms and associated facilities will need be in in accordance with relevant guidance from Sport England and relevant NGB’s and in particular Football Foundation technical standards.

Insufficient details have been provided to agree the layout and design of the communal pavilion building. A condition is recommended to secure these details, unless the applicant wishes to provide further design details at this stage.

3G AGP: The proposed siting of the 3G AGP will replace an existing area of grass playing field that is capable of accommodating a senior grass pitch.

In accordance with Core Strategy Policy OS3 the provision of the 3G AGP will need to demonstrate that:

- The loss of open space, sports or recreation facility results in equally beneficial replacement or enhanced existing facility for the local community

The provision of a 3G AGP at Newton Farm is supported in both the LFFP and in the PPOS.

In detail the PPOS reports for the Hereford Analysis Area which includes Hereford City that for football there is:

- Current Shortfall Provision:
  - 1 x 3G full size
  - Grass pitches: Adult x 5, Youth 11 v 11 x 3, Youth 9 v 9 x 1.5
- Current Spare Capacity
  - Grass pitches: Mini 5 v 5 x 1
- Future Shortfalls 2041
  - 1 x 3G full size
  - Grass pitches: Adult x 5.5, Youth 11 v 11 x 3.5 Youth 9 v 9 x 1.5
- Spare Capacity 2041
  - Grass pitches: Mini 5 v 5 x 1

Although there are shortfalls in grass pitches in the Hereford Analysis Area, the PPOS goes on to say that for the most part, they can be met by better utilising current provision, such as through improving quality, installing additional floodlighting, improving ancillary facilities and through pitch re-configuration (or re-designation), or through provision of suitable AGPs to accommodate more demand. With resources to improve the quality of grass pitches being limited, an increase in 3G provision could also help to reduce grass pitch shortfalls through the transfer of play, which in turn can aid pitch quality improvements. The shortfall of 3G pitches can only be met through increased provision.

It is important that the provision of any 3G pitch is compliant for football match-play to accommodate the demand from the loss of the grass football pitch. Belmont Wanderers have been consulted for the PPOSS to understand their future aspirations for growth and reported the potential for 5 additional teams across adult, youth and mini age groups. The proposal will allow the existing football club to develop.

Rugby Union The provision of a World Rugby (WR) compliant 3G pitches for rugby is supported in the PPOS. There are currently no WR compliant 3G AGP's in Herefordshire and there is an identified need for Hereford RFC and Greyhound RFC to access additional 3G AGP's for rugby training in the Hereford Analysis Area.

The PPOS 3G site options indicate that Newton Farm and Hereford Leisure Centre are both preferred sites to develop full size 3G pitches. Each has been confirmed through the PPOS process as suitable locations via consultation for accommodating both football and rugby union.

From a rugby union perspective, having the capacity to accommodate fixtures is of high importance to address issues at Hereford RFC, and Greyhound RFC. The propose 3G AGP at Newton Farm is conveniently located to both these clubs who would benefit from securing access to help meet their training needs.

In order to support local rugby union demand in the area for both the short and long term, the PPOS proposes that:

- opportunities for a 3G pitch compliant for WC22 match play are explored at Hereford Leisure Centre
- the 3G proposed at Newton Farm will be required for training only. In accordance with WR Law 1 this is not required to be WC22 compliant. Training sessions can therefore only be held on this facility.

3G AGP Provision: As such, the principle of developing a 3G AGP at this site is accepted as being required to meet local needs.

The broad location of the 3G AGP is acceptable, providing an appropriate configuration of grass pitches on the remainder of the site.

However, the size and dimensions of the AGP does need to be clarified, as does the proposed technical specification of the AGP. The size and dimensions of the AGP will have an impact on how it can be used for football and rugby union training.

Insufficient details have been provided to approve the layout and design of the AGP. A condition is recommended to secure these details, unless the applicant wishes to provide further design details at this stage.

SuDs pond and Car parking: It is noted that an attenuation pond is proposed within close proximity to the car park and the pedestrian path. There are level differences and this does not seem to be taken into account. The main concern is safety between pedestrians and potentially water depths and edge conditions that could be unsafe. Health and Safety issues of standing water need to be taken into account, particularly if the pond is to be integrated into the public open space. Further detail is requested showing appropriate gradients.

Future Management and Maintenance: I can see no details of any management or maintenance of the new facilities including the 3G AGP, community building and associated car-parking. A condition is recommended to secure these details, unless the applicant wishes to provide further design details at this stage.

Green Infrastructure: Although the proposal does include the loss of open space as described above, in accordance with CS Policy OS3 the loss is not seen to result in the fragmentation or isolation a site which is part of a GI corridor and network in this area of the city and the central hedgerow will be retained.

**Southern Site:** To the south the site is currently agricultural and will be utilised by the Growing Local project as shown on the masterplan for the site (drawing HA43595\_PL\_02\_L).

The intention is supported by NPPF Chapter 8 Paragraph 96 which acknowledges that access to a network of high quality open spaces for physical activity is important for the health and well-being of communities. This is supported by CS Policy LD3 which supports development proposals which enhance the existing GI networks, the development of the Growing Local Project to the south of the site will add social benefits to the GI in support of garden food production, education opportunities and improved health and well-being.

The proposal is located within close proximity to South Wye one of the most socially deprived areas in the county. It forms an extension to the existing GI network and will be accessible via existing walking and cycling networks. It will support healthier active lifestyles, help reduce inequalities and promote inclusivity and active travel. The council's Physical Activity Strategy - Active and Healthy Herefordshire March 2021 recognises that food can play a big part in the health of the county and one of the strategy's aims is to bring partners together to develop a local strategic approach to food, for example by encouraging more green space and allotment provision.

The principal of the Growing Local Project is supported. It is noted that a picnic/play area and educational garden are proposed. Further design details will need to be provided to approve these elements. A condition is recommended to secure these details, unless the applicant wishes to provide further design details at this stage.

#### 4.10 **Principal Natural Environment Officer (Ecology): May 2023 comments**

The site is within the hydrological catchment which comprises part of the River Wye Special Area of Conservation (SAC); habitats 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.

The LPA must complete a relevant Habitat Regulations Assessment process and have legal and scientific certainty that there are no adverse effects on the integrity of the designated site PRIOR to any grant of a planning consent. The LPA must as required submit any HRA appropriate assessment for formal consultation and approval by Natural England prior to any planning consent being granted.

The LPA requires all information to be beyond doubt and legally and scientifically certainty in order to complete the HRA process that must be completed with a precautionary approach.

##### **Notes in respect of HRA:**

The proposal for a mixed use development to provide community hub with enhanced recreation facilities including a 3G pitch, car park and access roads, change of use of land from agricultural to allotments and productive gardens and new buildings to provide changing facilities, classrooms, equipment storage, poly tunnels cafe and kitchen.

- There is a mains sewer connection available to this development to manage foul water flow.
- At this location the mains sewer system is managed through DCWW's Rotherwas (Hereford) Wastewater Treatment Works.
- The Rotherwas WWTW discharges in to the 'lower middle' section of the River Wye SAC.
- DCWW have not made any comments to indicate that a connection to their mains sewer system cannot be achieved.
- Natural England have not currently advised this LPA that this catchment area is failing its conservation status.
- The additional nutrient loading can be accommodated within the allowance currently secured through the Core Strategy.
  
- In relation to surface water management infiltration test results indicate that the site has insufficient levels of permeability to support soakaway SuDS components.
- Therefore, a positive discharge system with attenuation is proposed with the rates of discharge controlled to at or below greenfield rates.
- It is proposed that roof water from the proposed community hub building will be conveyed to a piped system discharging from the other SuDS components running to a flow-through attenuation basin located at a lower part of the site within the existing community open space.
- Runoff from other buildings and the polytunnels is intercepted for with overflows from any storage tanks discharging to stone filled trenches surrounding each structure to promote infiltration.
- Flows will be discharged either to a watercourse ditch located north east of the site or to an existing surface water sewer

The LPA has no reason to consider that the foul and surface water management schemes cannot be achieved at this location.

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

#### **Habitat Regulations (River 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 local mains sewer system managed by Welsh Water

*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.*

#### **Habitat Regulations (River Wye SAC) – Surface Water**

Unless otherwise approved in writing by the planning authority, all surface water shall discharge through a suitably designed SuDS scheme.

*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 SD3.*

#### **Additional ecology comments:**

The Preliminary Ecological Appraisal by Acer Ecology dated May 2022 is noted. It should be noted that further ecology surveys may be required in support of a final application submission as outlined in the PEA.

Much of the site is characterised by modified grassland with scattered trees and shrubs with existing pedestrian footpaths and sports pitches - the habitats are of very low ecological value with a low distinctiveness. Belmont Meadows LNR lies adjacent to the north-western boundary of the site which comprises grassland habitats with scattered scrub surrounded by Broad-leaved woodland.

The River Wye SAC/ SSSI lies 1.34km to the north of the site.

There are a number of Local Wildlife Sites within 0.5km of the site including Woodland South of Newton Farm which is located within the site boundary. This is a narrow woodland with oak standards with bramble and bluebells underneath and has high ecological value at the county level and is currently proposed for removal. However, the loss of this habitat will be compensated through a detailed landscape design which will aim to achieve 10% biodiversity net gain in line with NPPF. The proposed works are considered to have little impact on the long term viability of retained trees on site.

The site is of high quality for foraging and commuting bats while a number of trees were recorded as having roosting potential for bats. If any of these trees are to be removed a bat assessment will be required to support a full application. If bats are found utilising the above trees, survey effort may need to be increased to gain an understanding of the bat roost present, and to provide enough information for a Natural England (NE) European Protected Species (EPS) Development Licence.

While no signs of dormice were recorded on site, although a targeted survey for this species was not undertaken. The hedgerows on site are heavily managed and regularly flailed and as such are unlikely to provide an adequate fruit or flower food source but would provide a commuting corridor and sub-optimal shelter and nesting habitat. If any hedgerow or woodland is to be removed a nest tube and nest box survey should be undertaken in order to determine the presence/ likely absence of dormice on site.

The majority of habitats on site were assessed as being generally unsuitable for great crested newts, although it is considered that woodland and hedgerow habitats on site are highly suitable for resting terrestrial phase GCN during both the active and hibernation seasons. There are two ponds within 500m of the site, although these were not assessed for GCN. Generally, the potential for impacts upon GCN is considered to be low, although the PEA recommends that reasonable avoidance measures should be adopted.

### **Biodiversity Net Gain**

Prior to any construction a detailed specification and location plan for 'hard' habitat enhancement features including provision of bat roosting features (such as bat boxes or bricks), bird nesting boxes (mixed types) and provision of hedgehog homes and hedgehog highways through any impermeable boundary features shall be approved in writing by the planning authority. The approved scheme shall be implemented in full prior to any occupation of approved dwellings and be hereafter maintained 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 Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council's declared Climate Change & Ecological Emergency.*

The site is in an area with an intrinsically dark landscape that benefits local amenity and nature conservation interests, including nocturnal protected species commuting/foraging in wider locality. A condition to ensure all local nature conservation interests are not impacted and external lighting is kept to the essential minimum for householder safety and any systems installed compliant with current best practice is requested:

### **Protected Species and Dark Skies (external illumination)**

No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.

*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; ; and the council's declared Climate Change and Ecological Emergency Construction Environmental Management Plan*

### **Construction Environmental Management Plan (CEMP)**

Before any work; including site clearance or demolition begin or equipment and materials are moved on to site, a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and a specified 'responsible person', shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.

---

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



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.*

**4.11 Environmental Health Service Manager (Noise / Nuisance): Updated comments July 2023: No objection.**

These comments are regarding the re-consultation of this application, which removes the layout as a matter under consideration. Therefore the proposed masterplan is now taken as purely illustrative. My concern remains with the sports facilities. In my previous comments dated 8th May 2023, I discussed the noise impact assessment report which had been submitted and the essential need for the proposed mitigation to be installed. If the sports facilities proposed location changes from the position on the illustrative masterplan, a new/revised noise assessment will be required, along with any details of proposed mitigation.

Once again, our preferred location for the 3G pitch would be on the part of the site furthest away from residential properties i.e. where the community garden is shown on the illustrative masterplan. The applicant will also need to provide a noise management plan, as outlined in my previous comments.

Also as stated previously, lighting scheme conditions have been put forward by Sport England and I suggest that these are included in any permissions granted to avoid a nuisance being caused to local residents. Reason: In order to protect the amenity of local residents so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy and the National Planning Policy Framework.

**Previous comments: May 2023**

I have reviewed the application and also comments made in the various pre-apps by my colleague, Susannah Burrage. My comments concern the sports facilities. I do not have any concerns with the other areas of the proposal.

**Noise:**

I still have some concerns regarding the potential for noise nuisance that might arise from the new all-weather sports pitch. I agree with Susannah's assessment that it would be preferable that the all-weather pitch be re-sited to where the community gardens are proposed to be located. However, I note that this has not been put forward in this outline application.

A noise impact assessment report has been provided with this application. The report has been written by acoustic consultants, NoiseAir. The assessment takes into account the specific acoustic guidance produced by Sport England in relation to artificial grass pitches, which includes the WHO Guidelines on Community Noise, and also takes into account the cumulative noise impact of the proposals. The assessment concludes that whilst the proposal is within the recommended noise tolerances, the levels are likely to exceed residual levels at some areas surrounding the site. Furthermore, the use of the 3G pitch may create additional noise issues from the nature of its extended usage and therefore a noise barrier around the 3G pitch perimeter is suggested. Given that many local authorities' experience noise and nuisance complaints in relation to these pitches, I would consider the proposed mitigation as essential to any permissions are granted.

I would therefore suggest the following condition is added to any permissions granted:

A noise barrier to be erected around the 3G pitch perimeter as outlined in and in accordance with Noise Impact Assessment Report reference P5446-R1-V1 dated 16th June 2022, produced by NoiseAir.

The applicant has not provided a Noise Management Plan. Good management of this site will be important in controlling noise and nuisance to nearby residents and should cover all potential noise sources. Therefore, I suggest the following condition be added:

Prior to first commencement of any use hereby permitted, a noise management plan shall be submitted to, and approved in writing by the Local Planning Authority.

The noise management plan should address the following points as a minimum:

- statement of intent
- a brief summary of the premises / site / activities
- a location / site plan
- an inventory of potential noise sources, including noise from voices
- detail of noise controls and limits (e.g. site rules)
- site noise monitoring and / or evaluation
- responding to complaints (including actions to be undertaken and recorded)
- management command, communication, and contact details
- periodic NMP review

The noise impact assessment report does not cover any external fixed plant or equipment in the proposal and therefore I suggest the following condition is added to any permissions granted:

A BS4142:2014 assessment (methods for rating and assessing industrial and commercial sound) to be carried out and provided to the local planning authority in relation to any external fixed plant or equipment, prior to any installation.

#### **Lighting:**

I note that several lighting conditions in relation to lighting design, submission of a lighting scheme along with hours of use, have already been proposed by Sport England and I further recommend the inclusion of these conditions to any permissions granted.

