

# Agenda

## Planning and Regulatory Committee

Date: **Wednesday 23 October 2024**

---

Time: **10.00 am**

---

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

---

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

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 Jacqui Carwardine**  
**Councillor Simeon Cole**  
**Councillor Dave Davies**  
**Councillor Elizabeth Foxton**  
**Councillor Catherine Gennard**  
**Councillor Peter Hamblin**  
**Councillor Stef Simmons**  
**Councillor John Stone**  
**Councillor Richard Thomas**  
**Councillor Mark Woodall**

## Agenda

	Pages
<b>PUBLIC INFORMATION</b>	
<b>GUIDE TO THE COMMITTEE</b>	
<b>NOLAN PRINCIPLES</b>	
<b>1. APOLOGIES FOR ABSENCE</b>	
To receive apologies for absence.	
<b>2. 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. DECLARATIONS OF INTEREST</b>	
To receive declarations of interests in respect of items on the agenda.	
<b>4. MINUTES</b>	13 - 20
To approve the minutes of the meeting held on 4 September 2024.	
<b>5. CHAIRPERSON'S ANNOUNCEMENTS</b>	
To receive any announcements from the Chairperson.	
<b>6. 192515 - BALANCE FARM, TITLEY, KINGTON, HEREFORDSHIRE, HR5 3RL</b>	21 - 60
Application for approval of reserved matters following outline approval. (160581 - Proposed site for the erection of 5 no. four bedroom dwellings).	
<b>7. 233442 - 39 GREYFRIARS AVENUE, HEREFORD, HEREFORDSHIRE, HR4 0BE</b>	61 - 84
Proposed boat ramp, siting of crane and associated hardstanding and footpath.	
<b>8. DATE OF NEXT MEETING</b>	
Date of next site inspection – 19 November 2024	
Date of next meeting – 20 November 2024	



# 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 Jacqui Carwardine	Liberal Democrat
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 Stef Simmons	The Green Party
Councillor John Stone	Conservative
Councillor Richard Thomas	Conservative
Councillor Mark Woodall	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 4 September 2024 at 10.00 am**

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

**Councillors:** Polly Andrews, Bruce Baker, Dave Boulter, Simeon Cole, Dave Davies, Elizabeth Foxton, Catherine Gennard, Peter Hamblin, Stef Simmons, John Stone, Richard Thomas and Mark Woodall

**In attendance:** Councillor Matthew Engel

**Officers:** Legal Adviser and Development Manager Majors Team

**24. APOLOGIES FOR ABSENCE**

Apologies were received from Councillor Jacqui Carwardine.

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

There were no substitutes.

**26. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**27. MINUTES**

**RESOLVED:** That the minutes of the meeting held on 21 August 2024 be approved.

**28. 232851 - AUBREYS, TO THE WEST OF THE MOUNTAIN ROAD, LLANVEYNOE, LONGTOWN, HEREFORDSHIRE, HR2 0NL (Pages 5 - 8)**

The Development Manager Hereford and South team provided a presentation on the application and the updates/representations received following the publication of the agenda. A verbal update was provided on a recent application to Heritage England for listed building status for the farmstead at Aubreys and the implications for decision making on the application.

In accordance with the criteria for public speaking Mrs Tribe, spoke on behalf of Longtown Group Parish Council, Mrs Griffiths, local resident, spoke in objection to the application and Mr Gardener, the applicant, spoke in support.

In accordance with the council's constitution the local ward member spoke on the application. In summary, he explained the location of the proposed development was in a landscape of outstanding and unspoilt quality which should have received statutory protection. The location of the application site was prominent in the Olchon Valley due to its setting high on the hillside. Had an application been received for a new house at the application site it would have been denied. In the present application, policy RA5 of the core strategy was used to make use of existing buildings at the farmstead. It was noted that an earlier application for the

site had been refused and the current application had been adjusted in line with that refusal. The very late receipt of the structural survey concerning the existing buildings (as required under core strategy policy RA5) was raised. The description of the existing buildings on site in the survey was at odds with the assessment of their condition within the officers report. The value of the structural survey from the applicant was questioned as it presented a partial view of the state of the existing buildings. The impact of the proposed development on the landscape was unacceptable. The development would be clearly visible from vantage points around the local landscape and would have a detrimental impact on the beauty and outstanding quality of the local area. There was no support for the application in the Olchon Valley where it was felt that the development would tarnish the beauty of the Valley and harm tourism. It was felt that the case officer's report should contain greater regard for the opinions of the Landscape Officer and Heritage Officer and their objections regarding the impact of the application with reference to core strategy policies LD1 and LD4.

The committee debated the application. There was division among the members of the committee regarding the acceptability of the application.

In judging the application as acceptable some members made the points below:

- the application would be positive in its reinstatement and renovation of heritage buildings. The reuse and repurposing of existing stonework would ensure that the development was not intrusive upon the landscape.
- the prominence of the application site and it's visibility from other vantage points locally was not felt to be a significant concern.

In judging the application as unacceptable some members made the points below:

- the scale of the proposed development, the proposed building materials and the impact upon a sensitive environment was unacceptable. The application site was prominent and exposed on the side of a hill in the Olchon Valley and was visible from a number of local vantage points. The addition to the existing buildings of the new barn, retaining wall, garage and access track would have a significant and unacceptable impact upon the landscape. The application was contrary to core strategy policies SD1, SS6 and LD1 of the core strategy due to its impact on the landscape.
- The scale of the proposed changes to the existing buildings on-site was unacceptable. Regard should be paid to the Heritage officers and Landscape officers' assessments of the proposed changes to the existing buildings which would be detrimental to their original form, appearance and setting. Due to the impact of the proposed modifications to the original buildings, in particular, to their form, appearance and setting, the application was contrary to core strategy policies LD1, LD4, RA3 and RA5 and neighbourhood development plan (NDP) policies LGPC4. The application did not represent reinstatement but rather expansion and change of use from farmstead to residential dwelling and was therefore contrary to core strategy SS1 and NDP policy LGPC4.

The local ward member was given the opportunity to close the debate. In summary, he warned that in the event of an approval of the application a precedent would be set for similar developments in the Olchon Valley which would change the nature of the area.

Councillor Stef Simmons proposed and Councillor Catherine Gennard seconded the refusal of the application due to the unacceptable scale and nature of the modifications to the existing buildings, the scale of the new buildings on site and the detrimental intrusion on the landscape contrary to core strategy polices LD1, LD4, RA3, RA5, SD1, SS1 and SS6 and NDP Policies LGPC4 and 12 (a&b).

The motion was put to the vote and was carried by a simple majority.

**RESOLVED – That the application is refused due to the unacceptable scale and nature of the modifications to the existing buildings, the scale of the new buildings on site and the detrimental intrusion on the landscape contrary to core strategy policies LD1, LD4, RA3, RA5, SD1, SS1 and SS6 and NDP Policy LGPC4.**

**– That the application is refused due to the impact on the landscape, in accordance with those reasons set out in LGPC12 (a & b) of the regulation 16 plan stage (April 2019) of the Longtown Group NDP, specifically contrary to:**

- a) Protect the views to and from Offa's Dyke Path and the Brecon Beacons National Park.**
- b) Conserve, restore or enhance the landscape character.**

The meeting ended at 11.22 am

**Chairperson**





**232851 - PROPOSED RESTORATION AND RESIDENTIAL USE OF THE FARMSTEAD AT AUBREYS INCLUDING: THE CONVERSION OF AND EXTENSION OF THE EXISTING FARMSTEAD, PROPOSED DETACHED BUILDING FOR GARAGING, WORKSHOP AND PLANT STORAGE, EXTENSIVE LANDSCAPING AND REWILDING OF THE WIDER SITE, THE INSTALLATION OF AN ACCESS TRACK AND ASSOCIATED WORKS AT AUBREYS, TO THE WEST OF THE MOUNTAIN ROAD, LLANVEYNOE, LONGTOWN, HR2 0NL**

**For: Ms Gardner per Mr Matt Tompkins, Lane Cottage, Burghill, Hereford, Herefordshire HR4 7RL**

### **ADDITIONAL REPRESENTATIONS**

Five further representations have been received from Dr R Maurice-Williams, Mr N Keeble, Mr Bill Mills, Mr D Stones and the Herefordshire Wildlife Trust, the concerns raised are summarised as follows:

All correspondence can be viewed on the website at:

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=232851&search-term=232851](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=232851&search-term=232851)

Objection from Mr Stones is also appended.

- extensive new development will spoil the remote landscape of the upper Olchon valley.
- the new ancillary building is well away from the present farmstead and interferes with the ancient field pattern which is visible from the other side of the valley. This will contravene the landscape policy guidance document 2023 section 7.
- the existing farm is derelict and needs to be rebuilt. The core strategy policy RA5 says that the property has to be restored without major new building and without any extensions and ancillary buildings. This application does not fit in with these criteria.
- Structural survey of building should be a pre-requisite for validation – real risk of significant loss of historic fabric
- Notice given by one representation (from Nicholas Keeble) that an application to Historic England for listing the entire structure was submitted (Thursday 29 August)
- Allowing the development on an LWS could set a precedent for future planning applications which could negatively impact the LWS designations
- Scale of landscape impact remains significant and this is not outweighed by the works to restore that farmstead which in terms of their scale fundamentally alter and detract from their value
- The proposed drainage strategy does not comply with the Environment Agency's General Binding Rules and permission should not be granted without evidence of a viable drainage strategy
- Incorrect assumptions made about the flows within the adjacent watercourses with evidence provided of no flows
- Photographic evidence of flooding of the Mountain Road also provided
- Whilst mitigations have been recommended which could replace details such as roosting sites once an existing habitat is lost it is not easy to replicate or to replace the value of that habitat
- current proposal for track passes directly through the LWS but the application area also includes the field to the South which lies outside of the LWS boundary. It might be

possible to reduce the impacts of the development by redirecting the proposed track through this field. Reducing the amount of the development within the actual LWS boundary could reduce the risk to the LWS habitats

- we note that the Phase 1 survey is dated August 2021 which is now 3 years ago and therefore may not provide a current view of the ecological status of the site.
- We believe that in its current form the above application may conflict with LD2 – Biodiversity and Geodiversity

## **OFFICER COMMENTS**

For the avoidance of doubt a structural appraisal is not a national validation requirement and at present Herefordshire Council does not have a local list requiring such as a pre-requisite to validation. Nevertheless, further to the publishing of the report, the applicant has commissioned a Structural Survey of the farmhouse and buildings which took place on 28 August 2024 and was submitted to the LPA on 2 September.

In summary, the report advises that the remaining elements of the buildings are capable of being retained. In particular, crack stitching, repointing, roof replacement and floor installation is recommended for the farmhouse whereas the design and construction of new roofing will be required for the remnant farm buildings. What is evident from the report is that the standing remains of the farmstead can be retained, underpinned with new floors created thereby preserving the historic fabric alongside the recommended use of traditional techniques to carry out the new work and works of repair.

Having regard to the support offered by policy LGPC4 for the re-instatement of historic farmsteads it is considered that this report provides sufficient evidence of the ability to retain the existing fabric through the implementation of the project. Notwithstanding this, condition 7 remains valid in terms of providing for a further detailed level of clarification as to how the existing fabric will be retained during construction. This accords with the requirements of the Principal Building Conservation Officer in the event that permission is granted.

The Council has received confirmation that the listing application referred to above has a reference number and is being actively considered by Historic England Midlands. Historic England have advised that there is no certainty as to when the listing application will be considered although they will try to achieve this by the agreed determination date of 6 September. There is however no guarantee that it will be completed by this date but Historic England have made clear that they respect the right of the Council to proceed with the determination of the planning application and advise that in practice, if the buildings are listed then it would likely be necessary for a separate Listed Building Consent application to be submitted. The legal advice in respect of this latest development will be covered in the presentation but for clarity, the current position is a matter for the decision maker to consider and accord appropriate weight to. It is however your officers view that in light of the early stage that the application for listing is at, it should be afforded only limited weight.

The assessment of this application has properly considered the heritage value of the farmstead and at no time over the last 3 or so years that the various proposals for the site have been under consideration has there been any suggestion from the Principal Building Conservation Officer that the farmstead is worthy of listing. Instead the approach has been to try to promote the most appropriate balance between the interests of securing a viable and beneficial use of the buildings in a manner that respects their character and setting. This is considered to be reflected in the terms of policy LGPC4 of the Longtown Group Neighbourhood Development which identifies the site as one for potential reinstatement.

With regard to the further representation regarding the drainage strategy, it is maintained that the Council's advisor is satisfied that a viable drainage solution can be achieved and as such recommends a condition. The compliance or otherwise with the General Binding Rules is a separate matter from the determination of the application and would be a matter for the applicant to address directly with the Environment Agency.

In response to the comments received from the Herefordshire Wildlife Trust, the Ecologist has provided the following updated response

*The initial Phase 1 Ecology Survey for the site was undertaken in August 2021, there have been further visits and reports relevant to the condition of site throughout 2022 and 2023 with the most recent update being undertaken in June 2024.*

*I note the comments from Herefordshire Wildlife Trust and their concerns over the track passing through part of the Black Mountains Woodland SWS. The access track has been re-designed so although the access track still goes through SWS, it is only within the lower ecological value area dominated by bracken and through an area of habitats for which the site is not designated. There is proposed mitigation to create and enhance habitats within the site.*

*The access track has been designed in this way to reduce the visual impact by taking it through a less visible field and avoiding parking and turning at the front of the buildings in order to better preserve their undeveloped setting.*

It is also confirmed that there will be no loss of irreplaceable habitat associated with the development proposed within the Special Wildlife Site.

**NO CHANGE TO RECOMMENDATION**



<b>MEETING</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE</b>	<b>23 October 2024</b>
<b>TITLE OF REPORT</b>	<b>192515 – APPLICATION FOR APPROVAL OF RESERVED MATTERS FOLLOWING OUTLINE APPROVAL (160581 – PROPOSED SITE FOR THE ERECTION OF 5 NO. FOUR BEDROOM DWELLINGS). BALANCE FARM TITLEY KINGTON HR5 3RL</b>  <b>For: Ms Vaughan per Mr Matt Tompkins, 10 Grenfell Road, Hereford, Herefordshire, HR1 2QR</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192515&amp;search=192515">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192515&amp;search=192515</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

**Date Received:** 15 July 2019  
**Expiry Date:** 25<sup>th</sup> October 24

**Ward:** Arrow                      **Grid Ref:** 332822,259747  
**Local Member:** Cllr Roger Phillips

### Procedural Background

This application was originally referred to a meeting of Planning Committee on 6 September 2023. The minutes of that meeting are available on the Council's website via the following link:

<https://councillors.herefordshire.gov.uk/ieListDocuments.aspx?CId=264&MId=8910&Ver=4>

The resolution of the committee was that determination of the application be deferred, as follows:

*'The application is deferred to allow for a reassessment of the scale, design and layout of the proposed scheme'*

The minutes of the earlier meeting note that the debate raised the following principal points:

- *The proposed red brick design was felt to be very suburban and unsympathetic to the local area*
- *A deferral of the application would allow the applicant to produce a design which was more sympathetic to the locality;*
- *There was concern regarding the height of the buildings. The ridge heights were felt to be too high and suburban in nature; and*
- *The layout of the site should be reconsidered to utilise renewable sources of energy more efficiently.*

Following the deferral, the Applicant has engaged with Officers and sought advice towards an amended scheme. It is understood that the Applicant and their professional representatives also attended a meeting of Titley Group Parish Council on 9 April 2024 to present alternative plans and receive feedback. This has led to the submission of an amended suite of plans which have been re-consulted upon in line with relevant requirements and are the basis of this report.