#### **4.12 Land Drainage: Updated comments: No objection**

A revised surface water drainage strategy which takes into account the points made in the below email has not been provided. Within the rebuttal email from the Agent (dated 26th May 2023), several options are discussed, and reference is made to numerous flow controls within the system.

The concerns raised regarding an offsite surface water discharge to a watercourse/ditch due to increased flood risk to the area should be accounted for with the provision of attenuation and a restricted discharge rate in order to mimic the greenfield run-off rate.

We would also like to note that recent infiltration testing undertaken at 0.8mBGL on a nearby development site proved viable ground conditions to support a surface water discharge to ground.

A statement has been made within the rebuttal email whereby conventional foul water drainage infrastructure with an indirect foul water discharge to the public sewerage network could be provided. Welsh Water have confirmed that the additional foul flows associated with the proposed development can be accommodated within the public sewer network.

Although we require more clarity on the final surface water and foul water drainage arrangements, prior to planning being granted, if this is not viable due to time constraints, appropriate pre commencement drainage conditions can be applied to ensure that an acceptable surface water and foul water drainage system is established. Due to the point made above regarding nearby acceptable shallow infiltration test results, we would also look to condition further shallower infiltration testing to be undertaken onsite to explore the option of an infiltration basin.

#### **Previous comments: March 2023**

---

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

Having reviewed the submitted information, we note proposals for an attenuation basin with a controlled discharge to the Welsh Water surface water sewer. We appreciate that Welsh Water have not yet responded to the offsite discharge proposed to their sewer, however from past experience Welsh Water may not accept this proposed connection.

If there is another offsite surface water discharge point from the development, such as a watercourse which we believe may be indicated in the Drainage Strategy, we advise the Applicant/Agent to proceed with this option.

We note that attenuation is proposed in the form of permeable paving beneath the 3G pitch and the car parking area, however the surface water should be directed to the larger attenuation feature (attenuation basin). Also, it must be noted that a single flow control should be provided for the whole site, within the surface water drainage system prior to the outfall from the attenuation basin. We will not accept numerous small flow controls throughout the network as it will likely result in blockage.

A compost toilet is also proposed for the community garden area of the site. However, we do not accept compost toilets, particularly in this case given the size and likely frequent use of the site. We ask that a conventional treatment and discharge method is implemented for this area of the site.

#### 4.13 **Public Rights of Way Manager comments: updated comments: No objection**

There are no rights of way within the site. There is a Prohibition of Driving Order on byway GF7 and HA14, so these cannot be used by vehicles to access the site.

## 5. **Representations**

### 5.1 Callow Parish Council:

The Parish Council Support the application in principle, however the PC have the following concerns which they ask are taken into account. The Byway open to all traffic (BOAT) The traffic coming into the development via the main access point at Vernon Williams Close Newton Farm must not be able to access , connect or link in anyway with Grafton Lane or Merryhill Lane, whether across the site itself, via the existing BOAT, or in any other way.

The reason for this is that Grafton Lane is already adversely affected by unsuitable through traffic and that connecting the two ends of the site would almost certainly significantly increase traffic on Grafton Lane. We would appreciate it if the Parish Council's concerns and views are conveyed to PROW so that they are aware of them when making their decision concerning the boat access.

### 5.2 Representation received from 13 local residents (7 support & 5 object and 1 general comment)

#### **Objections:** main areas of concerns:

- Surface water flooding which already exists. Will be further exacerbated
- Local properties at a lower level greater risk of flooding
- New drainage infrastructure?
- Parking area for 50 new cars currently park on field when a tournament (against Council's own policy).
- Car parking on the green area will lead to further surface water run off
- Not sure why this money is being spent at this site/area. Other sites have not received any funding/support
- Hedgerows to be removed
- What will the building be constructed off?
- Noise and air pollution from extra vehicles

- Floodlights from sports pitches
- Loss of walking routes and pedestrians having to give way to vehicles
- Attraction of undesirable people
- An eyesore
- Financial cost not viable at this time
- Site is currently well maintained. Application could hinder the appearance of the area and increase traffic, increase litter, noise and general industrialising the area that is currently a beautiful spot for people to enjoy, walking their dogs, playing football and having picnics
- Wrong site for allotments
- The South of the city has been developed enough in terms of offering community hubs, green spaces and playing fields, don't remove our current green spaces to build a cafe.
- Reversible establishment of soccer as the sole sport apparently to be played on the Belmont recreation fields.
- Put a permanent AstroTurf pitch in the position suggested will for example prevent cricket from ever being played on this field again.
- My main concern is the dearth of TENNIS facilities in Hereford, and that the Planners will allow this opportunity to pass without remedying this shortfall.
- Hereford, a county town, has no flagship tennis centre and no publicly provided facility where the general public can book a tennis court. Equally pathetic is how Hereford has no indoor tennis facility and no prospect it seems of having any.
- Mixed sports provision at Belmont,
- Protection of Merryhill Lane (and the route 46 cycle way) is important – it cannot be allowed to become a vehicular access to the allotments planned in this project.
- The Eastern area, nearest the existing housing, will be altered irrevocably for the worse.
- The grassed areas will be reduced through the building of the community centre, and further reduced by the roads necessary for access to the centre, the market garden area and new parking provision. Allowing vehicles to access the areas used by large numbers of pedestrians, some of whom are elderly, is highly questionable on safety and environmental grounds.
- The vehicle access point is from Vernon Williams Close, a short and narrow cul de sac which exists to service the local residents and no more.
- Any increase in traffic will severely and adversely impact on immediate residents more frequently than at present.
- Removal of one if not two wooded areas within the proposed development, with the obvious consequences for flora and fauna, which may also affect the perimeters. This at a time when the creation of grassed and open spaces is being encouraged by the Council
- Apart from the road needed the area to the West, designated for the market garden and associated horticulture activities, is currently a meadow, which does not raise so many problems

#### **Support:**

- Exciting and important project. A worthy cause
- Only a few of its kind in the whole country/innovative project
- Benefits of the Growing Local part of the project will be far reaching and include all age groups. Hugely valuable for local community
- Educating people of all ages on good nutrition for themselves and their families - cooking, growing
- new building will provide the means to teach children and adults these essential healthy lifestyle choices.
- Opportunity to volunteer
- Partnership working - environmental, health, educational and community cohesion.
- Value for money contracts will still need to be managed well to ensure genuine community outcomes.
- Positive effect on community wellbeing/improvement in personal positivity

---

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

- Community activity has health benefits

### 5.3 Hereford and Worcester Fire and Rescue Service

With regard to the attached planning application, Hereford & Worcester Fire Rescue Service (HWFRS) Fire Safety Department would make the following comments:

If the proposed new building will be subject to Building Regulations approval, then the Fire Service will be consulted by either Local Authority or Approved Inspector Building Control bodies accordingly, for their comments on Building Regulations requirements and matters to be addressed, under the Fire Safety Order (2005), once the building is occupied.

Fire Service Vehicle access must comply with the requirements of ADB 2019 Vol. 2 B5, section 15 & Table 15.1. In particular – there should be Fire Service vehicle access for a Fire Appliance to:

- 15% of the perimeter of the building, OR
- Within 45 metres of every point of the footprint of the building.
- Access road must be in accordance with ADB 2019 Vol. 1 Table 15.2.

Water for firefighting purposes should be provided in accordance with: ADB 2019 Vol. 2 B5, section 16.

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=223281&search-term=223281](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=223281&search-term=223281)

Internet access is available:

<https://www.herefordshire.gov.uk/community-1/public-access-computers-wifi-map>

## 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 and the ‘made’ Callow and Haywood Neighbourhood Development Plan (NDP). The National Planning Policy Framework 2021 is a significant material consideration but does not hold the statutory presumption of a development plan. Only the southern part of the site falls within the Neighbourhood Development Plan area is the Callow and Haywood Group Neighbourhood Development Plan. The majority of the site falls within the Hereford City area which has not progressed a NDP.

- 6.3 Policy SC1 supports development proposals that enhance existing social and community infrastructure. NPPF paragraph 120 states that planning decisions should recognise that some undeveloped land can perform many functions including recreation. NPPF paragraph 99 states that existing sports land should not be built on unless, amongst other scenarios, the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use. NPPF paragraph 93 seeks to provide social and recreational facilities the community needs, to improve the health, social and cultural wellbeing for all sections of the community. The proposal is supported by NPPF chapter 8 paragraphs 91,

---

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

92 and 96 and CS Policy SC1, which support development proposals that enhance existing community infrastructure where they are close to settlements and have considered the potential for co-location of facilities and are safely accessible.

- 6.4 There is clear local and national planning policy support for the proposed facility. The facility, co-locating with other well-established sporting and recreational facilities, will enhance local community infrastructure, giving direct effect to Core Strategy Policy SC1 as well as an effective and efficient use of land, consistent with the NPPF. The proposal represents an alternative sports and recreational option, broadening the local recreational offering. The applicant has demonstrated that the facility can be accommodated via the masterplan. The proposal represents a significant social benefit for the local community. As indicated in the supporting representations, the facility will substantially improve the health and social wellbeing of many. The impact on existing facilities are minimal, essentially limited to the loss of the football pitches, and this is outweighed by the health and social wellbeing benefits associated with the enhanced opportunities for the 3G pitch, compliant with NPPF paragraph 99(c).
- 6.5 Sport England are a key statutory consultee. Following initial concerns raised, the applicant met with Sport England and agreed to remove 'layout' from the proposal. Sport England has subsequently retracted its original objection, subject to a suite of conditions.
- 6.6 A range of Core Strategy policies, referred to in section 2 above are considered to be relevant. The strategic Policy SS1 sets out a presumption in favour of sustainable development, reflective of the positive presumption enshrined in the NPPF. SS1 confirms that proposals that accord with the policies of the Core Strategy (and, where relevant other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.
- 6.7 It is therefore appropriate to consider the sustainability of the sites location and its relationship with the city. The site lies immediately adjacent to the existing edge of the built form of the city, close to Newton Farm and built environs of Hereford City as a whole; albeit it is noted that the railway line does act as barrier. In locational terms and in terms of sustainability, Officers are content that the sites location, spatially, is one that is acceptable.
- 6.8 However, the site location forms only on part of the assessment as to whether the proposed development represents 'sustainable development' which is central to planning's remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life.
- 6.9. Paragraph 130 outlines that planning decisions should ensure that developments:
- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
  - Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime

and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

#### Decision making and key issues

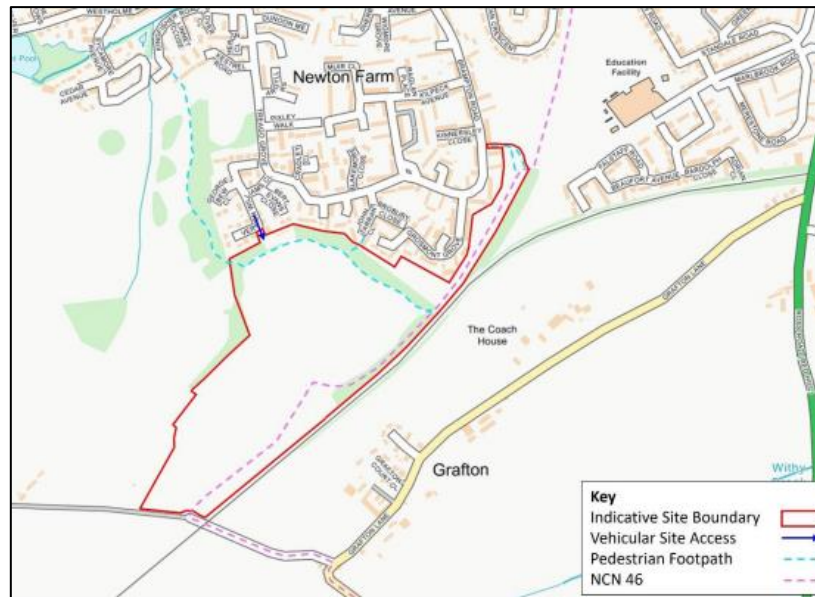
- 6.10 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.11 The report therefore considers the following key issues and their associated policies:
- Highways and Access
  - Public Rights of Way
  - Flooding and Drainage
  - Ecology, Biodiversity/HRA
  - Heritage Assets
  - Landscape Character and Appearance
  - Design and Amenity
- 6.12 This is an application in outline form; it therefore only seeks to establish the principle of the development and the access thereto. Access as set out in the NPPG, means: the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
- 6.13. Whilst 'layout', is a reserved matter, the site can readily accommodate an appropriate layout. Layout means - the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.
- 6.14 With this in mind, the application is to be considered against its compliance with policy in respect of the principle of the development and the matter of access.
- 6.15 Whilst spatially, the sites location is one that is considered to be acceptable, the development of the site must be considered having regard to the other policies of the Core Strategy, and the NPPF taking into account any material considerations as appropriate.

#### Highways and Access

- 6.16 As defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 'Access' means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
- 6.17 Core Strategy policy MT1 of the Herefordshire Local Plan, requires development proposals to demonstrate that the strategic and local highway networks can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce or mitigate any adverse impact from the development. Developments should also ensure that proposals are designed and laid to achieve safe entrance and exit, have appropriate Operational and manoeuvring space. NPPF Policies require development proposals to give genuine choice as regards movement. Core Strategy policy SS4 requires developments to minimise the impacts on the transport network.

- 6.18 NPPF 105 requires Local Planning Authorities to facilitate the use of sustainable modes of transport and paragraph 110 refers to the need to ensure developments generating significant amount of movements should take into account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken on the transport network or on highway safety can be mitigated. Development should only be prevented or refused on transport grounds where the 'residual cumulative impacts of development are severe.' (NPPF para 111).
- 6.19 The application and the matter of Access is not reserved for future consideration. As such, full details of the proposed access are to be assessed as part of this application. Internal access arrangements are not under consideration within this application and this would be fully assessed at reserved matters stage as part of 'layout'. However, the submitted illustrative plan demonstrates how the site can be delivered.
- 6.20 The application submission included a Transport Statement and Travel plan (link: <https://myaccount.herefordshire.gov.uk/documents?id=fc0baad0-b9c8-11ed-9068-005056ab11cd>). Also following initial comments from the Highway Engineer a Road Safety Audit was submitted.
- 6.21 It is recognised that the site is well connected to both existing walking and cycle routes. A long distance cycle path connects the site with the city centre utilising a former railway line. The existing field access lane off Grafton Lane is a Byway Open to All Traffic (BOAT). It is acknowledged within the supporting submission that this existing access is retained for the purposes of maintaining the land only with the principal access points either by the existing cycle and footpath network or via Vernon Williams Close. As identified by the Highway Engineer in their comments the site is ideally situated to be accessed by a range of non-car modes including walking, cycling and public transport as well as travel to the site by sustainable modes to be further promoted via a Travel Plan which will increase awareness of and encourage the use of travel by non-car modes or car sharing.
- 6.22 The Highways Engineer does not object to the scheme, noting the quantum of parking available is adequate although there may be times when careful management may be required, for example, when seasonal Growing Local weekend events occur, potentially at the same time as a tournament or match day. It is deemed appropriate for the users of the site to manage event timings to ensure such clashes do not occur. It is noted that the access from Vernon Williams Close is to allow two-way traffic by opening up the full width, and although this is considered beneficial for vehicular traffic no provision had been provided for pedestrians. A further assessment of available pedestrian routes to the site was undertaken and submitted and this highlights that that majority of pedestrians would arrive at alternative access points to the Vernon Williams Close access. Therefore the proposed access arrangement from Vernon Williams Close is considered acceptable.
- 6.23 Following the submission of the Stage 1 Road Safety Audit, no issues directly related to the safety of the scheme have been raised. Albeit recommendations were made in relation to the design of the crossing of Shaw's Path and this will be secured via a condition securing section 278 works.