---

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

## 1 Site Description and Proposal

- 1.1 The application relates to a site in the village of Titley in the north west of the county. The site lies on the west side of the village and just to the north of the unclassified highway known as Eywood Lane (U91602). The location of the application site is denoted by the red star on the map below;

**Figure 1: Site Location**



- 1.2 The site is a wedge shaped parcel of land that occupies a slight depression next to the adjacent highway. It currently hosts a steel framed agricultural building and adjoining bunker which appear to be in use for general agricultural storage. A number of residential properties are found to the east of the site in the complex of converted traditional agricultural buildings known as Balance Barns. Historically these were associated with The Balance Farmhouse, which sits approximately 50m to the south east of the site and is listed at Grade II. Although not within the designated area, the site is in close proximity to the Grade II registered park and garden of Eywood. The boundary of the designated area is located to the west of the site, and the former gatehouse lodge to the park is found near to the site access.
- 1.3 The site is accessed from the south off the unclassified Eywood Lane (U91602). Eywood Lane is a 'no-through' road to the west, where it provides access to a number of dwellings, farms and the wildlife site at Titley Pools. Access from the site to the wider highways network is gained via the junction onto the B4355 approximately 100m to the east towards the centre of the village.
- 1.4 The site currently has the benefit of outline planning permission for the erection of five four bedroom dwellings. Outline permission was granted with all matters reserved in July 2016 under local authority reference number P160581/O. Reserved Matters approval in respect of access was granted on appeal in August 2019 (Local Authority Reference P181476/RM / Appeal reference APP/W1850/W/19/3225568).
- 1.5 The current application is made in line with the conditions of the outline permission and seeks approval of the outstanding reserved matters. These are appearance, landscaping, layout and scale. For the avoidance of doubt, the Town and Country Planning (Development Management Procedure) (England) Order 2015 defines each of these as follows:
- "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  
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

1.6 As noted at the start of this report, this application was first reported to Committee in September 2023. Concerns were however raised with the proposed plans during Members’ debate (in terms of design, scale, materials and renewable energy provision) and a decision on the application was consequently deferred to give the Applicant the opportunity to make amendments to the scheme. An amended suite of plans have now been received and the changes made can be summarised as follows:

- Units 3 and 4 have been ‘combined; to create a longer, continuous building range.
- The detached garage serving Plot 1 has been relocated from its previous location at the fore of the site and combined with the range of garages serving Plots 2 – 5.
- The siting of Unit 1 has been shifted to the south to compensate for relocation of its associated garage. The external materials for Unit 1 has also been amended from brick to stone with alterations made to the form and proportions of chimney detailing.
- External materials of ‘barn style’ units 1-4 have been amended to natural stone at ground floor and horizontal timber boarding at first floor level.
- Provision is now made on all plots for PV panels and Air Source Heat Pumps.
- Alterations have been made to the landscaping in associated with site layout changes, including the provision of metal estate fencing along the site frontage in lieu of timber a previously proposed.

For ease of comparison, the previous and current iterations of the plans are both shown:



Figure 2: Site Layout as previously proposed September 2023



Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789



Figure 3: Amended Site Layout as currently proposed August 2024:



Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

- 1.7 The Reserved Matters submission shows five detached four bedroom dwellings, which is in line with the details established through the grant of the outline permission. The access to the site would be from Eywood Lane to the south in accordance with the details approved under application P181476/RM and this would lead to a shared driveway which extends to the north and terminates in a shared parking area at the centre of the site. The site has been designed to reflect a traditional farmyard typology with a larger ‘farmhouse’ style unit positioned at the front of the site near to the highways access and the remaining units being positioned behind this arranged around a central courtyard. A shared single storey garage block, finished in timber cladding under slate, is also proposed adjacent to the shared central area.
- 1.8 Plot 1 is located closest to the road and is intended to be redolent of a traditional rural farmhouse. The principal elevation of the building would be orientated to the east and accommodation would be spread across three floors. The main element of the building has a narrow span with a steeply pitched roof with a smaller projection being found to the rear. Externally, the materials palette has been amended to now predominantly feature walls of stone with a small area of brick detailing to the external chimney stack; the proportions of which have also been amended in response to Conservation advice. The roof would be of slate. Architectural details employed include a canopy porch, arched window lintels, leaded windows and timber joinery. For ease of comparison, the previous iterations of the plans and the proposal following amendments are shown below:

**Figure 4: Plot 1 Elevations as previously proposed September 2023:**



**Figure 5: Plot 1 Amended Elevations as currently proposed August 2024:**



- 1.9 The remaining units on Plots 2-5 are sited further to the north within the site and are all of a similar design which is based upon the principles of vernacular agricultural buildings. They are two storeys in height and have a simple linear form with a relatively narrow span and minimal number of protrusions. Following the earlier comments of the committee and discussion with the Parish Council, external materials have also been amended to now feature stone at ground floor levels and horizontal timber boarding above. Roofs would be of slate and fenestration would be of timber. The siting of the four units would largely be as previously proposed, although Units 3 and 4 have now been combined into one continuous structure. The dwellings have been arranged with the associated garaging block to create a courtyard typology. The garage block would be finished in timber boarding under a slate roof.
- 1.10 An example of the elevations for these units (Unit 2) are shown below:

**Figure 6: Plot 2 Elevations as previously proposed September 2023:**



**Figure 7: Plot 1 Amended Elevations as currently proposed August 2024:**

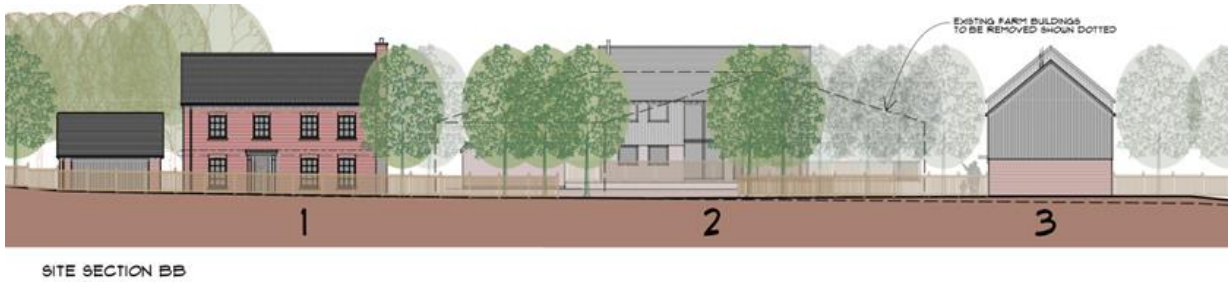


- 1.11 In terms of landscaping, amended plans have been submitted as part of the application process which show the existing earth embankment and evergreen trees which form the site's western boundary towards Eywood Park to be retained. The existing hedgerow to the north would also be retained however a group of Ash trees to the site's north western corner are proposed for removal. Gaps in existing boundary features would be infilled with new planting. To the eastern boundary a new hedgerow would be planted along with a number of scattered trees to include English Oak, Field Maple, Limes and Rowan. Internal boundaries between plots would be formed by hazel wattle fencing, with estate railing and hedgerows forming the access road.

**Figure 8: Site Section as previously proposed September 2023**

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789





**Figure 9: Amended Site Section as currently proposed August 2024:**  
 (NB. Foreground landscaping not shown, unlike in earlier version of plans above)



## 2. POLICIES

### 2.1 Herefordshire Local Plan – Core Strategy 2015

The following policies are considered to be of relevance to this application:

- SS1 - Presumption in Favour of Sustainable Development
- SS2 - Delivering New Homes
- SS3 - Releasing Land for Residential Development
- SS4 - Movement and Transportation
- SS6 - Environmental quality and Local Distinctiveness
- SS7 - Addressing Climate Change
- RA1 - Rural Housing Strategy
- RA2 - Housing in Settlements Outside Hereford and the Market Towns
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and geodiversity
- LD3 - Green Infrastructure
- LD4 - Historic Environment and Heritage Assets
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Waste Water Treatment and River Water Quality

It is highlighted to Member's that the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was confirmed on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application.

The Herefordshire CS 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)

## 2.2 The National Planning Policy Framework (December 2023)

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

The full National Planning Policy Framework can be viewed through the following link;

[https://assets.publishing.service.gov.uk/media/669a25e9a3c2a28abb50d2b4/NPPF\\_December\\_2023.pdf](https://assets.publishing.service.gov.uk/media/669a25e9a3c2a28abb50d2b4/NPPF_December_2023.pdf)

## 2.3 Titley Group Neighbourhood Development Plan (NDP)

The Titley Group NDP was made on 23 November 2023. It now forms part of the Development Plan.

The following policies from the Titley NDP are of relevance to this scheme:

- TG1: Sustainable development
- TG2: Housing needs and requirements
- TG5: Titley settlement boundary
- TG10: Infrastructure
- TG11: Renewable energy
- TG13: Landscape
- TG14: Natural Environment
- TG15: Historic environment
- TG16: Design and access

The Titley Group Neighbourhood Development Plan and relevant supporting documentation can be viewed through the following link;

<https://www.herefordshire.gov.uk/directory-record/3109/titley-group-neighbourhood-development-plan>

2.4 The Council is currently in the process of preparing a new local plan. A draft of the emerging Herefordshire Local Plan was published for Regulation 18 consultation between 25th March and 20<sup>th</sup> May 2024. At this early stage of progression, the draft plan attracts limited-to no weight.

<https://www.herefordshire.gov.uk/local-plan-1/local-plan-2021-2041/2>

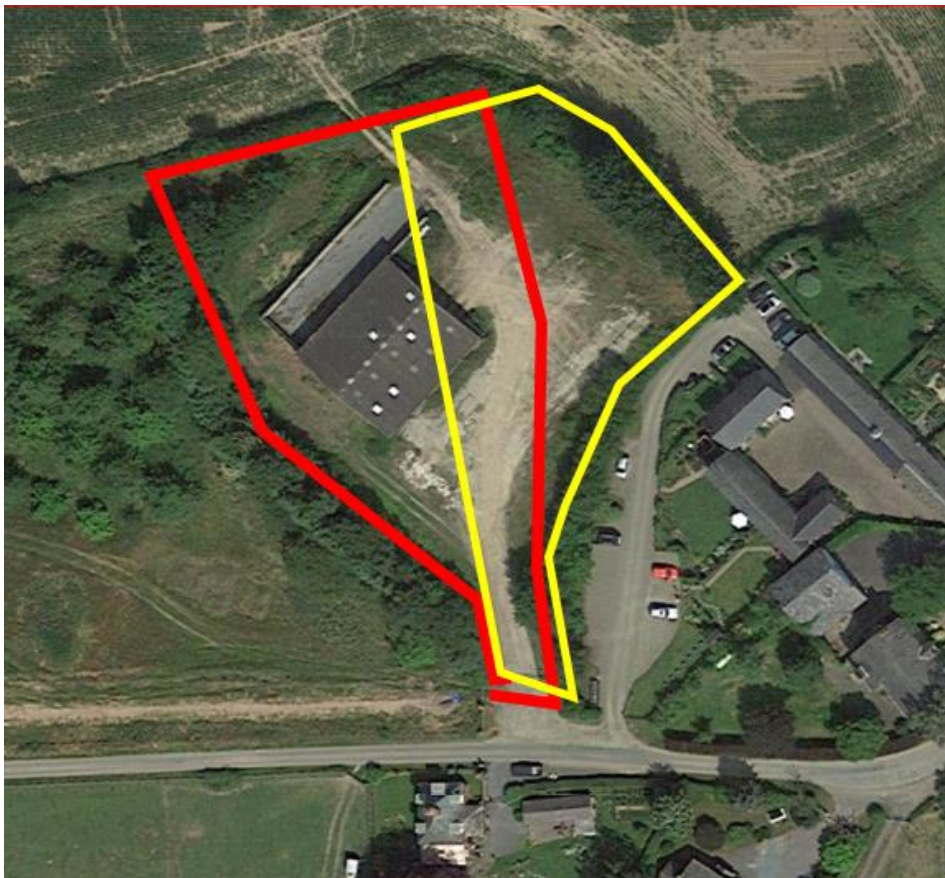
## 3. **PLANNING HISTORY**

3.1 The following applications apply directly to this site and are relevant to the current application;

Reference	Description	Decision
P181476/ RM	Application for approval of reserved matters following outline approval P160581/O. Access only.	Allowed on appeal – 8th August 2019 (APP/W1850/W/19/3225568)
P160581/O	Proposed site for the erection of 5 no. four bedroom dwellings (Outline – all matters reserved)	Approved 27th July 2016

The following application relates to land outside of the red line for the current application, but relates to the eastern part of the Balance Farm farmyard which adjoins Balance Barns (Fig 6).

Reference	Description	Decision
P162824/O	Site for the proposed erection of 5 dwellings.	Refused. Appeal dismissed on highways safety grounds - Jul 2017 (APP/W1850/W/17/3168668).



- Current Site – P160581/O
- Site of Dismissed Appeal – P162824/O

**Figure 10 – Plan identifying current site (red) and site of dismissed appeal (yellow)**  
[boundaries approximate]

## 4. CONSULTATION SUMMARY

### Statutory Consultations

#### 4.1. **Natural England** – No Objections (Consultation May 2023)

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.

#### Further advice on mitigation

This proposal drains to the River Lugg Site of Special Scientific Interest (SSSI), which is a part of the River Wye Special Area of Conservation (SAC). The River Lugg part of the SAC is exceeding the phosphate limits set for its favourable condition. Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

The application states that the proposed development will be made nutrient neutral by purchasing credits to a constructed wetland installed at the Luston Wastewater Treatment Works. This constructed wetland has all the necessary permissions in place and has been agreed with Natural England.

Your Authority has undertaken an Appropriate Assessment, informed by a nutrient budget which concludes that the proposal will not result in adverse effects on the integrity of the River Wye SAC. As Competent Authority it is your responsibility to ensure that you are confident that there is sufficient information to support the values used in the calculation, and that the nutrient budget calculation is correct.

Natural England agrees that with the appropriate nutrient neutrality in place, there are no adverse effects on the integrity of the River Wye SAC. The proposed nutrient neutrality mitigation measures must be secured as a part of the planning permission.

#### 4.2 **Gardens Trust** – No Response

#### 4.3 **Welsh Water** – No Objections

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

### Internal Council Consultations

#### 4.4 **Area Engineer Team Leader** – No objections

As this is a reserved matters (RM) application with the outline of development already established, comments will be kept to the RM outlined in the Application Form. This follows on from application 160581/O.

There are no layout issues from a highway perspective. The developer should include provision for cycle parking. The parking, turning and manoeuvring space as shown on the site layout plan (7218-1-20) is adequate. Detailed dimensions will be secured by condition.

**Conclusion:** No objection - Condition CB2, CAJ, CAT, CAQ

#### 4.5 Conservation Manager (Ecology) – No Objections

##### Key Issues and Potential Pathways

The proposed development includes a mains foul sewerage connection for 5 new dwellings which will be treated at the Severn Trent Titley Kington sewage 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.

##### Impacts of Plan / Project

##### Foul Water Mains Connection – Phosphate Credit Purchase

The proposal is for 5 new dwellings under this application. The proposal has been assessed using the standard Natural England methodology and budget calculator.