**Fig 4: existing accessible infrastructure and routes on site (as detailed within the Transport statement submitted)**

- 6.24 As highlighted above the Transportation Manager have raised no objection and are content that the submitted arrangement is suitable to issue Outline Planning Permission subject to appropriately conditions. They are content that the local highway network can absorb the additional traffic generated without compromising the safe operation of the network. A number of conditions have been suggested below that will manage construction traffic. It is therefore considered that the proposal would provide a safe and suitable vehicular access in accordance with Core Strategy policy MT1 and the requirements of para 110 of the NPPF.

#### Public Rights of Way

- 6.25 The application site is surrounded by public footpaths and the proposal does not impact directly on any PROW and it is noted that the Public Rights of Way manager has not objected to the proposal.

#### Flooding and Drainage

- 6.26 The Council's Land Drainage Team (Local Lead Flood Authority) has been consulted on the application as have Welsh Water. A Flood Risk Assessment (FRA) and Drainage Strategy has been submitted to accompany this planning application. Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.27 The application site falls entirely within Flood Zone 1, which is classified as low probability of flooding. The application is has been reviewed by Council's drainage consultant and Welsh Water. Neither consultee raise an objection to the scheme. It is noted that a revised surface

water drainage strategy has not been provided albeit several options have been provided within a further submission of detail and reference is made to numerous flow controls within the system. Also a statement has been made within submission in regards to foul water drainage with indirect foul water discharge to the public sewerage network could be provided. Welsh Water have confirmed that the additional foul flows associated with the proposed development can be accommodated within the public sewer network. It is noted that the Council's drainage consultant still require more clarity on the final surface water and foul water drainage arrangements this can be addressed by planning condition to ensure full compliance with core strategy Policy SD3 and SD4.

#### Water Supply

- 6.28 It is noted that Welsh Water have stated that the proposal will require the installation of a new single water connection and they have advised that they are unsure to whether the network can sufficiently supply the proposed development without causing detriment to existing customers' water supply. They have advised a planning condition is added to this regard.

#### Ecology and Biodiversity

- 6.29 Policy LD2 of the Core Strategy seeks the conservation, restoration and enhancement of biodiversity and geodiversity assets. As such, development will not be permitted where it has the potential to harm these assets or reduce the effectiveness of the ecological network of sites. The introduction, restoration and enhancement of biodiversity and geodiversity features will be actively encouraged.
- 6.30 The application is supported by an Ecological Appraisal Report by Acer Ecology dated May 2022. The Council's Ecologist has been consulted and considers the submitted ecology report which includes appropriate surveys is relevant and appropriate albeit has noted that further ecology surveys may be required. As identified within the ecology comments a large part of the site is characterised by modified grassland with scattered trees and shrubs with existing pedestrian footpaths and sports pitches and as such the habitats are of very low ecological value with a low distinctiveness. Also it is noted that the proposed works are considered to have little impact on the long term viability of retained trees on site. However, the site is of high quality for foraging and commuting bats while a number of trees were recorded as having roosting potential for bats. Subject to the conditions which have been suggested by the Council's Ecologist the proposed development is considered to comply with the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981.), National Planning Policy Framework (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3.

#### Habitats Regulations Assessment (HRA)

- 6.31 The application site is within the catchment of the River Wye which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the River Wye Site of Scientific Interest (SSSI). As a site located within the catchment of the River Wye SAC, there the requirement for an assessment under the Habitat Regulations is triggered. That assessment must satisfy beyond all reasonable scientific doubt that there would not be an adverse effect on the integrity of the River Wye. The HRA screening and appropriate assessment was completed by the Local Planning Authority and this identified 'No likely significant effects' and no Appropriate Assessment required and planning permission can be legally granted. A consultation with NE is not required where a proposal is 'screened out'

## Heritage Assets

- 6.32 When considering the impact of a development proposal upon the setting of a heritage assets, there are several stages. Firstly identifying those assets which may be affected and their significance. Then those aspects of their setting which contribute to the significance are identified and lastly the impact of the development upon this significance is considered. It should be noted that a view to or from a heritage asset does not necessarily mean that a site is within that assets setting, this depends upon whether that view contributes to the significance of the asset. Also a site can be within the setting of a heritage asset without their being a direct view under certain circumstances. The fundamental principle is whether or not a development affects the significance of a heritage asset, including those aspects of its setting which contribute to its significance.
- 6.33 The proposed development site does not lie within a Conservation Area and there are no listed building within or abutting the site albeit there are a number surround the site namely:
- UID 1196833 Grafton Lodge on Grafton Lane a mid C19th Villa
  - UID 1280105 Grafton Bank on Grafton Lane a mid C19th Villa
  - UID 1167443 Merryhill Farmhouse C18th farmhouse probably with earlier origins
  - UID 1099674 Stables NW of Merryhill Farmhouse – now dwellings.
- 6.34 Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the local planning authority is required, when considering development which affects a listed building or its setting:
- “to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”*
- 6.35 It follows that the duties in section 66 do not allow a local planning authority to treat the desirability of preserving the setting of listed buildings merely as material considerations to which it can simply attach such weight as it sees fit. When an authority finds that a proposed development would harm the setting of a listed building, it must give that harm “considerable importance and weight”. Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.
- 6.36 The NPPF offers further guidance about heritage assets, recognising that they are irreplaceable resources that should be conserved; ‘...in a manner appropriate to their significance.’
- 6.37 Paragraphs 194 to 198 offer particular clarity about the assessment to be made of the significance of heritage assets. Paragraph 190 outlines three criteria to be taken account of in the determination of planning applications. These are as follows:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.38 While Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into

the planning balance. 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.

- 6.39 Policy LD4 'Historic environment and heritage assets', requires, inter alia, that development affecting heritage assets and the wider historic environment should preserve or where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design. In this case the site has no direct effect on any designated or non-designated heritage assets.
- 6.40 As identified by Historic Buildings Officer the proposed football pitches and building will be separated from Grafton Lodge and Grafton Bank by a line of trees to the SW of the site adjacent to the railway line, and both properties are in relatively large gardens with mature planting. As such it is not considered that the proposal would harm the visual setting of these 2 buildings. In regards to Merryhill Farmhouse this is on an elevated site it is noted that the proposed polytunnels have been located to the northern section of the site where there is some existing tree cover. As the proposal is to grow produce in the southernmost part of the site, and noting the fields between the site and the listed Merryhill Farmhouse are a mixture of arable and pasture, it is not considered that the proposal would harm the visual setting of Merryhill Farmhouse. The Stables NW of Merryhill Farmhouse are sited to the west of Merryhill Farmhouse, and is not readily viewed with the application site, as such it is not considered that the proposal would harm the visual setting of this group of buildings. It is acknowledged that the Historic Buildings officer has not raised an objection on heritage grounds
- 6.41 In regards to issues relating to archaeology it noted that the Council's Archaeological advisors have confirmed no objection due to the negative results of the archaeological assessment and exploratory works on site, Having considered the merits of this scheme, it is officer's opinion that the proposed development is unlikely to cause harm to any heritage assets or their setting. As such officers are able to confirm that the proposals would comply with the requirements of policy LD4 of the Herefordshire Local Plan – Core Strategy, and with the guidance set out in the National Planning Policy Framework (Chapter 16).

#### Landscape Character and Appearance

- 6.42 Policy LD1 in the Core Strategy seeks to ensure development proposals demonstrate how the character of the landscape and townscape has positively influenced the design, scale, and nature and site selection of the proposal. Development should be integrated appropriately through the use of landscape schemes and their management. This policy also states that development should make a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design.
- 6.43 Green infrastructure is also covered by Policy LD3, which requires development proposals to protect, manage and plan for the preservation of existing and delivery of new green infrastructure; and to protect valued landscapes, trees and hedgerows. Proposals will be supported where the provision of green infrastructure enhances the network and integrates with, and connects to the surrounding green infrastructure network.
- 6.44 Policies SS2 and SD1 seek to ensure that proposals make efficient use of land taking into account the local context and site characteristics. Whilst layout is a matter for future consideration, the illustrative plan submitted with the application seeks to demonstrate that the proposal is acceptable.
- 6.45 Policy CH1 in the NDP specifically identifies measures to protect and enhance the rural landscape.
- 6.46 The site comprises of an existing greenfield site but has no national landscape designations assigned to it. Core Strategy policy SS6 states that development proposals should be shaped

through an integrated approach to planning certain listed environmental components from the outset. This needs to be based upon sufficient information to determine the effect upon each of these. Of these the following are considered relevant: landscape, townscape and local distinctiveness, biodiversity and geodiversity especially Special Areas of Conservation and Sites of Special Scientific Interest the network of green infrastructure; local amenity, including light pollution, air quality and tranquillity, agricultural and food productivity.

- 6.47 'Landscaping' is a matter reserved for future consideration but it is necessary to consider the impact of the development on the landscape character. It is noted the site is not covered by any designations relating to character or quality.
- 6.48 The application site includes an area of land defined as "Principled Settled Farmlands" and the southern, agricultural part of the site is highly representative of these published character areas, however the northern area has a markedly different character typical of urban edge public open space. As part of the submission a landscape and Visual Impact Assessment has been prepared and supports the application which in its conclusion identified that the effects of the proposal are predicted to provide permanent negligible adverse effects on landscape character, and beneficial effects that range from neutral to minor beneficial for the vegetation and topography of the site, the Belmont Meadows Local Nature Reserve and the footpaths and cycle ways on the site. Also, it identified that the northern part of the site is almost entirely contained by mature vegetation and there is extremely limited visibility of it beyond the site boundaries. Topography and mature vegetation in the study area means that visibility of the site from publicly accessible areas is limited. The Market Garden element can potentially introduce landscape benefits, such as the creation of orchards.
- 6.49 The landscape officer has confirmed there are no obvious impacts due to the access and raised no objection. The tree officer has also reviewed the application and Arboricultural Impact Assessment and confirmed no objection subject to conditions.
- 6.50 Officers are satisfied that the development can be achieved without causing unacceptable landscape impacts. The detail of the landscaping should form part of the reserved matters submissions and can be secured via a condition and it will be necessary to give careful consideration to any reserved matter application to ensure that the landscape character is taken into account at design stage. Officers are satisfied that, on the basis of the information provided, a scheme, can be delivered that is in compliance with Policy SS6, LD1, LD2 and LD3 of the Core Strategy and NDP policy CH1 and CH4.

#### Design and Amenity

- 6.51 Core Strategy policy SD1 (Sustainable Design and Energy Efficiency) seeks to secure high quality design and well planned development, that contributes positively to the character of the area and that development successfully integrates into the existing built, natural and historic environment. This policy also seeks the inclusion of physical sustainability measures, including orientation of buildings, provision of water conservation measures, storage for bicycles and waste, including provision for recycling and enabling renewable energy and energy conservation infrastructure.
- 6.52 The application submission is in outline form only, which reserves all details apart from access for further consideration. A number of issues will need to be considered at the Reserved Matters Stage, such as design, character and amenity in particular the relationship with the existing the residential properties adjoin the site to the north.
- 6.53 As highlighted above there are residential properties in close proximity of the site and representation has been received from immediate neighbours raising concerns in regards to anti-social behaviour, noise and lighting. As part of the submission a noise assessment to assess the impact of the development to the existing adjacent residential area and which

examines potential noise arising from the development during day and night to include a full description of the acoustic environment and actual or predicted 24 hours worst case scenario noise levels has been prepared and provided.

- 6.54 Environmental Health officers have reviewed the submission noted that the proposed masterplan is purely illustrative. They have identified concerns in respect to the proposed sports facilities. They have identified that they have reviewed the noise impact assessment report and proposed mitigation to be installed but if the proposed facilities changes from the position on the illustrative masterplan, a new/revised noise assessment will be required, along with any details of proposed mitigation. They also highlighted that they would prefer the location for the 3G pitch to be sited furthest away from residential properties for example where the community garden is shown on the illustrative masterplan. They also highlighted the requirement of a noise management plan and lighting scheme conditions to avoid a nuisance being caused to local residents.
- 6.55 It is considered that subject to an appropriate conditions the proposal can be acceptable on the amenity of nearby dwellings, and is capable of being compliant with policy SD1 of the Core Strategy. The wording of the proposed condition has been amended to ensure compliance moving forward. It is also noted that no flood lighting for the sports provision has been applied for as part of this application and this would require a new application.
- 6.56 Officers would note that there is potential for the introduction acoustic fencing subject to an appropriate layout at the Reserved Matters stage, officers are content that any adverse impact can be mitigated but note that the Reserved Matters submissions, in relation to scale, layout, appearance and landscaping will need to carefully consider the impacts of the proposals having regard to the amenity of neighbour dwellings to ensure compliance with policy SD1 of the Core Strategy and Paragraph 130 of the NPPF.

#### Design and Character

- 6.57 Policy SS6 of the Core Strategy outlines that development proposals should support the local distinctiveness of an area. As such it is felt that the design of any buildings should respond to the character within the locality and the wider area. The design of the building will be considered when a detailed scheme comes forward under the reserved matters application, however, it is likely that a proposal that protects the amenity of neighbouring dwellings can be achieved and Officers would conclude that the proposals, being considered at this stage, accords with the requirements of Policy SD1 and SS6 of the Core Strategy and NDP policy CH2.

#### Climate Change

- 6.58 Core Strategy policy SS7 requires focus on measures to address the impact that new development in Herefordshire has on climate change, outlining how development proposals should include measures which will mitigate their impact on climate change, with policy SD1 also seeking to support these measures. Herefordshire Council has unanimously passed a motion declaring a Climate Emergency, signalling a commitment to ensuring that the council considers tackling Climate Change in its decision-making, with this resolution came a countywide aspiration to be zero carbon by 2030; and a Climate Change Checklist to aid the consideration of development proposals.
- 6.59 A condition has been added to ensure electric vehicle charging points will be considered at the reserved matters stage.