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 0.3 ha.

Waste Water will be discharged from the site via a connection to mains sewer and will be treated at the Titley Kington STW Waste Water Treatment Works, which has a phosphate limit of 5 mg/l. This has been used in the calculations in line with the NE methodology.

The Waste Water P load of the development is calculated to be:

Development	5 dwellings
Occupancy	2.3 per dwelling
Additional population	11.5 people
Water usage	110l per person per day
Waste water volume	1265l per day
Receiving WwTW environmental permit	5 mg/l
Total phosphate after treatment	6325mg/TP/day
Convert mg/TP/day to kg/TP/day	0.006325 kg/TP/day
Per year	2.31 kg/TP/year

Waste Water Total Phosphate Load is 2.31 kg/TP/year.

The Current Land Use is general agricultural use

The Current P Leaching Load is 0.04 kg TP.

The Post Development Land Use is residential urban Land which equates to an Annual Phosphorus Nutrient Export of 0.5 kg TP.

The Phosphate Balance for the Site is:

TP Waste Water post treatment	2.31 kg/TP/year
Historic land use P export	0.04 kg TP



Post development P export	0.5 kg TP
Land use net change	0.46 kg TP
Phosphate budget	2.77 kg TP/year
Phosphate budget including 20% buffer	3.32 kg 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 = 3.32kg TP/year. Mitigation is proposed in this case including the purchase of Phosphate credits and is set out in table 4 below.

### **Mitigation Requirements and Outcomes**

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 = 3.32kg TP/year.

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:

$$\begin{aligned} &\text{Annual phosphorous load to mitigate } 3.32 \text{ TP/year} * \text{£14,000 per kg} \\ &= 3.32 * \text{£14,000} \\ &= \text{£46,480} \end{aligned}$$

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

---

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

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 principle 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 a reduction to 0.8mg/l. This has effectively introduced a 20% buffer and over-sized 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/hc-global-template)

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.

## Conclusion

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.

## Recommended Conditions

1. None of the dwellings approved by this permission shall be occupied prior to the 1st August 2023.

Reason: To ensure that the Luston integrated wetland scheme can be relied upon with certainty to provide effective mitigation for the potential effects of the development upon the River Lugg / River Wye SAC as part of the Councils Phosphate Credits scheme, thereby safeguarding water quality and the integrity of the River Lugg (Wye) SAC in accordance with policies SS6, SD2, SD4 and LD2 of the Herefordshire Local Plan Core Strategy, the National Planning Policy Framework, the Conservation of Habitats and Species Regulations (2017) and NERC Act (2006)

2. Prior to the first occupation of any of the residential development hereby permitted written evidence / certification demonstrating that water conservation and efficiency measures to achieve the 'Housing – Optional Technical Standards – Water efficiency standards' (i.e. currently a maximum of 110 litres per person per day) for water consumption as a minimum have been installed / implemented shall be submitted to the Local Planning Authority for their written approval. The development shall not be first occupied until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation. Thereafter those water conservation and efficiency measures shall be maintained for the lifetime of the development

Reason: In order to ensure that water conservation and efficiency measures are secured to safeguard water quality and the integrity of the River Lugg (Wye) SAC in accordance with policies SS6, SD2, SD4 and LD2 of the Herefordshire Local Plan Core Strategy, the National Planning Policy Framework, the Conservation of Habitats and Species Regulations (2017) and NERC Act (2006).

### 4.6 Conservation Manager (Landscape) – No Objections subject to conditions.

#### Comments following amended plans:

I am satisfied, that the applicant has amended the drawings to:

- Retain the tree belt in full to the west of the site.
- Relocate garage for plot 1 and patio for plot 2 to avoid excavation of bank and provide appropriate PRZ protection and construction methods to avoid damage to roots.

#### Initial Comments 2019:

#### Designations and constraints

- Within landscape setting of Eywood Park and Garden (Registered grade II listed C18 landscape park).
- Landscape Character – Principal Timbered Farmland.

---

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

- Traditional Orchard adjacent western boundary.
- Public Right of Way (PROW) footpath TL12 and TL13.

### **Impacts on Landscape**

- Loss of evergreen and deciduous trees (Refer figure 3), that forms a landscape setting (Refer figure 1 and 2) to a grade II listed landscape park and landscape edge to the village of Titley.
- Loss of existing green infrastructure.

### **Outcome**

#### *Significant landscape setting*

- Eywood Landscape Park, a grade II Historic England listed park and garden, with a predominate evergreen treed backdrop (Figure 1) that is reflected at the entrance (Figure 2) forms a visually important landscape setting.

#### *Exposure of built form in a significant landscape setting*

- The removal of an established (predominately evergreen) band of trees (Figure 3) that forms a landscape setting to Eywood Landscape Park and a distinctive landscape edge to the village of Titley (Refer figure 2) will expose buildings (Figure 4) and damage a valued landscape

#### *Loss of existing green infrastructure*

- The removal of the trees will denude the ground, exposing a bare ledge between two steep slopes increasing soil erosion and runoff.
- The trees that are proposed to be retained are vulnerable due to the bare steep slopes. It is questionable whether they will survive, therefore further increasing the exposure of buildings and further reducing the green infrastructure.
- An existing wildlife habitat will be lost.

#### **4.7 Conservation Manager (Arboriculture) – No objection**

I have viewed the soft landscaping proposals and see that the landscape officer has provided conditions to ensure they are adhered to. In light of this is I have no further comments to add.

#### **4.8 Conservation Manager (Historic Buildings) – No objections**

##### Final Comments August 24 – No Objections

Further to my comments of 02/07/2024, thank you for consulting me on the amended plans. I note the revised plans which are for the slight relocation of plot 1 and the garage within the site, the landscaping in a communal area adjacent to the block of garages, and the revised details to the chimney of plot 1. I note the revised drawings.

I note the amended plans and would consider that the minor changes previously suggested have been incorporated, and would consider that the amended plans have resulted in a more traditional “agricultural” layout by the re-siting of the garage and access/parking closer to the garage block.

As such I would raise no objections to the proposal on built heritage terms, and would request that the standard conditions in terms of external materials and hard and soft landscaping be considered.

### Earlier Comments July 2019:

Thank you for consulting me on the amended plans, and I note the previous comments from the built heritage officer on 05/09/2019, and 14/11/2019, where there was general support for the scheme which has agricultural buildings as the design inspiration. The site has the benefit of outline consent and as such the principle of development has been established. The matters for consideration are the details of the scheme including design and materials

I note the amended plans, which are for a detached “farmhouse” and a range of barns. The design rationale for the change has been outlined in the correspondence from the agent.

Whilst having no objections to the proposed design changes in themselves, however I would request that consideration be given to a few minor changes if possible.

- The garage to plot 1 is detached and to the south of the plot, which reduces the illusion of farmhouse and barns. It would be preferable if the garage were sited adjacent to the other garages, and ideally attached to present the appearance of a single building, and the house moved southwards. This would also remove the car parking from the formal faces of the house and suggest a closer association with the other garaging, and at the same time permit a slightly larger private garden at the back of the house.
- Should the garage be moved to the north of the site. The small area of garden to plot 1 adjacent to garage for number 3, sits uncomfortably within the site, and I would have no objections if the 5 garages were moved slightly eastwards to avoid the need for fencing to the east of the garages. However if the garage door are fixed in their location due to sweeping distances, perhaps the garage could be extended to provide garden store(s)
- The design of the “farmhouse” is traditional and reflects other farmhouses in the locality and the wall to window proportions are well considered. However whilst external chimneys are found on traditional properties, they were predominantly stone and wider, or internal, with brick stacks. Could I ask that the chimney details be reconsidered to have an internal chimney breast such as Balance Farmhouse, or stone and wider such as The Stag.
- With those 2 suggested amendments I would raise no objection to the proposal on built heritage grounds. I would suggest a condition in respect of external materials and hard surfacing be considered.

### Initial Comments 2019:

The proposed design for 5 houses and garaging is generally good, taking its cues from the form of a traditional farmstead with farmhouse and regular courtyard of outbuildings. The covered walkway linking units 3 and 4 is a good way of allowing separate units assume the linear form of a more typical agricultural building. This site plan will not go against the grain of development in the settlement where complexes of similar form are present. As outline permission was granted for 4 bedroom houses, this approach to the site layout is appropriate, avoiding sub-urban cul-de-sac layouts which would not sit well within the village context.

Subject to further detail, the scale, proportions, materials and detailing of the individual units as proposed are in accordance with paragraph 127 of the National Planning Policy Framework which requires development to be in sympathy with local character and history.

This proposal would not harm the setting of grade II listed Balance Farmhouse to the south.

I refer to the comments of my colleague the Landscape Officer over the impact on Eywood Park.

The boundary treatments specified are a reasonable compromise in maintaining an overall agricultural feel to the development whilst allowing private amenity space to the dwellings.

We do ask that standard conditions on material finishes and joinery details are requested. The quality of brick used will have particular impact on the success of the scheme. A standard black Bitmac finish would not be typical of a rural village, so we would ask that a more neutral colour finish was used, or alternative hard surfacing which is more rural in character.

4.9 **Environmental Health (Contaminated Land)** – No comments

5. **REPRESENTATIONS**

5.1 **Titley Group Parish Council** – Objection

Representation 26<sup>th</sup> August 2024

In response to the agent's email regarding planning application 192515- Balance Farm, Titley - Amendments to address the historic Buildings Officer's comments.

The meeting held between the Parish Council, agent and applicant was at the recommendation of Hereford Planning Committee following their decision to defer any decision. This meeting could have been arranged by either the applicant, agent or indeed the Parish Council but as our NDP had just been adopted we decided to initiate a meeting. It would therefore, be expected that the Parish Council run the meeting but does not mean that the applicant/agent should not have sought to address the reasons for deferment and the non-conformance with both Hereford Councils Core Strategy and the NDP. The applicant and agent (and Architect) were given ample opportunity at the meeting to do this and in subsequent correspondence continue to disregard any 'reassessment of the scale', including both 'ridge height' and 'suburban nature design'.

The Parish Councils role at the meeting was primarily to highlight the recently adopted NDP and for the applicant and agent to consider how to address any non-conformity. It is disappointing to see that no reference is made to the NDP in either of the agents subsequent letters and that the applicant chooses not to consider smaller units either in number of bedrooms or overall size. It is not the Parish Council's role to prescribe the design, materials, size or layout but again to ask for conformity to policies within our NDP (which we have referenced in our previous submission).

With regard to the amendments made following the HBO comments, they do not address the scale of the houses and merely saying that it is appropriate to the setting does not consider local housing need nor the size of the adjacent barn conversions and housing.

The Parish Council therefore considers that our previous submission remains valid and that we continue to oppose this application.

Representation 13<sup>th</sup> July 2024:

The resolution of the Planning Committee was 'The application is deferred to allow for reassessment of the scale, design and layout of the proposed scheme'.

During consideration of the application, the committee raised the following principal points:

- 'The proposed red brick design was felt to be very suburban and unsympathetic to the locality.'
- 'A deferral would allow the applicant to produce a plan more sympathetic to the locality.'
- 'There was concern regarding the height of the buildings. The ridge heights were felt to be too high and suburban in nature.'
- 'The layout of the site should be re considered to utilise renewable sources of energy more efficiently.'

It was also suggested that the Parish Council and Applicant meet to discuss the application, in particular respect to the Titley Group NDP. After formal adoption of our NDP, the Parish Council invited the Applicant to a meeting on the 9th of April 2024. It was disappointing that the Applicant and Agent had not considered many of the conflicts raised by the NDP in relation to their application and although some agreement was reached on replacing red brick with stone an orientation of the boarding, nothing was agreed in relation to the height, scale, orientation or layout. Neither was any agreement reached on provision of pedestrian access either within the site, or to connection with the rest of the village.

In respect to the size of the dwellings, the Parish Council provided the applicant with a letter from the then lead planner, Kevin Bishop, in which he informed us that the developer could submit a scheme with five houses of a lesser number of bedrooms at reserved matters stage we attach this letter). We anticipated some level of response, but were again disappointed when the applicant chose to continue with the re-application with no further consultation with the parish. The Parish Council would, therefore, like to make the following comments regarding the re-submission:

- Policy TG1 Sustainable Development.
  - Developments should meet strategic requirements for new housing and the needs of the local community.
  - Conserve and enhance the landscape and distinctive natural and historic environment.
- Section 4 Housing Needs and Requirements.
  - 4.6 The NDP allocates 42 new homes within the group parish well in excess of the target percentage growth of 23.
  - 4.7 The type and size of housing is of the right kind to meet local need and refers to policy RA2 'development outside Hereford and the Market Towns to result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand'.
  - 4.8 The residents survey, carried out to inform the development of the NDP, identified 3-bedroom homes as the most favoured, with 2-bedroom the next most popular. Homes of 4 or more were significantly less favoured.
  - 4.9 Evidence from the Kington Housing Market Assessment indicates a requirement of 75% 2–3-bedroom homes for Market Housing.

Policy TG2 2. Requests that housing should be appropriate in scale and in keeping with established character. Also, that Affordable Housing should be considered in developments in excess of 500m<sup>2</sup>(dependant on Titley being defined as a Rural Settlement). These proposals would create a massive 858m<sup>2</sup> of 4-bedroom non-affordable housing.

- Section 5: Titley Settlement Boundary
  - 5.12 Harm to the Settlement Pattern (with particular reference to the size and scale of the proposed development).
  - 5.13 Highway safety on Eywood Lane(with particular reference to the lack of any pedestrian access).
  - 5.14 Historic Separation between the Village and the Grade II Listed Parkland (again with reference to the size of the proposal).

Policy TG5 again states that developments should 'respect settlement character, natural and historic environments, heritage assets and can be shown to be a size and type to meet local demand.'

As expressed by the Planning Inspector at Reg 16 examination, the Balance Yard site if refused planning at Reserved Matters assessment, would then not be included within the Titley Settlement Boundary. There is, therefore, precedent for refusal should the reserved matters be deemed unacceptable.

- Policy TG15 Historic Environment
  - Development Proposals that result in substantial harm or loss of significance to designated heritage asset will not be allowed.
- Policy TG16 Design and Access
  - 1. Respect the character of adjoining developments having regard to siting, scale, massing, height, detailing, materials and means of enclosure.
  - Building orientation.
  - 4. Safe access from the local road network with priority given to pedestrians and cyclists.

The Parish Council strongly believe that the applicant has demonstrably failed to re assess the reserved matter application regarding size, scale and height (at 858m2 these are very large houses regardless of the number of bedrooms). At 2-3 times the cost of brick cladding, the introduction of stone may well be more in keeping with the local vernacular, but without the associated reduction in size of dwelling, would likely make these houses even less affordable to people from the local HMA. This is clearly contrary to our NDP, the existing Core Strategy and the request of the Planning Committee.

Our community remain strongly opposed to this development on road safety grounds as well as the scale, siting and character. Without safe pedestrian access to the rest of the village and the 'exclusive' nature of this development we are concerned it will create an unsustainable estate separate from our existing community.

Having held consultation with the Planning department regarding the new Core Strategy, it seems likely that Titley will be removed from the villages with proportional growth and returned to open countryside. As this is based on service provision within the village it would seem totally unsustainable to develop homes that neither fulfil local demand nor could be supported by local services.