## Other Matters

### Loss of Open Space

- 6.60 Chapter 8 of the NPPF (Para 98) requires what provision of open space, sports and recreational opportunities are required in a local area to be based on robust assessments of need. As shown on the masterplan for the site (drawing HA43595\_PL\_02\_L) the proposed community hub will be located in the northern side along with the 3G pitch requirements for Belmont Wanderers FC and the car-parking. Both the community hub and 3G pitch will both involve the loss of Open Space which will impact on both land currently being used as grass playing pitches and the wider area. In accordance with Core strategy Policy OS3 the provision of a new community hub will need to demonstrate that:

*The loss of open space, sports or recreation facility is for the purpose of providing an ancillary development which improves the functioning, usability or viability of the open space, sport and recreation use, e.g. changing rooms, toilets and function uses.*

- 6.61 It is noted that the community hub will provide improved ancillary facilities for football and as such the principal of the community hub is supported and no objection has been raised by the planning open space officer in this regard. In regards to the south the site is which will be utilised by the Growing Local project again this is green infrastructure, the development of the Growing Local Project to the south of the site will add social benefits due to garden food production, education opportunities and improved health and well-being. The principal of the Growing Local Project is supported.

### Conclusion

- 6.62 The application is for outline permission with all matters reserved except for Access and therefore it is only the principle of development that is to be assessed. The development is considered capable of being accommodated on the site but the detail of this is not currently under consideration. The application is to be considered in the context of the presumption in favour of sustainable development as required by the NPPF. This means approving development that accords with the development plan without delay. The relevant policies of the development plan are afforded full weight for decision making. In this case, the adopted development plan comprises of the Core Strategy.
- 6.63 The provision of a mixed use development to provide a community hub with recreation facilities and the change of use of land from agricultural to allotments and productive gardens, classrooms and polytunnels as well as a cafe and kitchen has numerous benefits, not least being an efficient use of land. The proposal will deliver health and social wellbeing benefits that outweigh the more modest dis-benefit relating to the loss of open space. The development accords with the social dimension of sustainable development. The proposal gives positive effect to Policy SC1 and the NPPF as well as the aspirations of NDP policy CH8. Noteworthy is the absence of objection from Sport England, a key statutory consultee.
- 6.64 The development can successfully assimilate into the local environment, maintaining landscape character.
- 6.65 There are a number of local residents who have raised a matters of concerns, some of which are appropriately addressed by planning conditions. Other matters are considered more operational or will be addressed with the submission of the reserved matters applications. There are a number of matters that can be readily satisfied with suitable worded conditions. These conditions will need to be read alongside and inform the Reserved Matters – that will look more closely at Layout, Appearance, Scale and Landscaping and be considered against the policies and guidance in place.

- 6.66 The general support from statutory consultees together with the significant health and social wellbeing benefits that will result the scheme is considered to accord with the relevant policies of the development plan. The proposal represents sustainable development and it is recommended that permission be granted, subject to the conditions set out below.

## **RECOMMENDATION**

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

### **Standard Conditions / Reserved Matters submission requirements**

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.**

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

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

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

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

**Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy SD1, LD1, LD2, LD3, MT1, SC1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework**

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

- Location Plan: HA 43595\_PL\_01\_D**

**Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1, LD1, LD2, LD3, MT1, of the Herefordshire Local Plan – Core Strategy [and the National Planning Policy Framework.**

- 5. The reserved matters submission relating to layout, scale, appearance and landscaping for the development (or phase) submitted pursuant to Condition 3 shall be accompanied by details relating to the of the ancillary farm shop / café and educational / skills facility as follows:**

- a) Retail Floor Area**
- b) Hours of opening**
- c) Hours of Delivery**
- d) Waste Management Arrangements**

**Reason: Reason: In order to allow further assessment of impacts of the proposed uses having regard to residential amenity, retail impact and highways safety having regard to policies SD1, MT1 and E5 of the Herefordshire Local Plan – Core Strategy and the National**



**Planning Policy Framework. (to inform whether a sequential approach should not be applied and ensure the proposal adheres to Para 90 of the NPPF).**

6. **The Reserved Matters submission relating to layout, scale, appearance and landscaping for the development (or phase) submitted pursuant to Condition 3 shall be accompanied by details of a submission of surface water and foul water drainage design details (including but not limited to details of shallow infiltration test results).**

**Reason: To ensure drainage conforms with Policies SD3 and SD4 of the Herefordshire local Plan - Core Strategy and the National Planning Policy Framework**

7. **The reserved matters submission relating to layout, scale, appearance and landscaping for the development (or phase) submitted pursuant to Condition 3 shall be accompanied by details relating to the of the sports facilities and associated buildings or uses as follows:**

- a) **Hours of use**
- b) **Hours of Delivery (if applicable)**

**Reason: In order to allow further assessment of impacts of the proposed uses having regard to residential amenity and highways safety having regard to policies SD and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework. (to inform whether a sequential approach should not be applied and ensure the proposal adheres to Para 90 of the NPPF).**

#### **Pre-commencement Conditions**

8. **No development shall commencement until a map based phasing plan that identifies the following:**

- **Timing of delivery of on-site highway works (including but not limited to on site roads, footways and cycleways including crossing of Shaws Path)**
- **Timing of delivery of car park(s)**
- **Timing of delivery the foul and surface water drainage arrangements including any off site works**
- **Timing and delivery of off Site Highway works**
- **Any other known phases of the development (e.g buildings / structures or pitches)**

**The development, including the completion and delivery of infrastructure shall be constructed in accordance with the agreed phasing plan.**

**Reason: To clarify the delivery of the proposed development (in relation to conditions and RM submissions) and ensure the acceptable phasing of the construction so as to ensure no detriment to the safe operation of the highway network and the timely provision of necessary infrastructure to serve the proposed uses. This is to ensure compliance with Herefordshire Local Plan – Core Strategy Policies SD1, SS4, SS7, MT1, OS2.**

9. **The Reserved Matters submission relating to layout, scale, appearance and landscaping for the development of the 3G Artificial Grass Pitch submitted pursuant to Condition 3 shall be accompanied by the following details (see informative below):**

- **Siting**
- **Design**
- **Specification of the AGP**
- **Noise Mitigation measures**

**Reason: To ensure that the proposed development is fit for purposes and sustainable and that there is sufficient and adequate noise mitigation in place, and that there is flexibility to address concerns, in the interests of amenity in accordance with the requirements of policies SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.**

- 10. No longer than twelve months prior to any works or site preparation commencing a full, Construction Environmental Management Plan (CEMP) – including but not limited to detailed ecological working methods and consideration of all environmental effects of construction processes shall be submitted to and agreed in writing by the Local Planning Authority.**

**The approved CEMP shall be implemented in full for the duration of all construction works at the site unless otherwise approved in writing by the Local Planning Authority.**

**If works are to be undertaken in phases, then the CEMP should clearly identify this.**

**Reason: To ensure that all species are protected and habitats enhanced 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 (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council's declared Climate Change & Ecological Emergency.**

- 11. Prior to the commencement of any phase of development a Construction Management Plan for that phase shall be submitted to and approved in writing by the Local Planning Authority. The approved Construction Management Plan (s) shall thereafter be adhered to throughout the construction period for that phase. The Construction Management Plan shall include, but is not limited to, the following matters:**

- a) site management arrangements, including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities;**
- b) on-site parking and turning provision for site operatives, visitors and construction vehicles (including cycle parking for staff and visitors); and provision for the loading/unloading of plant and materials within the site;**
- c) wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;**
- d) measures for managing access and routing for construction and delivery traffic;**
- e) hours during which construction work, including works of site clearance, and deliveries can take place.**
- f) Tree / hedge protection plan for the phase of development**
- g) 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, in the interests of safeguarding adjoining amenity and uses and to conform to the requirements of Policies SD1, LD2, and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy**

- 12. Development shall not begin in relation to any of the specified improvements / works necessary to provide access from the nearest publicly maintained highway or other works related to the crossing of Shaw's Path until details have been submitted to and approved in writing by the Local Planning Authority following the completion of the technical approval process by the Local Highway Authority.**

The development shall not be first used or occupied until the scheme has been constructed in accordance with the approved details.

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

#### **Pre-occupation / Pre Use Conditions**

13. No premise shall be occupied until a potable water scheme to serve the development has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall demonstrate that the existing water supply system can suitably accommodate the proposed development. If necessary, a scheme to reinforce the existing public water supply system in order to accommodate the development shall be delivered prior to the occupation of any building. Thereafter, the agreed scheme shall be constructed in full and remain in perpetuity.

Reason: To ensure the development is served by a suitable potable water supply in accordance with the requirements of policy SD3 of the Herefordshire Local Plan Core Strategy.

14. Prior to the first use of or occupation of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities to serve the proposed uses 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 SS7, SD1, MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

15. The use of the Artificial Grass Pitch hereby permitted shall not commence until:

(a) certification that the Artificial Grass Pitch hereby permitted has met FIFA Quality Concept for Football Turf – FIFA Quality or equivalent International Artificial Turf Standard (IMS) and

(b) confirmation that the facility has been registered on the Football Association's Register of Football Turf Pitches have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is fit for purpose and sustainable and to accord with Herefordshire Local Plan Core Strategy Policy OS2

16. Before the 3G AGP hereby approved is brought into use, a Management and Maintenance Scheme for the facility including management responsibilities, a maintenance schedule and a mechanism for review shall be submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. This shall include proposed measures to ensure the replacement of the Artificial Grass Pitch when the surface needs

to be replaced. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the 3G AGP.

**Reason:** To ensure that a new facility/ies is/are capable of being managed and maintained to deliver [a facility/facilities] which is fit for purpose, sustainable and to ensure sufficient benefit of the development to sport and to accord with Herefordshire Local Plan Core Strategy Policy OS2

17. No development hereby permitted shall be brought into use until written and illustrative details of the number, type/specification and location of electric vehicle charging point, shall be submitted to and approved in writing by the Local Planning Authority.

The electric vehicle charging points shall be installed in accordance with the approved details and be maintained and kept in good working order thereafter as specified by the manufacturer.

**Reason:** To address the requirements policies in relation to climate change SS7, MT1 and SD1 of the Herefordshire Local Plan Core Strategy, to assist in redressing the Climate Emergency declared by Herefordshire Council and to accord with the provisions at paragraphs 108 and 110 of the National Planning Policy Framework

18. Prior to first commencement of any use hereby permitted, a noise management plan for that use or phase shall be submitted to, and approved in writing by the Local Planning Authority.

The Noise Management Plan (NMP) should address the following points as a minimum:

- statement of intent
- a brief summary of the premises / site / activities
- a location / site plan
- an inventory of potential noise sources, including noise from voices detail of noise controls and limits (e.g. site rules)
- site noise monitoring and / or evaluation
- responding to complaints (including actions to be undertaken and recorded)
- management command, communication, and contact details
- periodic NMP review

**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 policies SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.

19. A BS4142:2014 assessment (methods for rating and assessing industrial and commercial sound) in relation to any external fixed plant or equipment shall be carried out and submitted to and approved in writing by the Local Planning Authority prior to any installation. Works and installation shall be carried out in accordance with the approved details prior to first use and shall be maintained and kept in good working order thereafter as specified by the manufacturer.

**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 policies SS6 and SD1 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework

20. Prior to first commencement of any use hereby permitted a detailed specification and location plan for 'hard' habitat enhancement features including provision of bat roosting

features (such as bat boxes or bricks), bird nesting boxes (mixed types) and provision of hedgehog homes and hedgehog highways through any impermeable boundary features shall be approved in writing by the planning authority. The approved scheme shall implemented in full prior to any occupation of approved dwellings and be hereafter maintained.

Reason: To ensure that all species are protected and habitats enhanced 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 (2021), NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and the council's declared Climate Change & Ecological Emergency

21. Prior to first installation of any external lighting to illuminate the development (e.g building / car parking footways) a detailed specification and location plan shall be submitted to and approved in writing by the Local Planning Authority. This excludes sports related flood lighting (see informative below).

Reason: To allow consideration of the impacts of the proposed lighting on biodiversity, amenity, landscape character, pedestrian, highway and rail safety having regards to the requirements of policies SS6, SD1, MT1 of the Herefordshire Local Plan – Core Strategy.

#### Compliance Conditions

22. 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

23. All surface water flows created by the approved development shall be managed through relevant Sustainable Drainage System (SuDS). The approved SuDS shall be hereafter maintained and managed as approved. No surface water shall be discharged to any mains sewer system.

Reason: In order to ensure Nutrient Neutrality and 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, SD3 and SD4

24. Only foul water from the development site shall be allowed to discharge to the public sewerage system and this discharge shall be made at: or downstream of manhole reference number S049373646 as indicated on the extract of the Sewerage Network Plan attached to this decision notice. No building shall be occupied until it is served by the approved connection.

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.

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

**Reason: 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.**

- 26. Any farm shop hereby permitted as shall be used for Class E (a) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.**

**Reason: The Local Planning Authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

- 27. Any café hereby permitted shall be used for Class E (b) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.**

**Reason: The Local Planning Authority wish to control the specific use of the and/premises, in the interest of local amenity and to comply with Policies MT1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

- 28. In the event that the polytunnels hereby permitted become redundant and all other associated development shall be removed and the land reinstated 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 SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework**

- 29. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan:**

**Bearwood Associates Ltd – BS5837:2012 Arboricultural Impact Assessment Oct 2022**

**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.**

**INFORMATIVES:**

- 1. IP2 - Application Approved Following Revisions**
- 2. This permission does not authorise the display of any advertisements on the site (including any shown on the plans accompanying the application). Separate application should be made to Herefordshire Council in accordance with the Town and Country Planning (Control of Advertisements)(England) Regulations 2007**
- 3. The submitted details should demonstrate that the AGP meets relevant design guidance from FA and RFU to meet relevant requirements for training and matchplay use (where relevant).**

**Guidance on preparing Community Use Agreements is available from Sport England. <http://www.sportengland.org/planningapplications/> For artificial grass pitches it is**

recommended that you seek guidance from the Football Association/England Hockey/Rugby Football Union on pitch construction when determining the community use hours the artificial pitch can accommodate.

4. Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3 months notice before works start. Initially the outside party should contact [assetprotectionwales@networkrail.co.uk](mailto:assetprotectionwales@networkrail.co.uk)
5. The proposed development site is crossed by public sewers with the approximate position being marked on the attached Statutory Public Sewer Record. The positions shall be accurately located, marked out on site before works commence and no operational development shall be carried out within a specified easement zone either side of the centreline of the public sewers. The applicant is advised to contact Welsh Water to discuss.
6. The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 other 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](http://www.dwrcymru.com). The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. 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.

7. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.
8. In accordance with National Planning Policy Framework (Edition 11) and Technical Advice Note 12 (Design), the applicant is advised to take a sustainable approach in considering water supply in new development proposals, including utilising approaches that improve water efficiency and reduce water consumption. We would recommend that the applicant liaises with the relevant Local Authority Building Control department to discuss their water efficiency requirements. The approved use should investigate an adequate grease trap to be fitted, in accordance with environmental health regulations, and maintained thereafter so as to prevent grease entering the public sewerage system.
9. As the proposed orchard planting shown on the masterplan is currently outside the application boundary no condition to ensure the detailed specifications for provision planting and management of the orchard area are currently relevant. As an advisory any application to include the orchard planting should demonstrate that it will be a Traditional "standard" Orchard with all trees on fully vigorous rootstocks and include a range of fruit types and varieties – including heritage varieties of local distinctiveness. The understorey should be a traditional wildflower rich seed mixture. A relevant minimum 30 year establishment and maintenance plan should be provided that recognises the extensive formative care and pruning that will be required and specialist nature of the pruning and management of fruit trees.

10. There is a Prohibition of Driving Order on byway GF7 and HA14, so these cannot be used by vehicles to access the site.
11. 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.
12. The applicant’s attention is drawn to the comments of Sport England who will require (either as part of the Reserved Matters or discharge of condition) details to include plans and information to show the proposed location of the AGP within the existing playing field, the overall AGP dimensions including run-off areas, proposed hard-surfaced areas for goal storage, spectator viewing/circulation, the proposed carpet pile length, shockpad specification, infill material containment and de-contamination zones, sports fencing design, proposed pitch line markings for various pitch sizes to be provided, and detailed sports lighting design. The AGP shall not be constructed other than in accordance with the approved details.

The application submission for the development of the 3G AGP did not propose (within plans or documents) the use of flood lighting and as such a separate planning permission would be required. The applicant’s attention is drawn to the comments received from statutory and non-statutory consultees in respect of impacts of lighting for the proposed development.

13. The applicant’s attention is drawn to the comments of Network Rail.

Decision: .....

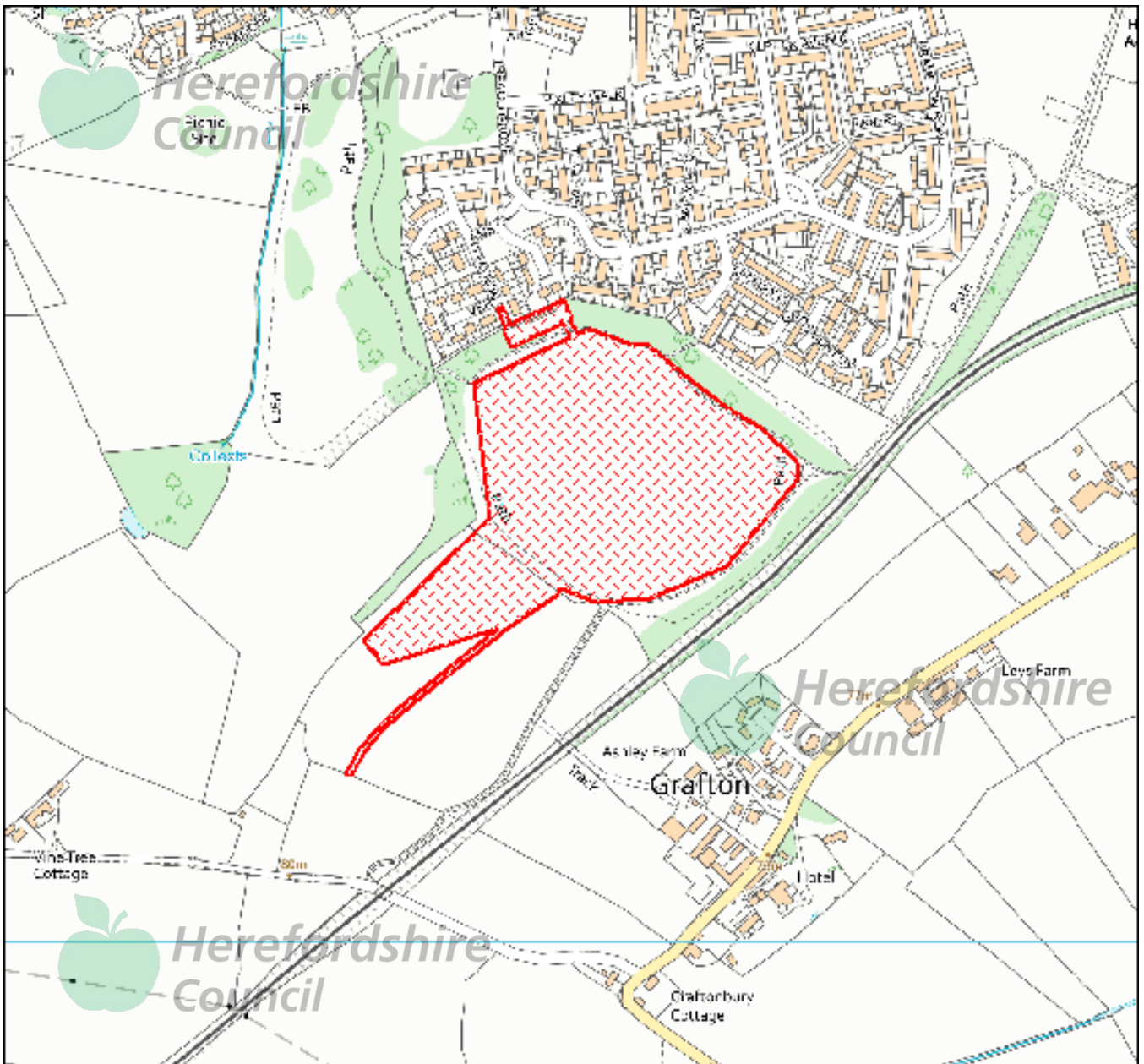
Notes: .....

.....

**Background Papers**

None identified.





This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** 223281

**SITE ADDRESS :** LAND AT ASHLEY FARM, GRAFTON COURT CLOSE, GRAFTON, HEREFORD, HEREFORDSHIRE, HR2 8BL

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>16 AUGUST 2023</b>
<b>TITLE OF REPORT:</b>	<p><b>212518/RM - RESERVED MATTERS FOLLOWING OUTLINE APPROVAL 191541/O (OUTLINE FOR THREE OR FOUR BEDROOM DWELLING ON A PLOT OF LAND CURRENTLY PART OF HILLCREST'S GARDEN) AT LAND SOUTH OF YEW TREE FARM, RUCKHALL COMMON ROAD, EATON BISHOP, HEREFORD, HR2 9QX</b></p> <p><b>For: Mrs James per Mr Russell Pryce, Unit 5, Westwood Industrial Estate, Ewyas Harold, Hereford, Herefordshire HR2 0EL</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=212518&amp;search-term=212518">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=212518&amp;search-term=212518</a>
<b>Reason Application submitted to Committee – Redirection</b>	

**Date Received: 24 June 2021**

**Ward: Stoney Street**

**Grid Ref: 344893, 239396**

**Expiry Date: 28 January 2022**

Local Members: Cllr David Hitchiner

### Update

The application was considered by the Planning and Regulatory Committee on 18 April 2023 and was deferred. The recorded minutes to the meeting reflect the Committee's requirement and further detail regarding the following matters was requested for submission:-

- Drainage and flood mitigation; and
- The construction management plan, including parking for site operatives and access for vehicles delivering construction material.

Given local interest in the scheme, new site publicity was arranged to ascertain any further comments on the matters to be considered as part of the deferral resolution. In summary, the following comments have been submitted that are relevant to the deferral matters. Other matters were raised that were considered as part of the original committee report.

- Question marks raised over the viability of drainage mounds and the potential for leaks from the system over neighbouring property given relative land levels.
- Concerns as regards the suggested route of a private water supply pipe serving Hillcrest up through the site and thereby impeding upon the ability to build the scheme.
- Potential for increased run-off water onto the public highway.
- Inconsistencies in the technical advice provided by the Drainage Engineer.
- Concerns about the Construction Management Plan and viability of managing construction impacts without causing highway safety issues or undue harm to local amenity.

---

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

### Drainage and flood mitigation – Officer response:

The advice received from the Council's technical consultee indicates that the proposed drainage strategy, as amended, has been designed to manage water within the site area; and that a drainage channel connecting to the roadside ditch is not required. Please see the most recent relevant comments from the BBLP Senior Drainage Engineer below.

*“We note that the surface water drainage design was developed on the basis of the water being retained on site. The culvert at the site entrance was already in existence and so the post development run-off would be the same as the pre-development run-off. Hence, no new discharge channel to the ditch is needed.”*

The technical merits of drainage mounds are well established and provided for within Part H of the Building Regulations. As regards concerns as to the consistency of the advice provided by the Councils' technical consultee, your Officers have sought further information from the Agent to assuage local concerns as to the General Binding Rules applying to drainage fields/mounds within 50m of a private water supply. Please see paragraph 6.24 below for further commentary.

As regards the suggestion of a water main running up through the site, there will be the ability to apply to Welsh Water for a diversion, if necessary. Welsh Water has not raised this as an issue within its comments on either of the outline or reserved matters applications. This matter does not give rise to a reason to withhold reserved matters approval.

Finally, in respect of the possible proximity of the proposed drainage mounds to the registered private water supply at Bethel Rose, Officers have received an update from the BBLP engineer that clarifies the General Binding Rules. In response, the Agent has provided conclusive evidence that Bethel Rose Cottage is served by a mains water supply; in the form of a Welsh Water searches report. It was also asserted that the capped-off historic well is in fact in excess of 50m away. On this basis, no environmental permit will be required from the Environment Agency.

### Construction period issues – Officer response:

It is considered that the CMP and site set-up plan provide a suitable degree of assurance that effects arising during the construction period could be satisfactorily managed. Notably, the initial laying out of the access driveway and other temporary hardstandings would enable deliveries of materials to be made, as overseen by a banksman/site manager; and there would be space available for site operatives' vehicles. Moreover, given the length of the plot and the proposed rear garden, there is space available within the site to accommodate the spreading of the sub-soil excavated through the works. A method for ensuring that mud and detritus are not carried onto the public highway is addressed under condition 10 of the outline permission.

Overall, Officers are satisfied that the deferral matters have been satisfactorily addressed.

### HRA / Water quality considerations

One other matter to address is the River Wye's status being downgraded from “unfavourable-recovering” to “unfavourable-declining”. The additional representations received suggest that this should necessitate further consideration of the scheme's water quality impacts on the River Wye Special Area of Conservation (SAC). However, the Council is not currently in receipt of notification from Natural England that the River Wye sub-catchment is failing its conservation objectives (as is the case with the River Lugg sub-catchment). On that basis, there is currently no policy imperative to achieve nutrient neutrality, nor any requirement for the local planning authority to revisit the HRA Appropriate Assessment that was carried out as part of the outline application. The requisite mitigation was captured within condition 13 of the outline permission granted.

## Other matters

For the avoidance of doubt, the text of the original report is presented below but has been updated to incorporate matters raised when the application was last considered and to include further relevant representations.

### **1. Site Description and Proposal**

- 1.1 This reserved matters application proposal is for the construction of a detached 4-bed dwelling with associated access, driveway and parking facilities. A detached garage, as shown on the originally submitted plans, has been subsequently removed from the scheme. The dwelling is proposed to be centrally situated within the plot, broadly speaking, with the front elevation addressing the lane and a private garden area lying to the rear.
- 1.2 Outline planning permission was approved on 3 September 2019 for the construction of a detached 3 or 4 bed dwelling (ref. 191541/O). The means of access to, the layout and landscaping of the site, as well as the scale and appearance of the dwelling, were reserved for future consideration. The permission includes various conditions, including a requirement for full drainage details to be submitted prior to development commencing.
- 1.3 The site is located in the centre of the small, rural settlement of Ruckhall and lies around 500m north-east of Eaton Bishop. It is accessed via an existing field gate off Ruckhall Common Road (U73202), which terminates a short distance to the north-west of the site. A public footpath (ref. EB19) runs along part of the north-western site boundary. Immediately to the north of the site is Yew Tree Farm, comprising a detached dwelling and collection of steel framed, corrugated clad buildings. To the south lies pasture land used for keeping horses and to the east, on the opposite side of the lane, are mostly detached dwellings.
- 1.4 The site itself is a long narrow strip of agricultural land enclosed on all sides with a mixture of post and wire and post and rail fencing, trees and intermittent native hedging. Levels fall from the rear of the site towards the lane. The house FFL would be situated at 87.187m AOD, which is roughly 5m above the adjacent road level of 82.143m AOD.

### **2. Policies**

#### **2.1 Herefordshire Local Plan - Core Strategy**

SS1 – Presumption in favour of sustainable development  
SS2 – Delivering new homes  
SS4 – Movement and transportation  
SS6 – Environmental quality and local distinctiveness  
SS7 – Addressing climate change  
RA1 – Rural housing distribution  
RA2 – Housing in settlements outside Hereford and the market towns  
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 Eaton Bishop Neighbourhood Development Plan (EBNDP)

EB1 – Supporting new housing within the Eaton Bishop and Ruckhall settlement boundaries  
EB2 – Site allocations  
EB4 – Green infrastructure and protecting local landscape character and diversity  
EB5 – Protecting built heritage and archaeology and requiring high quality design  
EB7 – Managing flood risk  
EB8 – Wastewater treatment and water supply

The EBNDP policies can be viewed on the Council's website by using the following link:-

[https://www.herefordshire.gov.uk/downloads/file/11103/eaton\\_bishop\\_ndp\\_may17](https://www.herefordshire.gov.uk/downloads/file/11103/eaton_bishop_ndp_may17)

## 2.3 National Planning Policy Framework

Section 2 – Achieving sustainable development  
Section 4 – Decision-making  
Section 5 – Delivering a sufficient supply of homes  
Section 8 – Promoting healthy and safe communities  
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 EBNDP was made on 21 August 2017 and has not been reviewed since. The level of consistency of development plan policies 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 191541/O - Outline for three or four bedroom dwelling on a plot of land currently part of Hillcrest's garden - Approved 3 September 2019
- 3.2 202768/XA2 - Application for approval of details reserved by condition 12 attached to outline permission 191541/O - Withdrawn on 15 January 2021

## 4. **Consultation Summary**

### Statutory Consultations

#### 4.1 Welsh Water (No objection)

We acknowledge this application is for the approval of reserved matters of the original planning consent (ref. 191541) that established the principle of the development. We have no objection to the application subject to compliance with the requirements of the drainage conditions imposed on the outline planning permission.

## Internal Council Consultations

### 4.2 Transportation (No objection subject to conditions)

- Vehicular accesses over 45m in length from the highway boundary to the face of a building should be referred to a Building Regulations Approved Inspector. In these circumstances, access and turning for emergency vehicles may be required.
- The vehicle turning area is adequate for the scale of the dwelling.
- The dimensions of the driveway are also adequate for the nature of the development.
- The parking provided on the driveway is acceptable.

### 4.3 PRoW Officer (No objections)

### 4.4 Commons Registration (comments)

I can confirm that this piece of land is adjacent to Ruckhall Common (CL65) but does not encroach onto it.