The Titley Group Parish Council continue to strongly oppose this application as it conflicts so much with our adopted NDP. As this application was deferred by the Planning Committee, we request that they need to decide whether their reasons for deferment have been fulfilled and that we have an opportunity to put forward our continuing opposition.

### Representation 15<sup>th</sup> June 2023

With reference to our previous comments (dated 16/8/2019 and 13/11/2019) concerning this application, we would reiterate our continuing objection to these proposals. Noting the considerable number of objections posted on the Hereford Council's planning portal, previous village meetings and our most recent consultations on our Neighbourhood Development Plan, there remains considerable objection to these plans within the Titley community. We would like to emphasize the following points:

Our NDP has been resubmitted and is currently being examined at Regulation 16 after previously failing at referendum. We would consider that the main reason for failure, would have been the adjustment of the Titley settlement boundary to include the Balance Farm application site at the request of the examiner.



The resubmitted NDP provides further reasoning for not including the Balance Farm site within the settlement boundary and it therefore remains outside of it.

Due to the contentious nature of this application and requests from both ward councillor and ourselves, we would ask that this application be determined through the Planning Committee.

The majority of objections raised in our previous submission we consider remain valid. The general 'urban' feel to the detailed plans being contrary to both the thrust of our NDP and indeed the overall very rural setting of the village.

We note the aspirational environmental proposals including additional insulation, solar panels and air source heat pumps, but ask whether these should be considered from a planning perspective unless they can be enforced. The lack of pedestrian access, cycle storage only secondary to the garage provision and reliance on brick, rather than locally sourced materials, give the impression that environmental consideration is not a priority.

#### Representation 13<sup>th</sup> November 2019

We note that the amendments only deal with the retention of all the fir trees on the western boundary and a few minor alterations to the landscaping and in no way address the many issues raised in our previous submission. Namely, the increased height and visibility, house size and type, location, road safety, drainage problems, sustainability, access to village services, suitability of building materials, layout and visual appearance. We, therefore, continue to strongly object to this application.

In respect of our NDP (currently under inspection) this proposal lies outside our settlement boundary. We allocated more than sufficient housing to fulfill our proportional growth in locations where road safety would not be an issue and commitment was being made to provide a mix of housing in keeping with local demand. This application would therefore undermine our emerging plan and severely reduce its potential for success at referendum.

Even within the last 12 months the need to build houses in a sustainable manner has become increasingly urgent. Hereford Councils declaration of the climate emergency and the commitment to 'supporting a planning system that protects and enhances landscape, biodiversity and historic assets and seeks to ensure that development is sustainable' should at least require applications to consider sustainability. This application only refers to sustainability when quoting Hereford Councils own policies and fails to even try and deliver in terms of materials, construction, alternative forms of transport (eg cycling, walking), conservation (eg rain water capture) and renewable forms of power supply. Without any commitment to reducing the carbon footprint of this development, how can the council give its support. In the current climate emergency, it is paramount that developments, that will remain with us through this century are sympathetic to our increasingly fragile environment

#### Representation 16<sup>th</sup> August 2019

Following the site and subsequent open meeting, and also further representations made to the Parish Council by local residents, there remains within our community strong opposition to this development. Although the reserved matters appeal regarding the entrance arrangements has recently been approved by the Inspector, the fact that the proposal will cause significant harm to road safety at the Eywood Lane/B4355 junction remains. This is seen by our community as a failure of Hereford Councils Planning and Highways Department to have adequately investigated the effects of the original outline planning on the wider road network, with the result of placing our residents at increased risk of road accident (Titley Neighbourhood Development Plan 5..16, Policy TG16 item 4). We cannot therefore support this application on the grounds that it will diminish road safety.

The Parish Council strongly objected to the outline plans provision of four bedroom houses in a Housing Area that predominantly requires two and three bedrooms. We wrote to both you and our M.P. regarding this, with the response that local market demand will regulate the size of house a developer will build. We are unaware of any change in the type of demand locally yet the detailed plans still look to provide only four bedroom accommodation. The Parish Council cannot support a development that does not look to meet the needs of our local community or the surrounding area (Titley Group Neighbourhood Plan 5.17,5.19, Policy TG6).

We would also consider that in the context of Titley the building of five large houses constitutes a major development. The village is characterised by a linear form of settlement. The proposal would be in effect a substantial 'backland' development which would not respect the settlement character. The Parish Council cannot support a development that does not respect the settlement character (TGNP Policy TG 6, 5.15,5.16).

With regard to the detailed plans and statement; Firstly we would note that the roof height proposed is a substantial increase on the existing barn. We are concerned that this will make the development 'stand out' from the adjoining properties including the Grade II listed Balance Farm and Barn Conversions and also the Grade II listed Eywood Park. We also think the increased height would make the proposal potentially much more visible from further afield e.g. Green Lane, The Mortimer Trail. The Parish council consider that the detailed plans do not respect the character of adjoining development and therefore cannot support them (TGNP TG 16 item 1, TG15).

There are many traditional farmyards within our community. Examples can be seen at The Balance, itself, Titley Court, Flintsham Court, The Highlands, Park Farm and many more. All of these were built with locally quarried stone. The idea that red brick will give the impression of a local traditional farmyard is frankly ridiculous and will serve only to give the impression of a new housing estate style development. Details such as the vertical (as opposed to traditional horizontal) boarding, the portico and diminutive chimney stack on the 'farm house' and the all brick single line of double garages add to the overall impression of an urban design. Four of the houses are of almost identical design again giving the overall impression of an estate. The Parish Council therefore feel that the detailing does not respect the character of adjoining properties or indeed the wider village (TGNDP TG16 item 1, 8.8).

We note that the ecological survey carried out for the outline planning permission regularly references the assumption that little or no removal of existing boundary trees will be carried out. The detailed landscaping proposals, although look to plant a new hedge line and trees, do however show the removal of the existing cypress tree planting and many other relatively mature trees. Local anecdotal evidence suggests the presence of bats, owls assorted song birds and badgers on, or adjacent to, the site. We feel a further survey taking into account the detailed landscaping should be undertaken to properly assess the potential loss of habitat so provision can be made both during construction and after to accommodate wildlife present (TGNDP TG16 item6&7). We are further concerned that the removal of the cypress trees along with the increased roof height will make the site too visible from the Grade II listed Eywood Parkland to the west (TGNDP TG15 item 1).

We have previously written regarding flooding along School lane and at the War Memorial and our concerns that this development may exacerbate the problem. It was noted at the site meeting that there was existing drainage on the site but no detail of outfall/soakaway system was known. The detailed plans for the proposal refer only to a soak away system for handling storm water. Again, local anecdotal evidence, suggests that large quantities of rainwater enter this site on its Northern boundary from adjoining farmland during the wet winter months. The Parish Council would like to ask for a more extensive survey of the existing drainage and proposals to mitigate potential run off from both the site itself and soakaways based in heavy clay soils.

The Parish Council would like to raise several concerns regarding the environmental impact of this development. The detailed plans allow for only vehicular access to the site. How do pedestrians access either these houses or the village without having to walk in the access road or indeed Eywood Lane (where there exists a known risk to road safety)? No footpath provision has been detailed. Also no provision is made or referred to for alternative forms of transport, most notably cycling (TGNDP TG16 item4). There is no detail for any 'street lighting' requirements and if required, the effect this would have on adjoining properties. It would seem that as the garages are some distance from the houses some form of lighting would be required for people to park then safely walk to their homes across a shared access. Titley has no street lighting and provision here of such would have an adverse impact on both existing residential amenity and the environment through light spillage (TGNDP TG16 item 5).

No detail has been supplied regarding how these homes are to be powered. Tittley Group Parish council takes very seriously our need as a community to safeguard the environment for the future. Our current Building Regulations are generally regarded as inadequate and lag far behind many of our European neighbours. We feel that it is imperative that new house builds look very seriously at how they can minimise their carbon emissions through use of building materials, alternative energy sources (e.g. solar, ground source heat pumps, rainwater capture etc) and reduction in dependence on fossil fuels for transport. Within only a few years we would be ashamed to have built unsustainable houses where there is ample potential here for so much better (TGNDP TG16 item 2).

In conclusion, Tittley Group Parish Council feel that these inappropriate plans are so much at odds with the thrust of our Neighbourhood Development Plan that they are impossible to support. The redundant site, if no longer to be used for agriculture, should be developed in a sensitive, sustainable manner so that it becomes an asset to our community rather than separate from it. We are happy to consult with the agent or owner to help facilitate this. We are, however, opposed to these plans and given the history of opposition within the community and subsequent appeals ask for any decision to be referred to the Planning Committee.

5.2 **Letters of Objection** have been received from 23 individuals. They raise the following points;

- Proposal conflicts with the Tittley Neighbourhood Plan policies and is against the wishes of the local community
- The proposal is outside the settlement boundary and Tittley Parish has made plans to meet its housing needs elsewhere through the Neighbourhood Plan
- Highways safety concerns over junction between B4355 and Eywood Lane
- There is an inadequate level of parking and internal manoeuvring space
- The size of the houses does not meet local need for smaller more affordable homes
- The proposal does not respect the linear character of the village
- The site is prominent in views from the highway and public footpaths (including the Mortimer Trail) and there would be an adverse landscape impact
- The design and appearance of the dwellings is not appropriate to local context. The use of brick and vertical boarding is not in keeping with local character. Stone and horizontal weatherboarding should be used instead
- The design of the 'farmhouse' is not reflective of local character or distinctiveness
- The new buildings are excessive in height and larger than existing buildings on site
- The proposal would effect the setting of the adjacent barns, listed building and park
- The proposal is contrary to Tittley's linear pattern of development
- Five dwellings is an overdevelopment of the site
- The proposal would effect the views and amenity of residents in Balance Barns
- The plans are not clear as to which trees would be retained and how the bank to the west of the site would be treated
- The site is observed to be used by protected species and wildlife. The proposal does not follow the recommendations of the Ecology report on the outline application

- Site has surface water runoff issues that need to be addressed through a drainage scheme
- The proposal involves the removal of a large number of valuable trees
- The new planting near to the site entrance will impinge upon the access and the setting of the adjoining parkland
- The proposal does not make any provision for renewable energy or other sustainability features
- The retention of the evergreen trees will deprive houses of light
- The size of the site seems to have increased from outline to reserved matters
- It is unclear how the site access will interact with neighbouring site that has been sold with permission for a farm workers dwelling

### Further Consultations – June and August 2024

A new local consultation exercise has been carried out following the amendments made to the plans in light of the 2023 committee deferral. A number of responses have been received to this exercise, with all but one being from the same individuals who have previously objected. The comments largely reiterate the earlier grounds of objection, however another common theme is the view that the amended plans offered by the applicant are a limited compromise and do not meaningfully address the earlier issues identified by the Planning Committee.

- 5.3 The consultation responses can be viewed on the Council's website by using the link:  
[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=192515&search=192515](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192515&search=192515)

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

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

## **6. Officer's Appraisal**

### **Policy Context**

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

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

- 6.2 In this instance the adopted development plan comprises the Herefordshire Local Plan – Core Strategy (CS) and the Titley Group Neighbourhood Development Plan (NDP). The latter was 'made' as part of the development plan on 23<sup>rd</sup> November 2023 and now attracts full weight (noting that this is a material change since the application was last heard by committee, at which point the draft NDP was pending referendum and attracted significant weight as a an emerging policy document). The National Planning Policy Framework (NPPF) is also a significant material consideration in determining the application.
- 6.3 Paragraph 11 of the NPPF states that all planning decisions should apply a presumption in favour of sustainable development. For decision taking, this means that proposals which accord with an up-to-date development plan should be approved without delay. The Council is currently able to demonstrate a housing land supply which exceeds 5 years and therefore the relevant policies of the development plan are regarded as being 'up-to-date'.
- 6.4 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core

---

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

Strategy was made on 9th November 2020 and the review process is currently underway. The level of consistency between the policies in the existing CS and the NPPF therefore needs to be taken into account by the Council in deciding any application. In this case, the most relevant policies of the CS – which are considered to be those relating to housing provision, safeguarding local character and heritage; and protecting features of environmental value (amongst others) – have been reviewed and are considered to be consistent with the NPPF. As such, it is considered that they can still be attributed significant weight.

- 6.5 The Council published a draft of the emerging Herefordshire Local Plan for Regulation 18 consultation between 25th March and 20th May 2024. At this early stage of progression however, the draft plan attracts limited-to-no weight.
- 6.6 Policy SS1 of the Core Strategy reflects the positive presumption set out within the NPPF and confirms that proposals which 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. Similarly, policy TG1 of the Titley NDP states that proposals which contribute to sustainable development within the Titley Group Neighbourhood Area will be supported.

### **Planning History and Current Application**

- 6.7 Outline Planning Permission (OPP) was granted on the site in 2016 for ‘Proposed site for the erection of 5 no. four bedroom dwellings’ with all matters reserved. A reserved matters application for the approval of access arrangements only was allowed on appeal in August 2019 (P181476/RM). The current application seeks approval of the remaining reserved matters and was confirmed valid on the 24<sup>th</sup> July 2019, which was within the timescale for submission as required by Condition 1 attached to the OPP. The OPP hence remains extant.
- 6.8 The extant outline planning permission establishes the principle of development as being acceptable. For the avoidance of doubt, it is not a matter which the LPA is entitled to revisit as part of the current application for approval of reserved matters.
- 6.9 Notwithstanding this, it is acknowledged that the general principle of the site being developed for housing is a common theme in the objections received from the Parish Council and local residents. Clearly, there is a lack of community support for the notion of housing being provided on the land and this has been reflected in previous drafts of the Neighbourhood Plan, where efforts were made to exclude the site from the defined settlement boundary. However, it would generally be regarded as sound planning practice to include a site within a policy defined settlement boundary in circumstances where it is located adjacent to a recognised village and benefits from an extant planning permission. Those circumstances are considered to apply here and the inclusion of the site has previously been advocated by the initial NDP Examiner, which is thought to have been a factor in the first draft of the NDP failing at referendum in May 2021. Clearly therefore, the issue of whether or not the site should be included within the boundary is a matter of local controversy and this was considered by the second NDP Examiner at paragraph 67 – 79 of their report: <https://www.herefordshire.gov.uk/downloads/file/25507/examiner-s-report-july-2023>
- 6.10 The history of the site in this regard has led to a ‘hybrid solution’ towards the site being put forward by the second NDP Examiner, which has since been adopted as part of policy TG5. The relevant extract of the adopted policy and the accompanying policy map is included below:

*‘The area shown as hatched within Plan 4 will be deemed to be within the settlement boundary if a residential development which has been granted planning permission (including outline planning permission where all reserved matters have been approved) and all pre commencement conditions have been discharged, has been commenced on site.’*

---

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789



**Figure 11: Titley Village Policies Map NDP extract**

- 6.11 The drafting of TG5 therefore recognises that the outline 160581/RM has been granted and provisionally identifies the site as being within the settlement boundary for Titley – albeit with a caveat. The site will only truly be regarded as being within the boundary if a residential development commences on site. Although there is an extant permission in the form of 160581/RM, this has not yet commenced and cannot lawfully do so until all reserved matters (and any relevant conditions) have been approved. The current application seeks that approval and, if this is granted and the scheme is subsequently implemented, the site would then be regarded as being fully within the settlement boundary for Titley as defined by TG5.
- 6.12 Whilst this context is noted, it is important to reiterate that the principle of development is not a matter the LPA is entitled to consider as part of the current application and hence policies guiding where the principle of new housing is considered to be locationally acceptable are of limited relevance. The fact of the matter is that the site benefits from an extant outline permission and the application seeks approval of the outstanding reserved matters layout, scale, appearance and landscaping. The proposals must be assessed on their merits within the scope of the outstanding reserved matters.
- 6.13 An application for approval of reserved matters in respect of access was allowed on appeal in August 2019 (P181476/RM). This established that access to the site would be gained from Eywood Lane to the south and technical details of the access, including the provision of appropriate visibility splays, were conditioned as part of that permission. Those details have been carried forward as part of the current scheme. Whilst therefore again noting that highways safety concerns are a common theme in the objections received from the Parish Council and local residents, these matters have already been addressed as part of the outline permission and approval of reserved matters application P181476/RM. It is not within the gift of the LPA to consider those matters again.
- 6.14 The current application is made in accordance with the conditions defined by the Outline permission seeks approval of the outstanding reserved matters. In this case the outstanding matters relate to layout, scale, appearance and landscaping, as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015 and set out at Paragraph 1.5 of this report.