### 4.5 Land Drainage Engineer

#### *Comments since the April committee meeting*

We have been made aware of an existing private water supply located within close proximity of the proposed drainage mound. Therefore, the foul water drainage proposals are not strictly compliant with the Binding Rules as the discharge must not be within 50m from any well, spring or borehole that is used to supply water for domestic purposes. The applicant will need to demonstrate that there will not be any deterioration in water quality at the house served by a private water supply. The distance to the abstraction point should be considered.

We note that the surface water drainage design was developed on the basis of the water being retained on site. The culvert at the site entrance was already in existence and so the post development run-off would be the same as the pre-development run-off. Hence, no new discharge channel to the ditch is needed.

#### *Comments dated 02/02/23 (No objections)*

Review of the Environment Agency's Flood Map for Planning indicates that the site is located within the low risk Flood Zone 1. Review of the Risk of Flooding from Surface Water map also indicates that the site is not at risk of surface water flooding.

As the topography within the area of the proposed development is sloping, the Applicant needs to consider the management of overland flow and any necessary protection to the proposed dwellings and surface water drainage systems. It must also be ensured that surface water run-off generated by the proposed development does not get onto the adjacent highway.

Although we previously commented on the potential presence of springs, it has been highlighted that this is unlikely to be the case given the subsequent excavation of 3 groundwater trial holes. All three holes were 2m deep and only one hole encountered 20mm of groundwater in the base. Appendix 1 to the Drainage Report (05.10.22) outlines that there is a likely surface water issue on-site, whereby water was seen seeping out of the bank on the northwest site boundary. This occurs during or after short periods of rainfall. Given the site topography, a retaining wall is proposed to reduce the likelihood of any surface water flows entering the plot to the north.

## Surface Water Drainage

We understand that a groundwater level assessment undertaken at the site was excavated to a depth of 2.5m BGL but found that there was no groundwater encountered at a depth of 2.2m BGL. The Applicant has provided the results of a single infiltration test which gave a slow infiltration rate of  $1.87 \times 10^{-6}$  m/s at 1.5m BGL. Permeable surfaces are proposed to receive the surface water and discharge it to ground. Permeable paving is proposed for the patio area and permeable tarmac with a 450mm deep sub-base is proposed for the driveway and parking area. These areas have been adequately sized to accommodate a 1 in 100yr + 40% CC event. Check dams will be constructed every 3m along the length of the permeable surfacing.

A drainage channel will be constructed where the driveway meets the highway to prevent any overland surface water flows entering the highway. The surface water will be directed to an existing soakaway area. An infiltration trench is also proposed along the southern site boundary to prevent any overland flows from the field to the south of the site spilling onto the site.

## Foul Water Drainage

We note that five percolation test pits were excavated to various depths across the site ranging between 50-600mm BGL. Consequently, a range of Vp rates were obtained from these tests such as 30.4, 94.5, 126s/mm. The better, lower rates were found at the shallower test pits whereby the 50mm deep pit had a Vp rate of 51.25s/mm and the 250mm deep pit had a Vp rate of 30.4s/mm. The deeper pits of 600mm and 550mm depth had poorer Vp rates of 126 and 124s/mm. Due to the shallow depths to which the pits have been excavated, and the poor rates obtained at depths of 550 and 600mm, a drainage field is unsuitable. An acceptable average Vp rate of 85.23s/mm was established from this testing. Additional percolation testing has been undertaken at the site in February 2022, whereby another four percolation trial pits were excavated. The trial pits ranged in depths from 200-600mm BGL however as all pits failed to drain within 24-hours, no viable Vp rates were obtained. However, these trial pits were located to the west of the proposed dwelling which is not in the proposed drainage mound location. We note proposals for a terraced drainage mound to discharge the foul flows to ground. A flow split chamber with unequal length weirs will allow the appropriate ratio of foul flows to enter both parts of the mound. A conservative Vp rate of 110.5s/mm has been used to size the drainage mound which means it will be slightly oversized; this is favourable. The required drainage mound area is 132.6m<sup>2</sup>, as proposed. A gravity-fed discharge will be accommodated.

*Comments dated 01/11/22 (as summarised)*

We object to the proposals due to the following concerns:

- The existing surface water run-off issue observed on-site as a result of poor ground permeability is confirmed by poor percolation rates obtained at various depths. This evidence raises significant concerns that the drainage proposals will likely result in the re-emergence of surface and foul water, which would cause nuisance flooding within the area.
- The additional risk of surface water run-off onto the public highway should development occur, as already observed on-site.

*Comments dated 14/12/21 (as summarised)*

We object to the proposals due to the following concerns:

- The presence of springs and perched water table combined with poor deep infiltration rates and rapid soakage at shallow depths is likely to result in the infiltrated water re-emerging and cause nuisance flooding within the area.



- A pumped foul system is unfavourable due to risk of failure, maintenance costs and lifetime. We do not accept a pumped system is required.
- A drainage field is not viable for this area given the poor percolation test results at the greater depths.

*Comments dated 01/08/21*

The below comments have been copied from the previous withdrawn DoC application, as no further relevant information has been provided.

*“Further information is required to better establish the groundwater depth across different areas of the site. Details of the roof area and areas of hardstanding must be provided to allow appropriate calculations to be undertaken. The required size of soakaways for surface water and a much clearer foul drainage strategy must be established to include the intended occupancy of the property so that the correct size of treatment plant and drainage field can be calculated (based on British Water Flows and Loads). There is clear evidence of a perched water table in this location, and so the drainage plan must accommodate that and provide strong evidence that there will be no nuisance flooding as a result of this development before this condition can be discharged.”*

#### 4.6 Ecologist (further information required)

Condition 14 of the outline permission states:

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

Response: No EWMS has been provided and so it is recommended that further information with regard to location of these additional measures be provided. As no changes to drainage type/outfall are proposed since outline permission was granted, no new HRA is required.

## 5. Representations

### 5.1 Eaton Bishop Parish Council

*Comments dated 13/03/23*

Eaton Bishop Parish Council has again discussed this application and has heard personal representation from the applicant at its meeting on 8<sup>th</sup> March 2023.

We appreciate the efforts the applicant has made to address our concerns; concerns which reflect our detailed local knowledge of the site and its environs, as well as being set out in the reserved matters of the outline permission. We understand that this has been a lengthy planning process, but this is because of real worries regarding some of the reserved matters that are being raised by parishioners, and the real difficulties posed by the nature of the site.

The commitment to minimise disruption during the construction phase by using parking/storage off road at a nearby property and using smaller vehicles for deliveries to site is most welcome.

We acknowledge that the height of the building has been reduced by 0.5m. The location of the building further back and so higher on the site means that the finished floor level will be higher and the overall impact on the skyline is largely unchanged, if not marginally increased. The

applicant mentioned at our meeting the possibility for the floor level to be dug lower into the ground at the proposed site to reduce the skyline impact of the building. We believe this could be a solution and would support, subject to the actual heights and FFLs being confirmed.

We note that the Council's drainage experts are now confirming that the proposals will not exacerbate flooding onto the neighbouring properties or the road. Whilst we are not drainage experts, we are familiar through experience with the flooding issues around the site, and note that one of our parishioners who has some expertise in this area has raised further concerns about the revised plans. As we set out in our previous response, we would like reassurance from the Council that the plans will not exacerbate flooding issues for the road or surrounding properties. We feel there needs to be accountability for proper drainage plans on this site.

Our remaining concern relates to the visibility splays at the access point to the site and we would ask that the Highways Department review this to ensure that the relevant dimensions are achievable; specifically the splay to the right (exiting the property) and the gate width.

*Objection dated 24/10/22*

Eaton Bishop Parish Council has reviewed the revised planning application and appreciates the changes that have been made to address our concerns regarding the fit of the building into the local built environment and the treatment of foul and storm drainage on the site. We have listened to representations of residents in the locality and also looked carefully at Policy EB1 of our NDP. For us to be able to support this application we would need two things:-

1) The half-dormer style of the building is in keeping with the local environment but at 7m the height of the building is still an issue. We suggest this could be addressed by constructing the base of the building 1m lower, thus creating a 6m impact on the skyline which would be comparable to neighbouring buildings.

2) The drainage solutions appear to address our concerns, but as this is a particularly important and sensitive issue we would like reassurance from the Council's own drainage experts that the solutions are workable. At present, we cannot see a commentary on this.

Finally, we acknowledge that the access is not a planning issue, but it does need to be resolved, and we believe that the configuration of the common land around the entrance will make the proposed splays (a planning issue) not possible to construct.

*Objection dated 09/12/21*

Eaton Bishop Parish council wishes to lodge the following objection. We acknowledge that the applicant has sought to address its three concerns; waste water, storm water; and the size and proportionality of the development. Nonetheless, the proposal still falls short in these respects.

1) The Land Drainage comments identify the likely presence of a perched water table on the site, the presence of which amplifies our drainage concerns. In particular the size of the drainage field and the soakaway need to be maximized given the available area. We also question whether locating the drainage field above the property with consequent reliance on pumps is wise, particularly as in Ruckhall we experience regular power cuts every year.

2) The storm drainage relies on an overflow into a ditch. There is no ditch owned by the property, so an alternative needs to be sought.

3) The scale of the building remains out of proportion to the Ruckhall settlement. See Policy EB1 (paragraph 2) of the NDP. For the building to fit in Ruckhall, its height needs to be reduced significantly. This could be achieved for example by building the first floor within the roofspace, lit by dormer windows (in common with much of the existing housing stock in the settlement).

Finally, although possibly not strictly a planning issue, the Parish Council notes that the applicant has still not addressed the problems of access. To be clear, under the terms of the Parish Council's lease of the verge between the road and the proposed site, it cannot permit any alteration of the land, e.g. by installing a driveway or allow access for other than agricultural vehicles. We urge the applicant to contact the Church Commissioners to resolve this issue.

*Objection dated 19/08/21*

The Parish Council objects to the reserved matters proposals. We have reviewed the planning application and listened to points raised by local residents. We have significant concerns that need to be addressed before we could support. This is particularly disappointing as this is a site identified for development in the Parish NDP (please see policy EB2 of the Eaton Bishop NDP), but important aspects of other policies and reserved matters set out in the outline permission of 3<sup>rd</sup> September 2019 have not been properly addressed, making the proposal in our view, unsuitable. The Parish Council objects to this application for the following reasons:-

- 1) There are no detailed plans for waste water treatment taking into account the impact of any outfall on the local existing drainage and flooding issues on the road below the site and the properties opposite.
- 2) There are no detailed plans for drainage of the site, again a major concern given the nature of the site (significant slope and existing localised flooding issues).
- 3) The scale of the proposed structure is out of proportion to the site and locality.

On a separate matter we advise the applicant to seek permission for any change to the verge between the site gate and the roadway from the owner of the verge. This is land owned by the Church Commissioners and their agreement will be needed for any change to the nature of the verge. The Parish Council leases this land but is not empowered to give such permission.

## 5.2 Church Commissioners for England (comments)

Please note the Commissioners neither object or support the application and make comment on the details of the application itself. I act for the Commissioners as managing agent of their Hereford Estate. The Commissioners own Eaton Bishop Common, which is let to the local parish council. The access for this application is proposed to cross this land owned by the Commissioners. In respect of the access over this land, we are not aware that the applicant holds right over the Commissioners property in order to access the site nor to undertake the required works that are shown in the application. Insufficient detail is provided in respect of any water run-off from the drive and where this will be channelled to. A drainage channel is illustrated on the drawings but no indication as to its connection is given. At present, this could significantly increase the amount of water entering the ditch network on the Commissioners property or flowing over the lane. In respect of the width of the access we are concerned that construction traffic travelling to and entering the site is unlikely to have sufficient space to manoeuvre without causing damage to land outside of the applicant's control.

## 5.3 A significant number of local objections have been expressed, as summarised below.

- There are existing natural springs and grounds conditions are not suitable
- Existing surface water run-off issues would be exacerbated
- The foul water solution is not viable and could not be accommodated on the site
- The drainage solutions would not comply with the Building Regulations
- Access issues relating to poor visibility and the restricted driveway entrance width
- Disruption to local residents and businesses during the construction period
- The applicant does not own the land within the highway verge
- Problems with indiscriminate parking on common land during the build process
- There are private water wells within the vicinity of the site

---

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

- The proposed dwelling would be unduly prominent and too tall and elevated
- The style of the house would not accord with the character of the area
- A smaller house should have been proposed due to the site constraints
- There is a watermain pipe running within the verge that serves Hillcrest
- The site will be subject to significant earth movements as part of the build process
- Access rights will need to be obtained from the Church Commissioners

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=212518&search-term=212518](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=212518&search-term=212518)

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

*The procedural scope of this application*

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 includes the Herefordshire Local Plan – Core Strategy and the Eaton Bishop Neighbourhood Development Plan. The National Planning Policy Framework (NPPF) is also a significant material consideration.

6.3 Approval has been sought for the reserved matters of access, appearance, landscaping, layout and scale. It is stressed that outline planning permission has been granted for a 3 or 4 bed dwelling and the principle of development cannot be revisited. The details of the reserved matters application must be in line with the outline permission, including any conditions.

6.4 Drainage has been raised as a matter of significant local concern. This is however dealt with under the remit of condition 12 of the outline permission. That said, the Agent has sought to address concerns arising by submitting details as part of the current application, to demonstrate that a layout can be achieved that enables sustainable foul and surface water drainage, avoiding pollution or exacerbating any existing run-off issues.

*Access*

6.5 There has been some suggestion, from local residents, that it was originally envisaged that access would be obtained via Hillcrest. However, the EBNDP, as 'made' by the Council on 21<sup>st</sup> August 2017, is not prescriptive in this respect. Similarly, the outline planning permission granted includes no stipulations in this respect. Moreover, the delegated Officer report for 191541/O states that the proposed dwelling would take access from the unclassified road to the north of the site, with the existing field gate forming the access point.

6.6 Similar local concerns have been raised as part of the current application, in relation to the restrictive nature of the access point, the limited visibility within the control of the applicant and the impact that this could have on local roads. However, the Council's Transportation team has considered the access details supplied and raised no objection subject to conditions. The road serves a small number of dwellings and a limited commercial enterprise. The potential difficulty, in practice, of achieving the 20m visibility splay required to the south-east by condition 6 of the outline permission, is appreciated. However, given the lightly trafficked nature of the road and low observed vehicle speeds, the modest uplift in vehicular movements associated with a single

---

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

new dwelling would not lead to an unacceptable impact on highway safety or severe residual cumulative impacts on the road network, as per paragraph 111 of the NPPF.

- 6.7 Similarly, whilst noting that the driveway would exceed 45m in length, it would not be possible to provide access/turning for emergency vehicles within the site area, due to the restricted width of the access point and of the plot itself, as well as associated tree constraints. Given that outline permission has already been granted on the basis that safe access in this location was feasible, it would be unreasonable to refuse reserved matters on these grounds.
- 6.8 The recommendation made by the Transportation team includes conditions relating to visibility splays; the setting back of any access gates; vehicular access, driveway and parking area construction; and secure cycle parking provision. These have only been included where they are not already addressed by conditions attached to the outline permission. It is stressed that the driveway exceeds the desirable width of 3.2m (as set out in the Highways Design Guide).
- 6.9 Turning to another local concern, it is appreciated that the build process will lead to challenges in terms of construction vehicle access and unloading of materials, as well as the potential for parking on common land and disruption to local residents. Conditions 5 and 10 of the outline permission seek to alleviate these issues in terms of residential amenity (by restricting hours of working) and highway safety (via a Construction Management Plan - CMP). Nonetheless, as discussed within the above update, a further condition can be imposed regarding compliance with the details and construction site set-up plan supplied as part of this application.
- 6.10 In terms of future enforcement of these conditions, it should be reinforced that this would only be where requirements were not being fulfilled, e.g. the area for site operative parking was not available. Planning enforcement is not intended to more widely enforce parking regulations or breaches of other legislation relating to driving over common land. Similarly, any access implications for, or easements required over, land within Church Commissioners' ownership are private matters which should not fetter the determination of this application.

#### *Appearance, layout and scale*

- 6.11 Ruckhall is comprised of a diverse mix of house sizes and styles but properties are generally detached and set within reasonably sized plots. It is fair to conclude that there is no prevailing vernacular, with the designs varying across the village. Brick and render are the predominant external facing materials, under natural slate and tiled roofs. The following paragraph is extracted from Policy EB1 of the EBNDF, given its relevance to design considerations.

*“The focus for new housing development is Eaton Bishop, but some small scale housing also may be permitted in Ruckhall, where proposals demonstrate particular attention to form, layout, character and setting of the site and/or they contribute to the social well-being of Ruckhall.”*

- 6.12 The plot is narrow and slopes up from the lane by several metres, which has led to the evolution of a bespoke design proposal that attends to these constraints. Amended plans have been submitted as a result of the need to address drainage concerns by setting the house further into the site and the need to reduce the ridge height. The proposed dwelling, as revised, has a narrow frontage with its proportions reflecting the width of the site. The principle elevation nonetheless retains a gable feature addressing the lane, with the bulk of the dwelling running back into the site and excavated into the rising ground. The accommodation to be provided would provide for an open plan arrangement at ground floor and well-sized bedrooms at first floor.
- 6.13 On balance, whilst observing the raised ground level relative to the road, the modest height of the dwelling and its set back siting within the rural street scene, are found to be acceptable. Although it may have a greater degree of visual prominence than nearby dwellings due to its more elevated position, it would not disrupt the organic settlement pattern found in the village or cause material harm to the rural landscape in terms of views from the surrounding countryside. The scale of

development, for a 4-bed, one and a half storey dwelling, is commensurate with the plot and would allow for a generous garden and ample parking space to be provided.

- 6.14 It is reinforced that the finished floor level (FFL) relative to the lane has increased by virtue of having to set the dwelling further back into the site to facilitate a gravity-fed drainage proposal. The house design has been amended accordingly, with the reduced ridge height (from 8.1m to 6.75m at the south-eastern corner) responding to its more elevated position. The siting of the dwelling, alongside the corrugated clad buildings at Yew Tree Farm, also ensures there would be no unacceptable impacts on the residential amenity of nearby properties.
- 6.15 As regards appearance, a balanced design approach has been adopted that is neither pastiche nor overtly contemporary, with the size and distribution of fenestration considered appropriate. In terms of the composition of external materials, the use of red/orange brickwork would be complemented by off-white render to visually 'break up' the elevations. Artificial roof slates are proposed, which would also be appropriate in this semi-rural setting.
- 6.16 The supporting documents indicate that consideration has been given to minimising the future carbon impact of the house. The use of a well-insulated air tight structure that minimises heat loss is to be supplemented by a low carbon heating system, in the form of air source heat pump. An electric vehicle charging point can be secured via a suitably worded condition and potable water efficiency measures are to be obtained under condition 18 of the outline permission. Provision for rainwater harvesting is already made within the drainage schematic drawing.
- 6.17 In summary, the appearance, layout and scale of the proposed development are acceptable.

#### *Landscaping*

- 6.18 Existing trees and hedges are being retained, as shown on the landscaping and ecological enhancement plan. New planting comprises a mixture of native hedging with occasional native and fruit trees and wildlife-friendly ground cover planting within the rear garden. This planting will provide additional screening along the site boundaries and assist in assimilating the scheme into its landscape setting, as well as enhancing the biodiversity value of the site.
- 6.19 Condition 17 of the outline permission is relevant to landscaping insofar as it requires hedgerow protection areas to be implemented during the construction process. It is observed that the revised siting of the dwelling may require some reduction works to boundary tree canopies. This is regrettable but a consequence of having to move it further back into the site. Similarly, whilst there would be extensive earthworks required, any disruption caused to the locality would be temporary and does not give rise to a reason to refuse reserved matters.
- 6.20 On balance, the rural landscape environment would be enhanced by the proposed planting, when weighed against the relatively minor adverse impacts described above. A condition can be imposed to require implementation of the submitted landscape scheme.

#### *Other matters*

- 6.21 Conditions on the outline permission relevant to biodiversity include conditions 14, 15 and 16, relating to ecological compliance, working methods and enhancement. These will remain to be satisfied through any relevant conditions discharge process. With regard to condition 14, it is not necessary for the Ecological Working Method Statement (EWMS) to be submitted as part of the reserved matters process.
- 6.22 As regards foul and surface water drainage, it is reiterated that condition 12 of the outline permission would continue to apply and require a discharge process prior to commencement of works. That said, Officers are satisfied that the work undertaken, and the technical comments received, provide sufficient assurance to enable approval of the relevant reserved matters of

layout and scale. Although noting local concerns about the veracity of the revised drainage solutions, these are informed by a report prepared by a qualified engineer and predicated on site-specific testing of ground conditions. The findings and recommendation of the report are accepted by the Council's technical consultee. The updated drainage report addresses the matter of locally reported springs (suggested in the report to be surface water seepage) by way of a retaining wall along the northern boundary.

- 6.23 Should further clarification be required, despite the procedural advice set out above, Officers would highlight the drainage engineer's most recent comments. It is stressed that for surface water, Policy SD3 says that development should not result in an increase in run-off and should aim to achieve a reduction in the existing run-off rate and volumes, where possible. Moreover, Policy EB7 of the EBN DP says that new development must be designed to maximise the retention of surface water on the site and to minimise run-off. These requirements should however be distinguished from any notion that the scheme must fully alleviate existing issues.
- 6.24 The foul solution is compliant with the requirements of condition 13 of the outline permission, insofar as a new private foul water treatment system is proposed with final outfall to an elevated drainage field/mound on land under the applicant's control. Although the mound would have an 'artificial' appearance, the visual harm arising is limited. Review of the EA's groundwater map indicates that the site is not located within a designated Source Protection Zone.

#### *Conclusion*

- 6.25 The layout, scale and appearance of the proposed new dwelling, along with the proposed landscaping, have been designed to harmonise with the built and natural context of the site and the verdant character of the area. The dwelling would also be served by safe and suitable access and appropriate car parking and private amenity space can be fulfilled.
- 6.26 The development therefore upholds the design requirements of Policies RA2, SD1 and LD1 of the Core Strategy and Section 12 of the NPPF. Furthermore, the proposed access and parking facilities satisfy the objectives of Policy MT1 of the Core Strategy. The development also accords with the design requirements of relevant EBN DP policies, particularly EB1 concerning new housing within the Ruckhall settlement boundary; EB4 regarding the protection of local landscape character and biodiversity; and EB5 in terms of requiring high quality design.
- 6.27 Accordingly, this reserved matters proposal is compliant with the development plan and the NPPF. There are no substantive reasons why approval should be withheld.

## **RECOMMENDATION**

**That reserved matters approval be granted subject to the following conditions and any other conditions considered necessary by officers named in the scheme of delegation to officers:**

- 1. The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. YTF-PA-529601b; YTF-PA-5296-02d; YTF-PA-5296-03d; YTF-PA-5296-04c and YTF-PA-5296-06) except where otherwise stipulated by conditions attached to this reserved matters approval.**

**Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**

2. **The development hereby approved shall be carried out strictly in accordance with the approved schedule of materials, as found on drawing no. YTF-PA-5296-03d, unless samples and/or trade descriptions of alternative materials are submitted to and approved in writing by the local planning authority (in which case, development shall be carried out in accordance with the approved details).**

**Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, Policy EB1 of the Eaton Bishop Neighbourhood Development Plan and the requirements of the National Planning Policy Framework.**

3. **The development hereby permitted shall be carried out in accordance with the submitted Construction Management Plan and site set-up plan (YTF-PA-5296-07) for the duration of the construction period 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. **All planting, seeding or turf laying in the approved landscaping scheme (drawing no. YTF-PA-5296-02d) shall be carried out in the first planting season following the occupation of the dwelling or the completion of the development, whichever is the sooner. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.**

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

5. **Existing boundary treatments shall be retained, unless otherwise specified on the approved plans or approved in writing by the local planning authority (in which case, development shall be carried out in accordance with the approved details).**

**Reason: To ensure the development is assimilated into its semi-rural setting, in order to conform with Policies SS6, SD1 and LD1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.**

6. **Any new access gates/doors shall be set back 5 metres from the adjoining carriageway edge and shall be made to open inwards only.**

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

7. **Prior to first occupation of the dwelling hereby permitted, written and illustrative details of the type/specification and location of a charging point to enable the charging of plug-in and other ultralow emission vehicles (e.g. provision of cabling and outside sockets) and serve the occupiers, shall be submitted to and approved in writing by the local planning authority. The charging point shall be installed prior to first occupation and be maintained and kept in good working order thereafter as specified by the manufacturer.**



**Reason: To address the requirements of policies in relation to climate change, including SS7, MT1 and SD1 of the Herefordshire Local Plan - Core Strategy; to assist in redressing the Climate and Ecology Emergency declared by the Council; and to accord with paragraphs 107 and 112 of the National Planning Policy Framework.**

**INFORMATIVES:**

1. The attention of the applicant is drawn to the conditions on the outline planning permission granted on 3 September 2019, reference no. 191541/O. This application, for the approval of reserved matters, is granted subject to these conditions.
2. The applicant is reminded of the obligation to ensure that nearby public rights of way (EB19 and EB19A) are not obstructed during the construction period.
3. This approval does not imply any rights of entry onto or over adjoining property.

Decision: .....

Notes: .....

.....

**Background Papers**

None identified.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** 212518

**SITE ADDRESS :** LAND SOUTH OF YEW TREE FARM, RUCKHALL COMMON ROAD, EATON BISHOP, HEREFORD, HR2 9QX

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>16 AUGUST 2023</b>
<b>TITLE OF REPORT:</b>	<p><b>231926 - APPLICATION FOR THE PRIOR APPROVAL OF CHANGE OF USE OF AGRICULTURAL BUILDING TO SINGLE DWELLING. AT BARN AT WOOLNER HILL FARM, STONEHOUSE LANE, BRINGSTY, HEREFORDSHIRE,</b></p> <p><b>For: Mr Buckley per Mr Rhys Bennett, 16 Royal Crescent, Cheltenham, Gloucestershire, GL50 3DA</b></p>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231926&amp;search-term=231926">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231926&amp;search-term=231926</a>
<b>Reason Application submitted to Committee – Staff Applications</b>	

**Date Received: 22 June 2023**

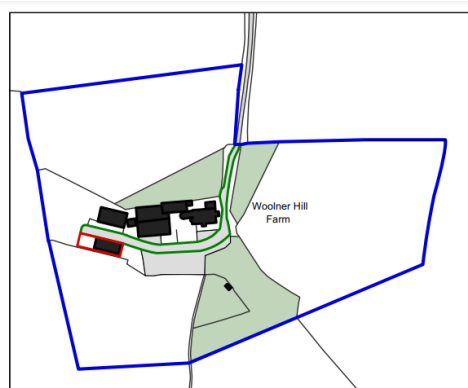
**Ward: Bishops Frome    Grid Ref: 367231,252694  
& Cradley**

**Expiry Date: 17 August 2023**

Local Members: Cllr Ellie Chowns

## 1. Site Description and Proposal

- 1.1 The application is submitted under Part 3 Class Q of the General Permitted Development Order for the conversion of an agricultural building to a single dwelling.
- 1.2 Woolner Hill Farm is located at the end of Stonehouse Lane, approximately 2 miles to the south east of Bromyard. The property is one of a small number of properties and smallholdings located sporadically along the lane, the closest being Stonehouse Farm, approximately 220 metres to the north.
- 1.3 Woolner Hill Farm itself is comprised of a farmhouse and a small group of four buildings immediately to its west as shown on the site plan below. The application relates to the westernmost of these buildings, sitting slightly apart from the rest. It is a modern, open fronted steel framed building, the remaining three sides enclosed with profiled metal walls and roof.



Further information on the subject of this report is available from Mr A Banks on 01432 383085

## **2. Planning History**

2.1 None Identified

## **3. Consultation Summary**

3.1 No Statutory Consultations

### *Internal Council Consultations*

3.2 Area Engineer (Highways)

No objections subject to conditions

## **4. Representations**

4.1 Brockhampton Group Parish Council

Brockhampton Group Parish Council considered this application at their meeting 19/07/23 and raised no objections or concerns with the proposals

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=231926](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=231926)

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>

## **5. Officer's Appraisal**

5.1 The application has been submitted under Part 3 Class Q(a) and (b) and is therefore seeking the change of use of the building and proposing building operations related to the change of use.

5.2 In order for a building to benefit from the permitted development rights contained within Class Q, it needs to be established that the proposed development is the conversion of a building and does not amount to a fresh build. As stated in the NPPG "it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right".

5.3 Furthermore the National Planning Practice guidance (NPPG) directs attention to the case of Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2) [2016] EWHC 2853 (Admin) for a full discussion on the matter.

5.4 Critically the Hibbitt case asserts that the concept of conversion is found in the overarching provisions of Class Q as a whole and not simply in Q.1 and therefore it is, as stated above, the qualifying test to ensure the building would be considered to have the permitted development rights.