### **Layout, Scale and Appearance**



- 6.15 In considering the details of the Reserved Matters scheme, strategic policy SS6 of the CS is relevant in that it sets out that all development proposals should conserve and enhance the environmental assets that contribute towards the county's distinctiveness, particularly its settlement pattern, landscape, biodiversity and heritage assets. This is reflected by policy RA2 which states that residential development in the county's rural settlements should result in high quality sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and landscape setting. Policy LD1 is of further relevance in this regard in so far as it requires that schemes demonstrate that they have been positively influenced by the character of the surrounding landscape and townscape in terms of the site selection, design, scale and nature of the development proposed. Schemes should also incorporate new landscaping to ensure that the development integrates appropriately into its surroundings and maintain and extend tree cover where important to amenity. In respect of new buildings, policy SD1 requires that developments should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials whilst respecting the scale, height proportions and massing of surrounding development.
- 6.16 From the Titley NDP, policy TG1 sets out objectives relevant to the achievement of sustainable development. Amongst other things, this sets out that all schemes will be expected to take all opportunities to conserve and enhance the landscape and the distinctive natural and historic environments whilst avoiding undue loss of visual amenity. Policy TG13 sets out that development proposals should protect and enhance the valued landscape by designing, siting and locating development in ways that secure positive landscape and visual impacts. Where harm to the landscape cannot be avoided it must be fully mitigated through sympathetic landscape planting
- 6.17 Policy TG16 deals with matters of design and access and, amongst other things, directs that development proposals should achieve a high quality design by respecting the character of adjoining development and the wider landscape, having regard to siting, scale, height, massing, detailing, materials and means of enclosure. It also requires that developments should retain and incorporate features of amenity and biodiversity value such as trees and hedgerows whilst providing for new landscaping which is in keeping with prevailing character of the surrounding area. Materials should also be incorporated which reflect the local vernacular and colour palette, unless sympathetic alternatives are justified.
- 6.18 The preceding policies are all reflective of the principles established in the NPPF, particularly Chapter 12 with regards to achieving well designed and beautiful places. This chapter highlights that good design is a key aspect of sustainable development and Paragraph 135 sets out a number of principles which should be pursued through both plan making and decision taking in order to achieve this. Amongst other things, the principles include that developments should be visually attractive as a result of good architecture, layout and effective landscaping whilst establishing and maintaining a strong sense of place.
- 6.19 As noted at the start of this report, the proposal has previously been deferred by Committee to seek amendments to the proposals. The amended plans supplied follow broadly the same approach as the previous iteration of the scheme, however alterations have been made to the site layout which includes reconfiguration of Units 3 and 4; reconfiguration of the garaging block; and amendments to the siting of Unit 1. Amendments have also been made to the external materials palate, which now favours stone and horizontal timber boarding over brick and vertical boarding. Provision has also been made for renewable and low carbon energy, in the form of PV panels and air source heat pumps.
- 6.20 The site in this instance is on the western edge of the village and relates closely to the built up part of the settlement with residential properties being located to the south and east. The built form of the site's immediate surroundings is characterised by a cluster of historic dwellings, converted farmsteads, and a small number of more recent houses which are loosely focused around the junction of the B4365 and Eywood Lane. The layout of the scheme presented takes direction from the historic farmsteads in particular and the arrangement of buildings is redolent of

a traditional agricultural site. An individually designed unit with a strong domestic character occupies the more prominent land near to the roadside in the manner of a typical farmhouse, whilst the remaining units are positioned in a more regimented courtyard style arrangement on the land to the rear of the site and are of a simpler design which reflects vernacular agricultural buildings. This approach is considered to be appropriate to the context of the site; responding both to the pattern of development in the immediate locality as well as spatial constraints such as the site's irregular shape. It is noted that the Council's Conservation Officer is supportive of the proposed site layout and comments that it would avoid the creation of a suburban cul-de-sac type arrangement, which would not sit well within the rural village context.

- 6.21 In respect of appearance, the design of each unit continues the agricultural typology seen in the site layout and is considered to be broadly acceptable. The unit to the fore of the site seeks to reflect a traditional farmhouse design and in doing so features a narrow building span with a relatively steeply pitched roof which is seen throughout the surrounding village. It also utilises features and detailing which are distinctive to the rural character of the area, such as the symmetrical positioning of fenestration, arched window lintels and an external chimney breast. The remaining units are reflective of traditional agricultural buildings and are characterised by a simple rectilinear form with uninterrupted roof planes and minimal protrusion. Following the earlier comments of the Committee, the palette of external materials have been amended to stone, horizontal timber boarding and slate – which fully accords with the preferred materials set out by policy TG5 of the NDP. With regards to units 2 – 4 in particular, the architectural detailing (such as proportions, square fenestration etc) and use of materials is noted as being a close reflection of the adjacent Balance Barns:



**Figure 12:** Balance Barns adjacent to the site and proposed principal elevation (Unit 2)

- 6.22 The specific details of the stone to be used, including coursing and mortar type, can be secured by condition. This will include a requirement for a sample panel to be provided on site for approval prior to the relevant work commencing. Specific details of cladding and roofing will also be secured through condition, as well as details of the timber fenestration.
- 6.23 With regards to scale, the unit to the fore of the site would measure 8.6 metres to its ridge whilst the remaining units to the rear would be smaller at 8.2m. Whilst this is slightly larger than the current agricultural building on the site, it is not considered that the increase is significant or that it would be detrimental to the character of the locality. The increase in the height of the dwellings



would be offset to a certain extent by a reduced physical mass relative to the current building on the site, and the height of the units would be commensurate to the scale of surrounding development in any case. As such, it is considered that the development is appropriate with regards to scale.

### Housing Mix

- 6.24 In terms of the size of the dwellings themselves (in so far as this is relevant to the matter of 'scale'), all units would provide four bedrooms of accommodation to future occupiers. It is noted that local representations have raised concerns that this means that the scheme provides exclusively for larger dwellings and hence would not contribute to providing the mix of housing sizes that are required to meet the needs of the local community. These concerns are duly acknowledged and it is not denied that the scheme fails to provide the range of houses that would ordinarily be sought in line with the latest Housing Market Area Needs Assessment (2021). However, it is highlighted that the size of the dwellings was inherently fixed as part of the development description approved at the outline stage – i.e. 'site for the erection of 5 no. **four bedroom dwellings**' (*Officer Emphasis added*). The matter of housing mix can hence not be revisited again here and, given the Reserved Matters scheme accords with the mix approved at outline stage, it is considered to be acceptable.

### Residential Amenity

- 6.25 Policy SD1 of the CS requires that all development proposals secure high standards of amenity for all residents and avoid any potential for adverse impacts through means such as overlooking, overshadowing or overbearing. Policy TG16 of the Titley NDP also directs that proposals for new housing should be sited and designed to avoid adverse impacts on the amenity of the future occupants from the operation of existing uses, such as agriculture and businesses. Both policies are reflective of the principles set out at Chapter 12 of the NPPF.
- 6.26 It was established with the grant of outline permission that the site is appropriate for residential development and that there would be no compatibility issues with neighbouring uses, which are either residential or agricultural in nature. The reserved matters scheme has been designed in a manner which ensures that good standards of amenity is achieved for future residents, with good areas of private curtilage provided and no potential for adverse impacts identified a result of overlooking, overshadowing or overbearing. The amenity of existing dwellings in the locale would also not be compromised by the development, on account of the degree of separation between them and the new builds and intervening screening. Good standards of amenity are hence achieved and there is hence no conflict found with the aforementioned policies.

### Layout – Access Considerations

- 6.27 With regards to accessibility and highways considerations, it is noted that the proposed scheme adheres to the access arrangements approved under earlier reserved matters application P181476/RM and the areas for consideration at this stage are therefore those related solely to the internal layout of the site. In this regard, policy MT1 of the CS requires that developments are laid out to have appropriate operational and manoeuvring space having regard to the vehicle and cycle parking standards set out within the Council's Highways Design Guide. Policy TG16 of the NDP is also relevant in so far as it requires schemes to include provision for pedestrians and cyclists to encourage active travel. Both of these policies are reflective of the principles set out at Chapter 9 of the NPPF.
- 6.28 Having reviewed the scheme, the Council's Transportation Manager has confirmed that the internal layout is acceptable and no objections are consequently offered. The site layout provides adequate space to ensure a range of vehicles, including larger refuse collection vehicles if needed, can manoeuvre within the site and sufficient parking provision is made to support the development through a combination of garaging, spaces within curtilage and allocated parking

on the central courtyard. The internal layout also adopts the principles for shared private drives as set out within the Council's Design Guide, including the use of shared spaces, turning heads and passing places. The garaging proposed to each unit also provides opportunities for the secure storage of bicycles. On this basis, it is considered that the layout of the scheme is acceptable and no conflict with MT1 or TG16 is identified.

## **Landscaping**

- 6.29 Landscaping in the context of an RM application means the treatment of land for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated. As set out previously, policy LD1 of the CS is relevant in this regard and requires that schemes incorporate new landscaping to ensure that the development integrates appropriately into its surroundings and maintain and extend tree cover where important to amenity. There is similar provision in policies TG13, TG14 and TG16, although these also introduce additional requirements that are more tailored and local grounded in the Titley Group Parish.
- 6.30 It is noted that the landscaping and layout proposals have been amended since the initial submission, with the current scheme of landscaping set out on plan 24/500/02 B. Importantly, the amended plans retain the belt of mixed coniferous and deciduous trees which sit atop an earth embankment to the west of the site. This feature currently forms an important visual landscape buffer between the site and the open countryside beyond, helping to mitigate the visual impact of both the existing agricultural buildings and the proposed new dwellings upon the setting of Eywood Park to the west. The retention of this feature ensures that this mitigation continues and that established features of ecological value are protected, in accordance with policies LD1, LD3 and TG13. There would be some removal of trees at the north-west corner of the site, however it is considered that these are adequately compensated for elsewhere.
- 6.31 The landscaping strategy makes provision for extensive new native species hedgerow planting throughout the site, including a new 90m length to form a boundary to the east of the site and further provision to gap-up the existing hedgerows to the north and west. New tree planting is also proposed throughout the site, both in communal areas on the approach from the highway and within the curtilage of each dwelling. The measures will help to ensure that the scheme assimilates with the location, as well as enhancing the biodiversity value of the site. With regards to hard landscaping, boundary treatments are considered to be sensitive to the rural setting; with traditional metal estate railing style fencing being used to the central courtyard in a manner that aids visual permeability and the maintains the openness of this area. Treatments between rear curtilages are to comprise hazel wattle panels, which avoid an over-urbanising effect whilst still achieving the levels of privacy expected by residents. It is noted that the access road and internal courtyard are shown to be finished in tarmac, however this is considered to be a suburban form of treatment that is not in keeping with the rural nature of the site. A condition is attached to secure an alternative surface finish, such as block paving or gravel.
- 6.32 Overall, the landscaping scheme is considered to be appropriate to context and in accordance with the policies of the development plan. It is noted that specialist advice has been sought from the Council's Landscape Officer and no objections have been offered. A condition is recommended to secure implementation of the approved scheme, as well as a condition to secure a scheme of landscape management and maintenance for a period of 10 years to ensure new planting robustly establishes itself.

## **Impact upon Heritage Assets**

- 6.33 The site lies within the setting of two designated heritage assets. The Grade II listed Balance Farmhouse is located approximately 50 metres to the east of the site, and the site's western boundary abuts the Grade II Registered Park and Garden of Eywood Park. The converted Balance Barns to the east of the site are not subject of any formal designations, but are considered to have some heritage value as traditional agricultural buildings.

- 6.34 The NPPF directs at Paragraph 205 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Paragraph 206 then states that any harm to, or loss of, the significance of a designated heritage asset (from alteration, destruction or development within its setting) should require clear and convincing justification. In considering the potential of the development to affect the setting of a listed building, the Local Planning Authority also has a statutory duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. These heritage duties are manifested in the development plan through CS policies SS6 and LD4. The former is a strategic policy and it sets the expectation that developments should be shaped through an integrated approach to planning a range of environmental components from the outset, including the historic environment and heritage assets. The latter is more detailed and, amongst other things, requires that new developments should 'protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design. The Titley Group NDP also contains a heritage policy at TG15. This reinforces similar principles to LD4 and the NPPF in terms of the need to protect, conserve and enhance designated heritage assets. CS policy LD1 is also relevant in this sense in that it directs that schemes should conserve and enhance the natural, historic and scenic beauty of the important landscapes and features such as nationally and local designated parks and gardens. TG13 further requires development to respect valued landscape character.
- 6.35 It is noted that it was incumbent on the LPA to exercise the heritage duties set out above at the outline stage and the grant of that permission has established that the site is capable of accommodating residential development without leading to harm to the significance of heritage assets, subject to an appropriate design being secured at reserved matters stage.
- 6.36 Balance Farm House is located around 50 metres to the east of the site. Based on observations of the building and its list description, significance is derived from its traditional form, historic fabric and particular architectural features. Historically the building was associated with a farmstead of traditional barns, however these have now been converted to residential uses. Although the layout of the buildings and sympathetic manner of conversion allows for the historic relationship between the former barns and farmhouse to still be understood, the change to residential use has undoubtedly altered the surroundings of the farmhouse in a manner which means residential uses (rather than agricultural) are now a defining characteristic of its setting. The result of this is that the significance of Balance Farm is mainly experienced from within its own curtilage. Although there are views of the property from Eywood Lane, there is limited inter-visibility between the listed building and the proposal site on account of intervening vegetation, other development and the difference in levels between the two sites. The potential for the re-development of the site to residential uses to demonstrably affect the setting of the listed building is hence limited.
- 6.37 The proposal site currently hosts a large modern agricultural building which is to be demolished as part of the proposals. The settlement pattern in the surrounding area is mainly one of a dispersed nature, but there is a cluster of buildings and a number of farm complexes in the immediate vicinity of the proposal site. As identified in earlier sections of this report, the RM scheme takes direction from the local context and displays a layout and character that is sympathetic to local character and architectural styling. As such, it is not considered that the scheme would lead to any negative impacts on the character of the landscape or village setting when compared to the existing situation. It would also not affect the relationship between Balance Farm and the converted barns which adjoin it. As such, the ability to appreciate and understand Balance Farm's past connection with agricultural uses would not be materially affected by the development of the application site.