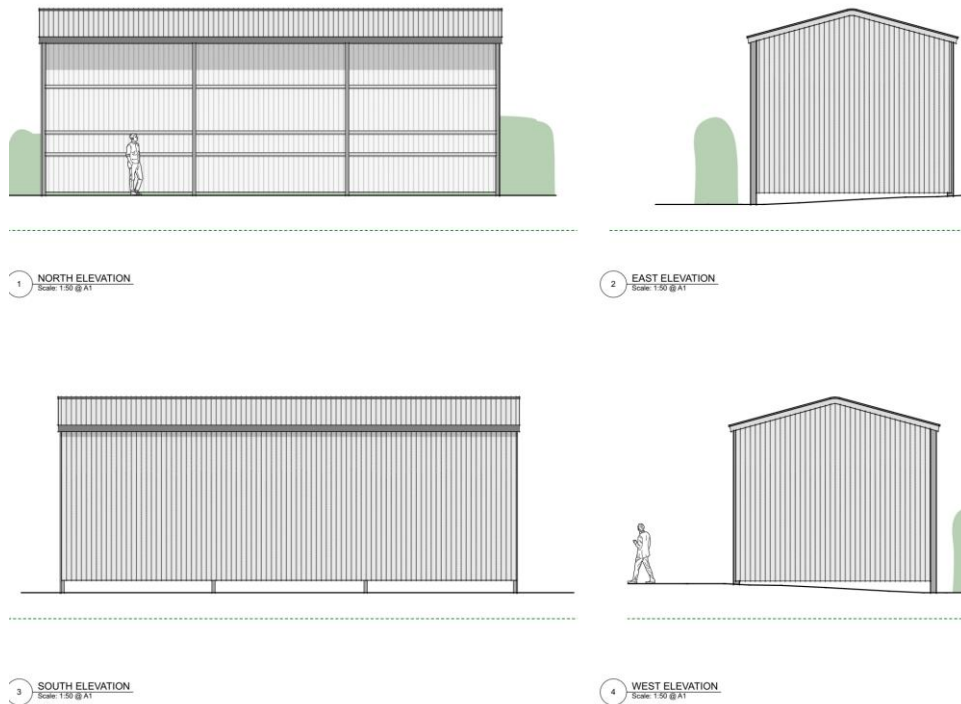
5.5 The building is of substantial construction and have been demonstrated to facilitate conversion without the need for additional structural support. The Planning Statement accompanying the submission advises that the building has been inspected by a qualified structural engineer who has confirmed that it is structurally sound and capable of conversion without structural alterations

---

Further information on the subject of this report is available from Mr A Banks on 01432 383085

or reinforcements. The level of intervention required to convert the building is high for it to be considered a conversion. In this case the external materials will be re-used with insulation added to the internal face and the schedule of works appears appropriate to meet the 'Hibbitt' gateway test. Given this, the barn qualifies for permitted development rights and the proposal now falls to be considered against the provisions of Class Q.

*Plans as existing*



*Plans as proposed*



5.6 Having established that the building passes the first principles as set out by the 'Hibbitt' gateway tests, the proposal now falls to be considered against the remaining provisions of Class Q. For ease, these are set out in the left hand column of the table below, with a brief commentary in respect of the application in the right hand column. It should be noted that these are matters of fact and are not subject to a planning judgement in the same way as a typical planning application. If it can be shown that the proposal complies with all of the criteria then it should be concluded that the proposal is permitted development.

Criteria	Officer response
<p><b>a)</b> Was the site used solely for an agricultural use, as part of an established agricultural unit;</p> <ul style="list-style-type: none"> <li>• on 20th March 2013;</li> <li>• if the site was not in use on that date, when it was last in use; or</li> <li>• if the site was brought into use after that date, for ten years before the date the development begins?</li> </ul> <p>If NO planning permission is required.</p>	<p>Yes.</p> <p>Having visited the site it is clear that the site is part of an established agricultural unit. The application advises that the building was erected between 1973 and 1975 and that it has been used continuously since.</p>
<p><b>(b)</b> in the case of – a larger dwellinghouse, within an established agricultural unit where —</p> <p>(aa) the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or</p> <p>(bb) the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;</p> <p>Is the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit less than 450 square metres?</p> <p><i>If NO planning permission is required.</i></p>	<p>The proposal is for a single larger dwelling with a floor area of approximately 149m<sup>2</sup>. The proposal complies with Q.1(b)</p>
<p><b>(c)</b> in the case of—i) a smaller dwellinghouse, within an established agricultural unit—</p> <p>(aa) the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or</p> <p>(bb) the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres;</p>	<p>Not applicable</p>
<p><b>(d)</b> Would the development under Class Q (together with any previous development under</p>	<p>There has not been any development previously under Class Q. The floor</p>

Further information on the subject of this report is available from Mr A Banks on 01432 383085

<p>Class Q) within an established agricultural unit result in either or both of the following—</p> <ol style="list-style-type: none"> <li>i. a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;</li> <li>ii. the cumulative number of separate dwellinghouses having a use falling within Class C (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;</li> </ol>	<p>area proposed is 149m<sup>2</sup> and therefore falls below the 465m<sup>2</sup> threshold. The proposal complies with Q.1(d)</p>
<p><b>(e)</b> If the site is occupied under an agricultural tenancy has the express consent of both the landlord and the tenant been obtained?</p> <p><i>If NO planning permission is required</i></p>	<p>Not applicable. There is no agricultural tenancy</p>
<p><b>(f)</b> If less than one year before the date development begins an agricultural tenancy over the site has been terminated where that termination was for the purpose of carrying out development under Class MB, have both the landlord and the tenant agreed in writing that the site is no longer required for agricultural use?</p> <p><i>If NO planning permission is required.</i></p>	<p>Not applicable</p>
<p><b>(g)</b> Has development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) been carried out on the established agricultural unit since 20th March 2013, or within 10 years before the date development under Class MB begins, whichever is the lesser?</p> <p><i>If YES planning permission is required.</i></p>	<p>No. There is no planning history relating to the site to suggest that this is the case</p>
<p><b>(h)</b> Would the development result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point?</p> <p><i>If YES planning permission is required</i></p>	<p>On the basis of the drawings submitted the proposed development would not exceed the external dimensions of the building</p>
<p><b>(i)</b> Would development under Class Q(b) consist of building operations other than:</p> <ol style="list-style-type: none"> <li>1. the installation or replacement of - <ul style="list-style-type: none"> <li>• windows, doors, roofs, or exterior walls, or</li> <li>• water, drainage, electricity, gas or other services</li> </ul> </li> </ol>	<p>The plans indicate that all existing materials will be re-used and refurbished. The scheme will require the enclosure of the front elevation in order to facilitate conversion to a residential use. The ‘Hibbitt’ case has established that this level of intervention is considered to be reasonably necessary. No demolition</p>

Further information on the subject of this report is available from Mr A Banks on 01432 383085

<p>where such works are restricted to those reasonably necessary for the building to function as a dwelling; and</p> <p>2. partial demolition to the extent reasonably necessary to carry out building operations allowed by paragraph Q.1.1(i)(i)?</p> <p><i>If YES planning permission is required.</i></p>	is proposed and on this basis the proposal is considered to comply with Q.1(i)
<p><b>(j)</b> Is the site on article 2(3) land?</p> <p><i>If YES planning permission is required.</i></p>	No
<p><b>(k)</b> Is the site or does the site form part of—</p> <ul style="list-style-type: none"> <li>• a site of special scientific interest;</li> <li>• a safety hazard area; or</li> <li>• a military explosives storage area?</li> </ul> <p><i>If YES planning permission is required.</i></p>	No
<p><b>(l)</b> Is the site or does the site contain a scheduled ancient monument?</p> <p><i>If YES planning permission is required.</i></p>	No
<p><b>(m)</b> Is the building a listed building?</p> <p><i>If YES planning permission is required.</i></p>	No
<p>Does the proposal comply with the definition of 'curtilage' (Interpretation of Part 3) as follows:</p> <p>(i) The piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or</p> <p>(ii) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building,</p> <p>whichever is the lesser;"</p>	Yes

5.7 The proposed development is therefore considered permitted development.

5.8 As such the proposal is now required to be assessed against the conditions found in Q.2. Given the application follows approval under Q(a) the proposal has already been assessed against subparagraphs 1(a) to (e), nevertheless the provisions of Class Q does not limit the assessment of Q(b) solely to the remaining sub-paragraphs and as such the proposal will be assessed against all sub-paragraphs.

*(a) Transport and highways impacts of the development*



The proposal has been assessed by the Council's Highway Engineer who has confirmed that there are no objections to the proposal from a highway perspective. Conditions have been recommended relating to the provision of appropriate parking and turning areas, the provision of cycle storage facilities and the need for a construction management plan. Given the limitations of Class Q in terms of identifying a curtilage, the requirements for parking and turning are not necessary. Class Q does not facilitate the provision of other operational development and therefore a requirement by condition of secure cycle storage facilities would fundamentally fall foul of the provisions as set out. Therefore a condition to require such facilities cannot reasonably be imposed. Finally, the requirement for the submission of a construction management plan is considered to be disproportionate to the development proposed.

*(b) Noise impacts of the development*

The proposal will not give rise to any noise impacts. The remaining buildings on the site will continue to be used for agricultural purposes, but their scale and relationship with the subject building mean that any noise impacts are unlikely

*(c) Contamination risks on the site*

There are no known contaminative sources on the site.

*(d) Flooding risks on the site*

The site is not contained within any identified flood hazard area and did not appear to be at risk of surface water flooding.

*(e) Whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.*

Given the site is in an isolated open countryside location there are inherent landscape and environmental impacts. However, the barn is part of an established farm group and is unlikely to create adverse effects in this regard.

*(f) The design or external appearance of the building*

The design and external appearance of the resultant dwelling is typical of a conversion of a modern agricultural building. The proposal includes the retention of existing external materials. The design and external appearance of the proposal is considered to be acceptable

*(g) The provision of adequate natural light in all habitable rooms of the dwellinghouses*

All habitable rooms have windows or doors and will have adequate natural light.

## **Conclusion**

- 5.9 After assessing the above matters, it is considered that the change of use of the agricultural building to a dwelling would amount to permitted development under the Town & Country (General Permitted Development) (England) Order 2015. It is recommended that prior approval for the change of use and associated building operations be granted.

## RECOMMENDATION

That Prior Approval be granted subject to the following conditions (as required by the Town & Country (General Permitted Development) (England) Order 2015)

1. Development under Class Q is permitted subject to the condition that development under Class Q (a) and under Class Q (b), if any, must be completed within a period of 3 years starting with the date of this permission.

Reason: In accordance with Condition (3) as outlined under Conditions of Class Q under Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

2. The development shall be carried out strictly in accordance with the approved plans (drawing nos. 4439 (P) 001, 4439P (0) 106 & 4439 P (0) 107), 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 the National Planning Policy Framework and to ensure compliance with the provisions of Class Q of Part 3 of the General Permitted Development Order.

## INFORMATIVES:

1. The applicant is advised that it in accordance with Regulation 75 of the Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019, it is a condition of any planning permission granted by a General Development Order that is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), that works should not commence until the developer has received written notification of the approval from the local planning authority under Regulation 77. The applicant should therefore be satisfied before commencing works that the development will not have any likely effect on any European Site. In addition, applicants are advised that they can, if they choose to, apply to Natural England as the appropriate Nature Conservation body, under Regulation 76 of Regulations (as amended) prior to making any necessary application to the Local Planning Authority under Regulation 75.

2. The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000.

The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture, injure or kill any such animal. It is also an offence to damage or destroy a breeding or resting place of such an animal.

3. 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)

---

Further information on the subject of this report is available from Mr A Banks on 01432 383085

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.

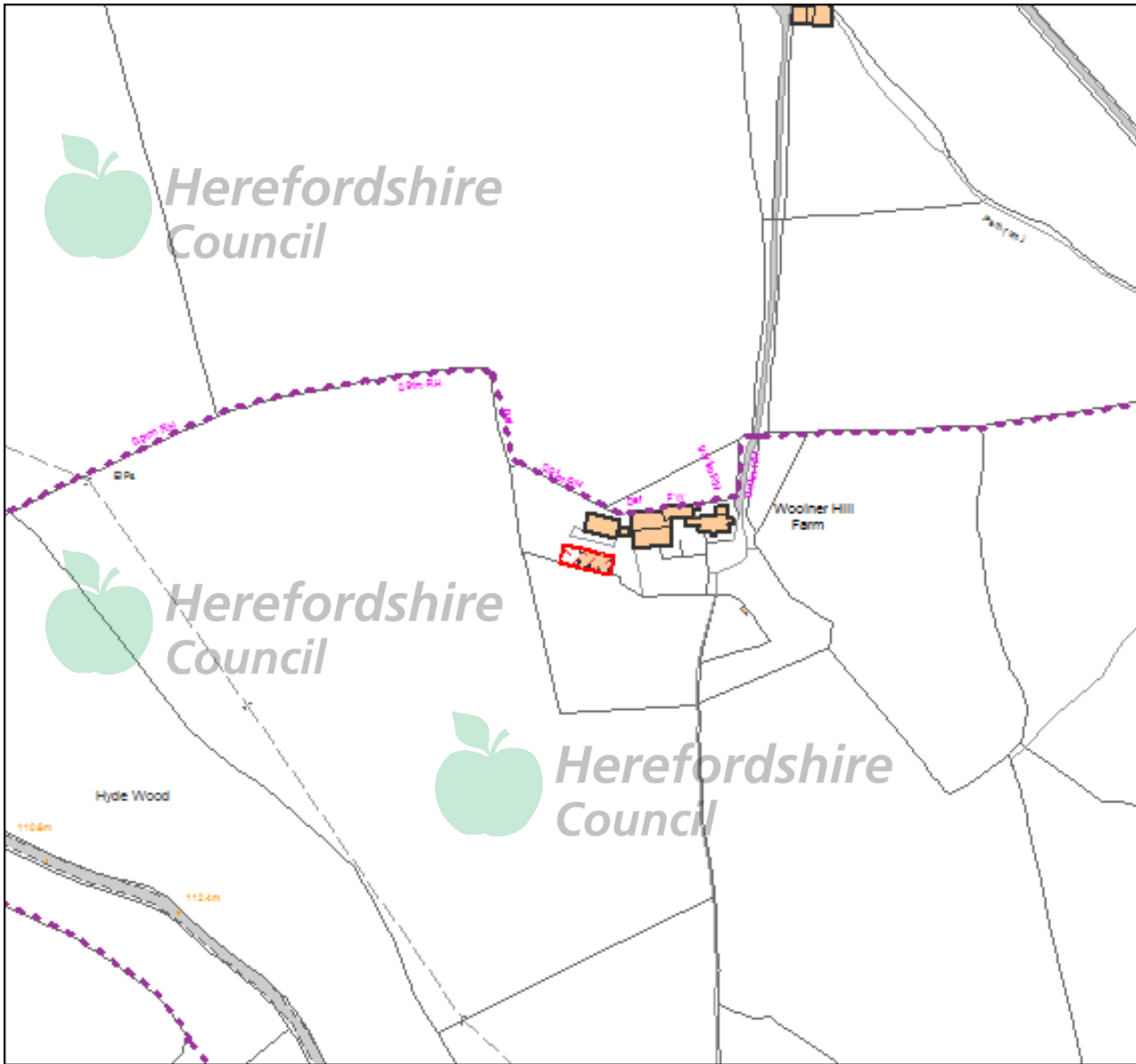
Decision: .....

Notes: .....

.....

**Background Papers**

None identified.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** 231926

**SITE ADDRESS :** BARN AT WOOLNER HILL FARM, STONEHOUSE LANE, BRINGSTY,  
HEREFORDSHIRE

Based upon the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Herefordshire Council. Licence No: 100024168/2005

Further information on the subject of this report is available from Mr A Banks on 01432 383085