- 6.38 Taking all of this into account, it is considered that the scheme would not alter the setting of Balance Farm (or the converted barns) in a manner which is demonstrably harmful to its significance. The features which give the building special interest and the characteristics within its setting which contribute to its significance would be preserved. It is highlighted that specialist advice has been sought from the Council's Historic Buildings Officer and the response received supports the view that there would be no harm to the significance of the listed building. Officer's give this view significant weight.
- 6.39 With regards to the setting of Eywood Park, this lies to the west of the site and has significance as a result of its historical and aesthetic value as an example of an 18<sup>th</sup> century designed landscape. Eywood Lane was originally a secondary entrance to the park, but in recent times has become the main approach with a 19<sup>th</sup> century lodge and wall being located opposite the entrance to the proposal site. The proposal site and the park however are separated by a belt of tall and dense planting which means there is limited inter-visibility. This screening will be maintained as part of the scheme and would serve to reduce the impact of the development when viewed from the park. Moreover, when the site is experienced from within the park it is viewed against the backdrop of existing built form which makes up the western edge of Titley in any case, thereby reducing the impact of the new dwellings further. Overall therefore, it is considered that the scheme would not adversely affect the setting or significance of Eywood Park. It is noted that the Council's Landscape Officer has not offered any objections in this regard and Officer's again give this view significant weight.
- 6.40 In summary therefore, it is considered that the proposal would preserve the settings of the nearby heritage assets and would not lead to any demonstrable harm to their significance. It follows that the proposals comply with policies LD4 and LD1 of the CS and policies TG13 and TG15 of the Titley NDP. The heritage duties imposed upon the LPA by Section 66 of the Act are accordingly discharged.

### **Sustainability and Climate change**

- 6.41 The Applicant has completed the Council's Climate Change Checklist and this indicates that the scheme would seek to provide solar panels, air source heat pumps and charging points for electric vehicles. The first two of these measures are now also shown on the elevation plans provided. As a collective, the measures align with those sought through policies SD1 and SD2 and encouraged by policies TG1 and TG11. They are secured by condition.

### **Assessment under the Habitats Regulations**

- 6.42 The proposal site is located in 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, is currently failing its conservation targets on phosphate levels. Following advice issued by Natural England (as the relevant statutory body) in July 2019, Herefordshire Council has been unable to approve developments within the Lugg catchment unless it can be demonstrated with certainty that it would have a neutral impact on water quality and the integrity of the designated site. This has become known as the need to demonstrate 'nutrient neutrality'. Case law has also made clear that this requirement applies to all multi-stage consents (such as outline and reserved matters) where there has been a significant change in circumstance since the first permission was granted. In this case, the River Lugg has moved to a 'failing' status since the outline permission was granted and this is a significant change in circumstance which means that the 'nutrient neutrality' must be shown for the scheme before the Reserved Matters can be issued. The inability to demonstrate this has effectively led to the application being placed 'on hold' since it was submitted in 2019.
- 6.43 These duties are set out by the Conservation of Habitats & Species Regulations 2017. There is similar provision to protect environmental assets in the CS, with policy LD2 setting out that development likely to harm sites of European importance will not be permitted. Policy SD4 deals

with wastewater management and sets out that development should not undermine the achievement of water quality targets and that permission will only be granted in SAC catchments where there will be no adverse impact on the integrity of that site. This is echoed by policy TG14 of the NDP, which reflects the more recent issues within the Lugg and states that:

All development proposals should demonstrate that they would not have an adverse effect on the River Wye Special Area of Conservation (SAC) and species of European importance. Planning permission will only be granted if clear and convincing evidence is provided to show that the proposed development would not increase nutrient inputs to the SAC. This could include through the delivery of mitigation measures to make a proposal nutrient neutral. Reference should be made to Herefordshire Council's Phosphate calculator and any other current associated guidance'

- 6.44 The proposal for residential development would generate additional foul water that is proposed to be managed through a connection to the mains sewer network serving Titley. This is an acceptable arrangement in principle and is secured as part of the outline permission. However, the additional sewerage load generated by the development has the potential to impact upon the River Wye SAC through the discharge of treated effluent containing phosphate into the Lugg catchment. The LPA must be able to ensure that this potential impact is mitigated for and that the proposal would lead to no adverse impact upon the integrity of the designated site before it can approve the RM.
- 6.45 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.
- 6.46 The applicant has utilised Natural England's 'Nutrient Neutrality Budget Calculator – River Lugg Catchment' to determine that the development would create an annual phosphorus load of 3.32kg TP/year which must be mitigated for to avoid detriment to the River Lugg. The Council's Conservation Manager (Ecology) has quality checked and confirmed these figures as accurate.
- 6.47 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 (plus VAT) per Kg of phosphate generated. Based upon the annual phosphorus load of 3.32kg TP/year, the Applicant is required to purchase credits to the value of £46,480. This will be secured by a S106 legal agreement.
- 6.48 The Council's Ecologist has completed an appropriate assessment which is summarised at Section 4.5 of this report. This assessment concludes, subject to appropriate mitigation being secured in the form of Phosphate Credits and the imposition of conditions, 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 the Herefordshire Local Plan Core Strategy.
- 6.49 This assessment has been submitted to Natural England for consideration and a response has been received to confirm that the statutory body agreed with the LPA's conclusions. The proposed development will 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. The LPA, as the competent

authority, is therefore able to conclude that the proposal would have no adverse effect on the on the integrity of the River Lugg / River Wye SAC.

- 6.50 With regards to the conditions recommended by the Council's Ecologist, it is noted the first of these sought to prevent occupation of the dwellings before 1<sup>st</sup> August 2023 in order to ensure that the Luston wetland had reached a point that it could be relied upon to provide mitigation. That date has however now passed and the wetland is now operational. The condition has therefore become superfluous through the passage of time and to impose it would not pass the relevant tests set out in the NPPF. The second condition recommended seeks to secure a scheme of measures to enable the efficient use of water prior to first occupation. Whilst the requirements of the condition are reasonable and justified with regards to policy, it is a duplication of Condition 10 that is already attached to the outline permission. Provision is hence already in place to secure the efficiency measures and hence there is no need to impose a duplicate condition on the RM approval.

### **Other Matters**

- 6.51 In respect of drainage arrangements, it was established as part of the outline permission that foul water would be managed through a connection to the mains sewer network and that surface water would be managed through the use of soakaways in accordance with the principles established by Core Strategy policies SD3 and SD4. These arrangements are secured, broadly, through Conditions 8 and 9 attached to the outline permission. There are no conditions attached to the outline permission to require full and specific technical details of the drainage arrangements to be submitted to the LPA for approval and these do not form one of the Reserved Matters requiring approval in line with the definitions of the DMPO. Whilst the concerns of local residents and the Parish Council in respect of surface water in particular are therefore acknowledged, the LPA does not have remit to require further information in this regard. The outline permission secures an outline strategy that accords with policy and securing a suitable technical specification for those systems will be a matter for the statutory undertaker DCWW and the Building Regulations.
- 6.52 With regards to protected species, an ecology survey was supplied in support of the original outline application and Condition 5 attached to that permission secures implementation of the mitigation measures set out therein. It also requires that the development be overseen by a qualified ecologist and that a scheme of habitat protection and enhancement scheme be supplied to the LPA for approval prior to the commencement of the development. Those details will follow as part of a separate application. Subject to this condition, the LPA is satisfied that its duties in respect of protected species are fulfilled.

### **Summary and Conclusion**

- 6.53 In accordance with Paragraph 11 of the NPPF, all planning decisions should apply a presumption in favour of sustainable development. Paragraph 11 requires that proposals which accord with an up to date development plan should be approved without delay.
- 6.54 The site in this case benefits from an extant outline planning permission which provides for the erection of five four bedroomed dwellings. The principle of the development is hence already established. Details of the access arrangements to the site have already been approved as part of 181476/RM. This application seeks approval of the outstanding reserved matters, these being appearance, layout, scale and landscaping.
- 6.55 The application provides the requisite level of detail to address the outstanding reserved matters and as required by the conditions attached to the outline permission. In terms of the layout, the scheme has taken direction from the agricultural origins of the site and this is manifested in layout influenced by the principles of a traditional farmstead. The result is a scheme which is sympathetic to context and avoids an overly suburban development which would otherwise erode the character of the village. The scale and appearance of the scheme is a suitable response to the

local vernacular, with precise details of materials and finishes to be secured by condition. The scheme of landscaping is also appropriate, retaining important trees and boundary features which contribute to local character whilst proposing additional planting and sensitive hard landscaping features which will ensure the scheme assimilates appropriately to its surroundings. These matters combined ensure that the scheme would not harm the amenity of any existing residents, and there is no harm identified to the setting or significance of nearby heritage assets such as the Grade II listed Balance Farm, the Grade II registered park of Eywood or the undesignated assets of Balance Barns.

- 6.56 Although not a 'Reserved Matter' per se, the LPA has an overarching duty when exercising its planning functions to ensure that there would be no harm to the integrity of designated conservation sites. In this case, that includes the River Lugg / River Wye SAC which is afforded protection under the Habitats Regulations. The LPA is able to conclude that the proposal scheme would have no adverse impact upon the integrity of the designated site, subject to the Applicant purchasing Phosphate Credits to mitigate for the effects of the development. This will be secured as part of a Section 106 agreement.
- 6.57 It is acknowledged that the application is one that is a source of contention locally and this is reflected in the objections received from the Parish Council and representations of local residents. The prevailing concerns in these submissions include general objections to the principle of the site being developed for housing; the location outside the settlement boundary for Titley; the potential impact upon highways safety; and the size of the dwellings in terms of meeting local housing needs. These concerns have been discussed in the earlier sections of this report, but it is reiterated here that these are not matters which are open for consideration as part of the current Reserved Matters application. The principle of development was established by the outline permission, as was the number of the dwellings and bedroom to be erected on the site. With regards to highways matters, the access arrangement to the site was fixed through Reserved Matters application 181476/RM and in allowing that appeal the Inspector made very clear that issues regarding the safety of the wider highways network are not valid considerations as part of a Reserved Matters application.
- 6.58 Overall, the proposal for the Reserved Matters of appearance, scale layout and landscaping are considered to be acceptable. No objections have been received from any technical consultee and there has been no conflict identified with the policies of the Core Strategy or the Titley Group Neighbourhood Development Plan. Officers therefore consider that there are no material or technical reasons to refuse the application, and such approval is recommended subject to the conditions set out below and the completion of a S106 agreement to secure the purchase of phosphate credits.

## **RECOMMENDATION:**

**That subject to the completion of a Section 106 Town & Country Planning Act (1990) obligation agreement to secure the purchase of Phosphate Credits sufficient to mitigate for the effects of the development upon the River Lugg / River Wye SAC, approval of Reserved Matters be granted subject to the conditions below and any other further conditions considered necessary by Officers named in the Scheme of Delegation.**

### **Standard Conditions**

- 1. The development hereby approved shall be carried out strictly in accordance with the approved plans and documents:**
  - **Proposed Site Layout 7218-1-20-Rev C**
  - **Proposed Site Sectional Plan 7218-1-26-Rev C**
  - **Proposed Plot 1 - 7218-1-21-Rev B**
  - **Proposed Plot 2 - 7218-1-22 Rev A**

---

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

- Proposed Plot 3 - 7218-1-23-Rev A
- Proposed Plot 4 - 7218-1-24- Rev A
- Proposed Plot 5 - 7218-1-25-Rev A
- Proposed Garages 7218-1-29
- Proposed Landscaping Proposals 24/500/02 B
- Estate Railing Fencing Example 31/7/2024
- 

**Reason:** To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policies RA2, SD1, LD1 and LD4 of the Herefordshire Local Plan – Core Strategy, policies TG1, TG5, TG13, TG14, TG15 and TG16 of the Titley Group Neighbourhood Development Plan and the National Planning Policy Framework.

#### **Conditions to be Discharged**

**2. Details pertaining to the following matters shall be submitted to and approved in writing by the Local Planning Authority prior to the relevant works being undertaken on site:**

- a) Details and/or samples of external timber cladding
- b) Details and/or samples of roofing materials
- c) Details of all windows, doors and rooflights including
  - Full size or 1:2 details and sections, and 1:20 elevations of each joinery item cross referenced to the details and indexed on elevations on the approved drawings
  - Method & type of glazing.
  - Colour Scheme/Surface Finish
- d) Details and/or samples of rainwater goods

The work shall subsequently be carried out in full accordance with such approved details.

**Reason:** To ensure the scheme is carried out in accordance with details that are conducive with securing a high quality development which respects the character and amenity of the area in accordance with policies RA2, SD1, LD4 and LD1 of the Herefordshire Local Plan – Core Strategy, policies TG1, TG15 and TG16 of the Titley Group Neighbourhood Development Plan and the National Planning Policy Framework.

**3. No works in relation to the stone facing of the dwellings hereby approved shall be commenced until a sample panel of the stonework has been provided on site and this has been approved in writing by the Local Planning Authority. The sample panel shall be a minimum of 1m x 1m in size and shall show the stone type; sizes, face-bond; pointing mortar mix, joint thickness and finish profile. The works shall subsequently be carried out in accordance with the approved details and the sample panel shall be retained on site until the relevant works have been completed.**

**Reason:** To ensure the scheme is carried out in accordance with details that are conducive with securing a high quality development which respects the character and amenity of the area in accordance with policies RA2, SD1, LD4 and LD1 of the Herefordshire Local Plan – Core Strategy, policies TG1, TG5, TG15 and TG16 of the Titley Group Neighbourhood Development Plan and the National Planning Policy Framework.



4. Prior to the first occupation of any dwelling to which this permission relates, the vehicular parking areas shown on the approved plans shall be properly consolidated, surfaced and drained in accordance a specification which has first been submitted to an approved in writing by the Local Planning Authority. 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 to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, policy TG16 of the Titley Group Neighbourhood Development Plan and the National Planning Policy Framework

5. Development shall not begin in relation to the provision of road and drainage infrastructure until the following details are submitted to and approved in writing by the local planning authority:

- Surface finishes
- Drainage details
- Future maintenance arrangements

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

**Reason:** To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, policy TG16 of the Titley Group Neighbourhood Development Plan and the National Planning Policy Framework.

6. Prior to the first occupation of any dwelling hereby approved, a schedule of landscape management and maintenance for a minimum period of 10 years shall be submitted to and approved in writing by the local planning authority. The scheme of management and maintenance shall subsequently be carried out in accordance with this approved schedule. Any trees or plants which die, are removed or become severely damaged or diseased within 10 years of planting will be replaced in accordance with the approved plan 19/500/02A.

**Reason:** To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan Core Strategy, policies TG13, TG14 and TG16 of the Titley Group Neighbourhood Development Plan and the National Planning Policy Framework.

#### **Compliance Conditions**

7. The following scheme of energy sustainability measures shall be implemented in accordance with the approved details prior to the first occupation of any dwelling hereby approved:

- PV panels and Air Source Heat Pumps to each plot in accordance with details shown on plans 7218-1-21-Rev B, 7218-1-22 Rev A, Proposed Plot 3 - 7218-1-23-Rev A, 7218-1-24- Rev A, 7218-1-25-Rev A.
- An electric vehicle charging point at a minimum rate of one per dwelling

Those measures shall thereafter be maintained in perpetuity.

**Reason: To ensure the scheme is carried out in accordance with the stated intention to incorporate renewable energy generation to help mitigate the impact upon the climate and secure a sustainable form of development which accords with policies SS7 and SD1 of the Herefordshire Local Plan – Core Strategy, policies TG1 and TG11 of the Titley Group Neighbourhood Development Plan and the National Planning Policy Framework**

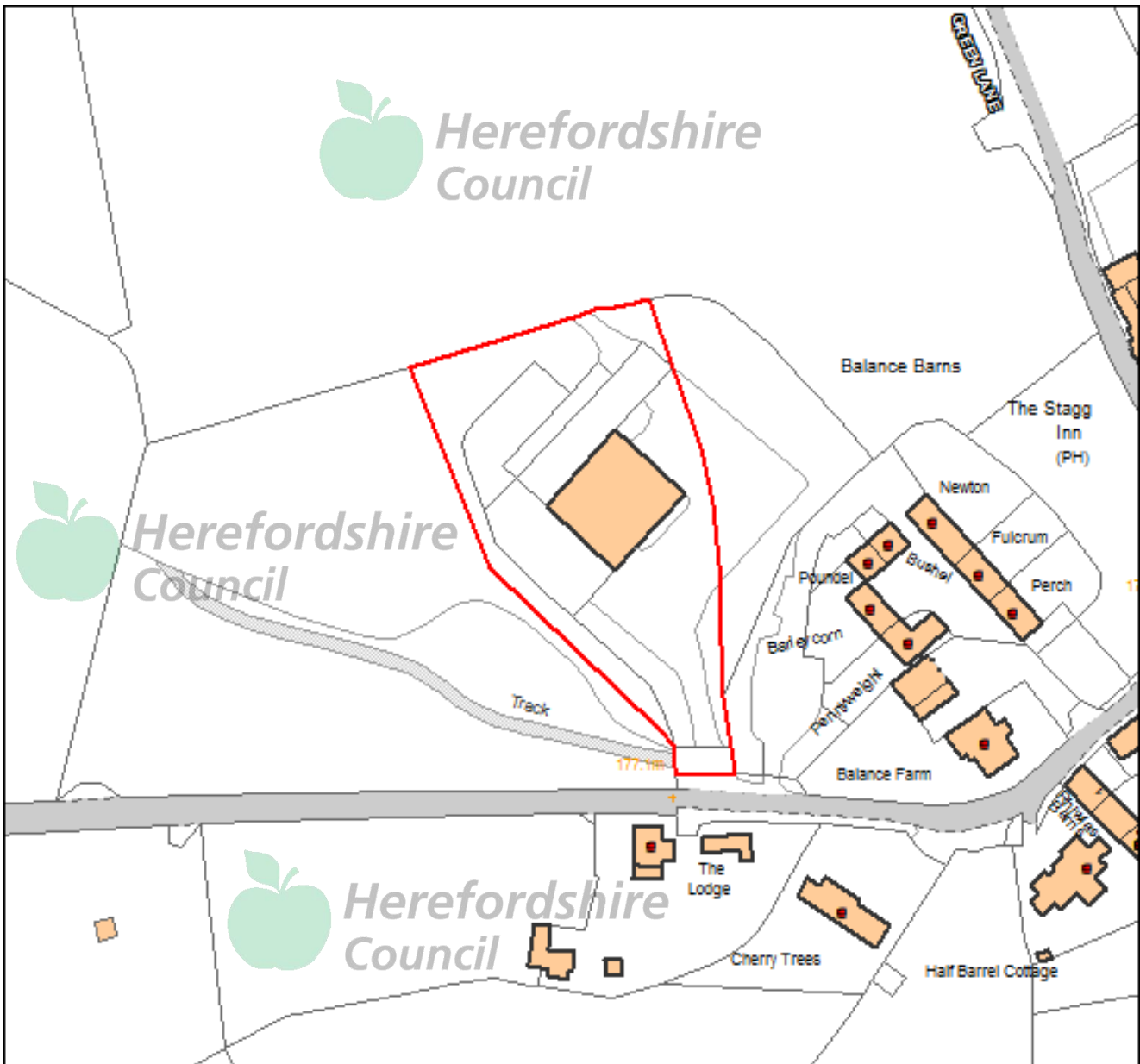
- 8. All planting, seeding or turf laying in the approved landscaping scheme (24/500/02 B – Peter Quinn Associates) shall be carried out in the first planting season following the first occupation of the building or the completion of the development, whichever is the sooner. The hard landscaping shall be carried out in accordance with the approved plans and be completed prior to the first occupation of the development.**

**Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, policies TG13, TG14 and TG16 of the Titley Group Neighbourhood Development Plan and the National Planning Policy Framework.**

- 9. Apart from where explicitly identified for removal on landscaping plan 24/500/02 B and tree survey 19/500/01, no retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for 10 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars.**

**Reason: To safeguard the character and amenity of the area and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy, policies TG13, TG14 and TG16 of the Titley Group Neighbourhood Development Plan and the National Planning Policy Framework.**

Background papers – None identified.



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

**APPLICATION NO:** 192515

**SITE ADDRESS :** BALANCE FARM, TITLEY, KINGTON, HEREFORDSHIRE, HR5 3RL

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 Adam Lewis on 01432 383789



<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>23 OCTOBER 2024</b>
<b>TITLE OF REPORT:</b>	<b>233442 - PROPOSED BOAT RAMP, SITING OF CRANE AND ASSOCIATED HARDSTANDING AND FOOTPATH. AT 39 GREYFRIARS AVENUE, HEREFORD, HEREFORDSHIRE, HR4 0BE</b>  <b>For: Mr Taylor per Urban Vista, Archways, River Road, Taplow, Maidenhead, SL6 0BG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233442">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233442</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

**Date Received: 21 November 2023      Ward: Greyfriars      Grid Ref: 350516,239500**

**Expiry Date: 31 October 2024      Local Members: Cllr Diana Toynbee (Greyfrairs), Cllr Kevin Tillett (Hinton & Hunderton)**

## **1.0 SITE DESCRIPTION**

- 1.1 Located within Hereford City, the application site relates to land between Hereford Sea Cadets and Hereford Rowing Club on the northern banks of the River Wye and is accessed via Greyfriars Avenue. The site is visible from the A49(T) Greyfriars Bridge, which crosses the River Wye approximately 150 metres to the east of the site. It is crossed by a footway which leads from Greyfriars Avenue and around the western side of the Rowing Club, before running along the river bank towards the Hunderton Bridge. The site is within Flood Zone 3 (highest risk of fluvial flooding). The river at the location of the site forms part of the River Wye Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). The site is outside of the Hereford Area of Archaeological Importance but within the Hereford (Central) Conservation Area.

## **2.0 PROPOSAL**

- 2.1 This application is made by Vega Marine Services Community Interest Company (CIC), which is comprised of the Hereford Rowing Club, Hereford Sea Cadets, Hereford Rugby Club and some representatives of the Leftbank Village. It seeks planning permission for the erection of a boat ramp, the siting of a crane as well as associated hardstanding and footpath. The proposed boat ramp is to provide a durable and functional access point for seamless boat launching and retrieval on the River Wye, accommodating water level variations and supporting the Hereford Sea Cadets' activities. The proposed crane would enable efficient and safe lifting of vessels on and off the river adjacent to the Hereford Rowing Club, supported by a stable base and powered through the club. An access road to a site compound is proposed

---

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

along the northern and western periphery of the site, leading on from the existing access which continues beyond the end of Greyfriars Avenue.

- 2.2 The project forms part of the River Wye Infrastructure Project and would be facilitated by the Stronger Towns Fund, which promotes investment in strategic development within the City and the wider County.

### **3.0 POLICIES**

#### **Herefordshire Local Plan - Core Strategy (2011 – 2031)**

- 3.1 The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation is accessible via the Herefordshire Council website.

SS1	Presumption in favour of sustainable development
SS4	Movement and transportation
SS6	Environmental quality and local distinctiveness
SS7	Addressing climate change
HD1	Hereford
SC1	Social and community facilities
MT1	Traffic Management, highway safety and promoting active travel
E4	Tourism
LD1	Landscape and townscape
LD2	Biodiversity and geodiversity
LD3	Green Infrastructure
LD4	Historic environment and heritage assets
SD1	Sustainable Design and energy efficiency
SD3	Sustainable water management and water resources
SD4	Waste water treatment and river water quality

#### **National Planning Policy Framework**

- 3.2 The National Planning Policy Framework (NPPF) is a significant material consideration. The latest version was updated in December 2023.

Chapter 2	Achieving sustainable development
Chapter 4	Decision-making
Chapter 6	Building a strong, competitive economy
Chapter 8	Promoting healthy and safe communities
Chapter 9	Promoting sustainable transport
Chapter 11	Making effective use of land
Chapter 12	Achieving well-designed and beautiful 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

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

---

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

housing needs, guiding rural housing provision, highways safety and safeguarding features of environmental value (amongst others) – have been reviewed and are considered to be consistent with the NPPF. As such, it is considered that they can still be attributed significant weight.

#### 4.0 HISTORY

4.1 None relevant.

#### 5.0 CONSULTATIONS

##### 5.1 Area Engineer Team Leader

Comment

5.1.1 2/4/24 - The Local Highways Authority have reviewed this application and have the following comments:

- The proposed PROW diversion would need to be at least 3 metres wide and lit. If the PROW were to be used as a vehicular access in the future, then it would need to be wider again.
- The Local Highway Authority would consider adopting the footpath to allow it become part of the wider cycle network, but it would need to comply with Herefordshire Council’s ‘Highways Specification for New Developments’ – see below.

##### Cycleway/Footway Construction

	Nom. Size	Materials	Compacted Thickness
Surface Course	6mm	AC 6 dense surf 100/150 to DfT SHW Clause 909	25mm
Binder course	20mm	AC20 dense bin 100/150 rec conforming to DfT SHW 906	75mm
Sub-Base		Type 1 sub base conforming to DfT SHW Clause 803	150mm

Until this detail has been provided on whether this can be achieved, the Local Highways Authority is unable to provide any further comments.

##### 5.2 Conservation Manager (Trees)

No objection

5.2.1 21/3/24 - I have completed a visit to the site and confirm I do not have an objection to the application. Where development is proposed there are no trees present that have the potential to be impacted and therefore no tree reports are required.

Consequently, my opinion is the application is compliant with policies LD1 & LD3 of the County Core Strategy.

##### 5.3 Conservation Manager (Ecology)

Objection

5.3.1 20/9/24 - The shadow Habitat Regulation Assessment submitted by the applicant dated 28th August 2024 is noted and refers. The formal response by Natural England dated 10th September 2024 (their ref 486660) raising a statutory objection to this latest shadow HRA is also noted.

---

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

The reasons for the latest objection raised by Natural England fundamentally mirror their previous objection to the Council's own HRA completed 23rd May 2024 - Natural England objection dated 4th July 2024 ref 477004.

Having reviewed the shadow HRA supplied by the applicant and Natural England's objections it is clear that there are still potential adverse effects of the River Wye SAC that have not been mitigated with required scientific or legal certainty; and there remains identified adverse effects on the integrity of the River Wye Special Area of Conservation. The Council is unable to adopt the supplied shadow Habitat Regulation Assessment as its own. The objection by Natural England as the Statutory Nature Conservation Organisation for England is considered to be relevant and appropriate and is endorsed and supported by Council's Ecology Team.

A formal objection is raised and a planning permission should not be granted until this matter can be resolved with a Habitat Regulation Assessment completed and formally approved by Natural England.

5.3.2 21/5/24 – Habitat Regulations Assessment undertaken (see **Appendix 1**).

5.3.3 20/12/23 - The development is within the River Wye SAC-SSSI and has potential direct effects on features related to these designations. Including effects due to physical construction, ongoing operations and associated direct/supported increase in recreational disturbance of the River Wye from increased use of the facility, locality and waters of the River Wye by residents and visitors.

The supplied planning statement confirms that the development will include:

“increase footfall around the river environment”

“aim to boost the tourist numbers visiting Herefordshire”

“encourage take-up of commercial pop-up establishments along riverbanks”

There is no indication that Natural England as the appropriate statutory nature conservation organisation responsible for the River Wye SAC-SSSI have been consulted or provided advice and guidance on the development of this project and give their support/approval of the project as submitted. It is suggested that the applicant avails themselves of specific and detailed advice through Natural England's Discretionary Advice Service (DAS) and once Natural England have advised that they have no objections all the relevant information. Reports and their response can be submitted to assist the LPA in their legal duty of care and final determination.

The supplied ecological impact assessment by JH Ecology dated October 2023 is noted. This report correctly identifies potential effects from the development on fish species (a feature of the Wye SAC) both during construction and subsequent operation but no detailed, evidenced mitigation measures appear to have been provided for full consideration, approval and securing as part of the application process as is required for scientific and legal certainty under the triggered Habitat Regulations Assessment.

The report does not provide any detailed consideration, mitigation or compensation proposals for effects from the ongoing increased use of the River and its environs and the recreational pressures the development will create. This remains an identified likely adverse effect on features of the SAC-SSSI (including but not limited to fish species, otters and crayfish), both at the development site and wider upstream and downstream.

These ongoing effects and impacts includes additional lighting and illumination of the River as a result of the proposed development and a detailed before and after lighting and illumination scheme, including consideration of the actual river surface is requested with detailed mitigation



proposals to demonstrate that the development will have no effects due to illumination levels on the Wye SAC and its associated features and other nocturnal-light sensitive protected species recorded in the locality (eg bat species).

The implications of and potential pathways for pests and pathogens both during construction and ongoing use by additional recreational equipment and people – Aquatic Biosecurity – does not appear to have been considered or addressed within the supplied information including the ecology report and CEMP. These potential biosecurity risks include transmission of ‘crayfish plague’ – crayfish are an identified feature of the SAC. An updated CEMP is requested which it is suggested should be subject to consultation with Natural England DAS prior to submission as previously suggested.

The Construction Environmental Management Plan by Barhale dated August 2023 does not appear to address issues such as biosecurity measures mentioned previously, the use of cement and chemical products directly within the SAC/waterbody, the use of machinery within the SAC, effects of potential sedimentation and release of soil and particulates, including nutrients in to the river. There remain unmitigated adverse effects on the River Wye SaC due to the physical construction works required.

As currently submitted there remain unassessed-unmitigated effects from the proposed development on features of the River Wye SAC. The additional detailed information is requested to enable the required HRA and Protected Species considerations to be completed. It is strongly suggested that prior to any further information being submitted it is subject to Discretionary Advice and formal support from Natural England.

#### 5.4 **Public Rights of Way Manager**

Comment

- 5.4.1 30/11/21 - Providing the compound and works do not affect public footpath HER20 PROW have no objection to the application. If work is likely to endanger footpath users a temporary closure must be applied for.

#### 5.5 **BBLP Land Drainage Team (Lead Local Flood Authority)**

Comment

- 5.5.1 19/3/24 - Land Drainage have reviewed the submitted information as part of the proposed development at the above site and have no comment to make.

We understand that the EA have been consulted on the proposed development plans and had no objections. We would agree with their comments and acknowledge that the development is water compatible.

We would deem that the temporary road access and compound will have a negligible impact on surface water runoff and reiterate that the EA's proposed condition is sufficient.

Upon completion of the permanent works, the temporary access road and compound will be reinstated to their original pre-development condition.

Reason: To ensure there is no future impact on overland flood flows

#### 5.6 **Open Spaces Society**

No response.

## 5.7 **Ramblers Association**

No response.

## 5.8 **Herefordshire Wildlife Trust**

No response.

## 5.9 Environment Agency

Comment

- 5.9.1 14/12/23 - Thank you for your consultation on the above application received by us on 29 November 2023. We have reviewed the Flood Risk Assessment (FRA) by Barhale (dated July 2023) and have no objection to the proposed development on fluvial flood risk grounds. Please see our comments and suggested conditions below.

### Flood Risk

Based on our Flood Map for Planning (Rivers and Sea), the site is located within Flood Zone 3 (high risk zone) of the River Wye (designated statutory main river). This is correctly identified by the FRA on page 4.

Due to the proximity to the River, it is likely that part of the development will be within Flood Zone 3b. Flood Zone 3b is land that is designed to flood, having a 3.3% or greater annual probability of river flooding. This is understandable due to the nature of the development.

### Flood Defences

Flood defences in the form of high ground to the north of the site are in situ. Formal flood defences are also to the south of the site.

### Flood Risk Vulnerability Classification

The proposed development may be classified as 'water-based recreation' under 'water compatible' development as defined in 'Annex 3 Flood Risk Vulnerability Classification' of the National Planning Policy Framework (NPPF).

As per Table 2 in the National Planning Policy Guidance (NPPG), it is deemed that water compatible development in Flood Zone 3b does not require the Exception Test, however they should:

- remain operational and safe for users in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows and not increase flood risk elsewhere.

We are satisfied that subject to the following conditions there will not be a net loss of floodplain storage in the context of the surrounding flood zone extents and that there will not be an impediment to water flows or an increase in flood risk elsewhere as a result of the proposed development.

Please see our suggested conditions below:

Condition: Upon completion of the permanent works, the temporary access road and compound will be reinstated to their original pre-development condition.

Reason: To ensure there is no future impact on overland flood flows.

Condition: There must be no raised ground levels inside or along the boundary of the site, unless agreed otherwise in writing by the Local Planning Authority.

Reason: To ensure there is no future impact on overland flood flows.

#### Safe Access and Egress

Paragraph 043 of the NPPG advises on how a development might be made safe from flood risk. Paragraph 044 and 047 provides details on access and egress.

Given our role and responsibilities we would not make any comment on the safety of the access or object on this basis. This does not mean we consider that the access is safe, or the proposals acceptable in this regard. We recommend you consult with your Emergency Planners and the Emergency Services to determine whether they consider this to be safe in accordance with the guiding principles of the NPPG.

Furthermore, access and egress by vehicular means is also a matter for your Emergency Planners and the Emergency Services.

#### Flood Risk Activity Permit (FRAP)

In addition to obtaining planning permission, any works in, over, under or within 8 metres of the top of the bank of any Main River may require a FRAP from us under the Environmental Permitting (England and Wales) Regulations 2016.

As such a FRAP will be required by the applicant prior to development to show their construction works and the ramp design are appropriate and safe in relation to the watercourse itself.

For further guidance please visit: <https://www.gov.uk/guidance/flood-risk-activitiesenvironmental-permits>, or contact our National Customer Enquires Team by emailing: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk).

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

## 5.10 Natural England

### Objection

#### 5.10.1 10/9/24 - As submitted we consider it will:

- have an adverse effect on the integrity of the River Wye Special Area of Conservation <https://designatedsites.naturalengland.org.uk>
- damage or destroy the interest features for which The River Wye Site of Special Scientific Interest has been notified.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

#### European site - River Wye SAC (also notified as the River Wye SSSI)

The application site is within the catchment of the River Wye Special Area of Conservation (SAC) which is a European designated site (also commonly referred to as Natura 2000 sites), 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 Special Scientific Interest. (See here for information on the European Site Conservation Objectives for River Wye SAC.)

The River Wye SAC has a restore objective, further alteration to the banks of the river could prevent the restoration of both bankside and in channel habitat. The condition status of the River Wye SSSI was also downgraded to 'unfavourable declining' in 2023.

Natural England notes that a 2nd Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Natural England notes that the shadow HRA includes an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

The 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 either alone or in combination with other projects. Having considered your assessment, and the measures proposed to mitigate for any adverse effects, Natural England's advice is that your assessment is not sufficiently rigorous or robust to justify this conclusion and therefore it is not possible to ascertain that the proposal will not result in adverse effects on the integrity of the sites in question. We advise that your authority should not grant planning permission at this stage.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Natural England Objects to this proposal on the following grounds:

It is Natural England's view as set out in our previous objection letter of July 4th 2024 (Ref 477004) that this proposal would not be compatible with the restore objective for the River Wye SAC. Whilst the shadow HRA has in part considered both the alone and in combination impacts of recreational pressure and the loss of habitat in terms of both notified species and other SAC designated features (Rivers with floating vegetation often dominated by water crowfoot, Sea Lamprey, Brook Lamprey, River Lamprey, Allis Shad, Twaite Shad, Atlantic salmon, Bullhead, White-clawed Crayfish and Otter), the impact on the river habitat as a designated feature in itself has not been sufficiently assessed, taking into account local circumstances and site specific factors.

#### Conservation of Habitats and Species Regulations 2017

Case law associated with the Conservation of Habitats and Species Regulations 2017 has established that mitigation measures are distinct and separate from compensatory measures. Permanently removing an area of habitat and offsetting this by creating or restoring habitat elsewhere (even within the boundary of the same European Site) is classified as compensation not mitigation. The measures put forward in this application are not aimed at either avoiding or reducing the likely significant effects caused by the proposed new section of reinforced bank, rather they allow those effects to occur and compensate for them elsewhere. A clear legal distinction has been established between measures which will avoid or reduce actual or possible adverse effects on habitat (mitigation) and measures which seek to create or improve habitat elsewhere (compensation).

Mitigation measures must be effective at the location at which damage is predicted to occur. Recognising damage will occur and compensating or off-setting by delivering measures elsewhere is not acceptable as a 'mitigation measure' under the Habitats Regulations but can be a 'compensatory measure' if a plan or project is being considered under the derogation provisions. As such biodiversity 'offsetting' policies do not apply for HRA scenarios. Our advice is that this proposal is very unlikely to meet the imperative reasons of overriding public interest test under these derogation provisions.

This proposal will introduce a new section of reinforced bank (concrete and rip rap), pile installation and construction of Davit Arm (Crane) foundations. It is a significant expansion of the artificial feature already present which will involve the permanent destruction of a part of river habitat as a feature (in itself) for which the site was designated. The mitigation measures proposed do not avoid or reduce the direct adverse effects that would occur to the existing habitat.

In table 2, page 28 the shadow HRA states, "There will be a loss of c.0.012ha of bankside habitat and an increase in condition of c.0.01ha of bankside habitat with the creation of native bankside trees and shrubs. The inclusion of erosion control measures, management and maintenance of natural habitat features will ensure the riverbank maintains ecological connectivity and increases suitable habitats for qualifying features such as migratory fish, otter, and white-clawed crayfish. Therefore, no significant effect on the qualifying features of the River Wye SAC is predicted, as impacts are considered to be effectively de minimus."

Natural England do not agree with the statement above on the basis that the description here is not mitigation it is compensation. There will be a permanent loss of habitat at this location including riverbed cover which is not mitigated for. It cannot therefore be assumed/concluded that the given spatial scale of loss is de minimis.

#### Habitat Restoration

This proposal is not compatible with the objectives of the River Restoration Programme (RRP), and the Site Improvement Plan (SIP) for the SAC.

The SAC Site Improvement Plan (SIP) states "This is a relatively near natural river system and needs to be maintained as such. Small scale development has occurred throughout the river and is impacting on hydromorphology and character. Ongoing work to the riverbank eases public access but causes localised erosion issues."

The SIP highlights the need to implement the River Restoration Plan (RRP). The RRP's vision for the Wye is "The Lower Wye will be a river with good connectivity to its floodplain, supporting appropriate and sustainable natural riparian and floodplain habitats. There would be minimal physical modifications and maximum dynamic natural processes. Physical modifications would be retained where there are legitimate constraints, e.g. flood risk."

The RRP identifies the following pressures: Degraded bank face vegetation (including bank protection) and lack of morphological diversity due to channel re-sectioning and bank protection. The RRP identifies the following actions, including a section which focuses explicitly on urban stretches of the river which recognises the significant constraints to full restoration in these reaches: Improve riparian zone, remove hard bank protection.

Urban specific actions: Conserve the existing riparian and river bank vegetation, Look for opportunities to improve the width, density, and diversity of the riparian zone, do not increase the number of channel modifications (e.g. creation of croys, maintaining re-sectioned banks or hard bank reinforcement, such as fishing platform revetments). New or replacement modifications should only be permitted with appropriate consent, where there is an immovable

constraint and using agreed sympathetic techniques to minimise impacts. In light of the above Natural England do not consider this proposal to be compatible with the objectives for the wye.

#### Recreational Pressure & Impacts on notified species

Natural England notes that the revised HRA includes an additional assessment of both recreational pressure and the potential impacts on notified species both alone and in combination. However no further information relating to the scale, type and quantity of boats proposed to use the ramp and river have been provided which is a source of unacceptable uncertainty, the revised HRA states “the client also foresees that the proposed boat ramp will be used ad-hoc by members of the public” (p.25). Natural England also notes that the crane / Davit arm will be used by emergency services however the impact of the physical presence of the boats, use of the crane and related noise impacts to the features of the site have not been assessed.

As set out in our previous response, the extended proposed running times from 6am to 11pm will coincide with the period where otter are active and impact cannot be ruled out, white-clawed crayfish are also generally more active at night time. No information on requirements for lighting have been provided and although the impact to otter foraging is acknowledged and an adverse effect ruled out, the in combination impact of increased recreational pressure and related impact of noise and disturbance to species including but not limited to otter which are primarily night-time active has not been considered.

The shadow HRA references a survey having identified the site as unsuitable for crayfish as there is an absence of refugia (large stones, rocks, submerged logs). This permanent structure will remove the restore ability at this location.

It is also not clear how the impact of the spread of signal crayfish that has been identified as likely to occur during the construction phase of the proposed development would be mitigated.

The shadow HRA also states that 'poor condition bankside habitat will be lost to the development' "what is being defined as 'poor condition habitat'? In table 1 it is also acknowledged that the permanent change of the bank to an artificial bank surface may also cause partial obstruction to migratory fish. Structures being built in rivers will impede the passage of migratory fish, the River Wye is notified for various migratory species including but not limited to salmon and shad.

#### Other advice

Natural England's advice on this planning application is limited to the shadow Habitats Regulations Assessment. The Local Authority should satisfy itself that there are no other impacts on the natural environment, and reconsult Natural England if necessary.

Further general advice on consideration of protected species and other natural environment issues is provided at Annex A. Should the proposal change, please consult us again.

#### 5.10.2 4/7/24 - As submitted we consider it will:

- have an adverse effect on the integrity of the River Wye Special Area of Conservation <https://designatedsites.naturalengland.org.uk>
- damage or destroy the interest features for which The River Wye Site of Special Scientific Interest has been notified.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

European site - River Wye SAC (also notified as the River Wye SSSI)

The application site is within the catchment of the River Wye Special Area of Conservation (SAC) which is a European designated site (also commonly referred to as Natura 2000 sites), 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 Special Scientific Interest. (See here for information on the European Site Conservation Objectives for River Wye SAC.)

The River Wye SAC has a restore objective, further alteration to the banks of the river could prevent the restoration of both bankside and in channel habitat. The condition status of the River Wye SSSI was also downgraded to 'unfavourable declining' in 2023.

Natural England notes that a 2nd Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Natural England notes that the shadow HRA includes an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

The 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 either alone or in combination with other projects. Having considered your assessment, and the measures proposed to mitigate for any adverse effects, Natural England's advice is that your assessment is not sufficiently rigorous or robust to justify this conclusion and therefore it is not possible to ascertain that the proposal will not result in adverse effects on the integrity of the sites in question. We advise that your authority should not grant planning permission at this stage.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

Natural England Objects to this proposal on the following grounds:

Whilst the urban nature and the inherent recreational demands on this section of the River Wye are noted, a balance is required that also recognises the requirements of this section of the SAC as a protected site in unfavourable declining condition with a restore objective. The "creeping cumulative loss of habitat" in terms of multiple and increasing footprints has reached a tipping point in terms of the restore objective and the HRA should assess the proposal in this context.

We advise that additional work on the Habitats Regulation Assessment is therefore required to enable it to be sufficiently rigorous and robust. Natural England should be re-consulted once additional work has been undertaken and the appropriate assessment has been revised taking into account the following considerations.

This proposal is not a replacement and will significantly expand the existing boat ramp structure, including the addition of a crane, introducing a new 15m stretch of artificial bank in very close proximity to the rowing clubs existing large, concrete boat launch. The combination

of these two structures will result in a notable stretch of artificial bank being of almost no ecological value.

#### Habitat Restoration and Recreational Pressure

The River Wye SAC has a restore objective, further alteration to the banks of the river could prevent the restoration of both bankside and in channel habitat. The condition status of the River Wye SSSI was also downgraded to 'unfavourable declining' in 2023.

Whilst the vast majority of the condition issues are caused by agricultural pollution, developments close or directly adjacent to the river and recreational pressure (from a wide range of activities including angling, canoeing, boating and dog walking) are already very high, particularly in this semi-urban location. This proposal should therefore be assessed against this baseline taking into account in-combination effects with other proposals and current activities. On that basis it Natural England's view that this proposal will significantly increase recreational pressure along a greater stretch of the River Wye.

The HRA's proposed mitigation is that the banks are already damaged/disturbed therefore the works can be justified. Natural England does not agree. There is bank scour/erosion in this location and the boat launch could cause changes to the water currents, but this has not been assessed in the HRA. The proposed rock gabions will provide little benefit to the designated features of the River Wye, they can result in vertical channel incision and result in the deflection of scour to further points downstream in the river. If the proposal is to also use them in an area where scour is currently taking place it is likely that regular maintenance would be required. The addition of rock and rip rap to rivers is not in keeping with the naturalness of the river.

#### Impacts on notified species: Otters, White-Clawed Crayfish and Freshwater Fish

The current HRA does not consider the increased impacts of the proposal on each of the species the site is notified for. The HRA should assess the in-combination effects of the added recreational impact / pressure on this already heavily disturbed stretch of river. In addition if the proposed timing of 6am to 11pm are an extension of current use then the impact of this on notified species also needs to be considered.

Otter, a notified species of the River Wye SAC, use the river and riparian habitat. Otters are a European protected species under the Conservation of Habitats and Species Regulations 2017. Potential impacts affecting otters could occur as a result of riparian habitat loss or degradation, disturbance to resting and feeding sites in or near water bodies. The proposed running times from 6am to 11pm will coincide with the period where otter are active and impact cannot be ruled out here, white-clawed crayfish are also generally more active at night time.

No information relating to the scale and type of boats proposed to use the ramp and river are provided or use of a crane to lift the boats in and out of the water with regards to the impacts of the physical presence of the boats and noise to the features of the site.

The HRA assessment does not assess the impacts of this proposal on freshwater fish with regards to the loss of suitable habitat and shelter as a result of the increase in the developed area of the existing bankside habitat.

The HRA does not include an in combination assessment.

#### Other advice

Natural England's advice on this planning application is limited to the Habitats Regulations Assessment. The Local Authority should satisfy itself that there are no other impacts on the natural environment, and reconsult Natural England if necessary.



Further general advice on consideration of protected species and other natural environment issues is provided at Annex A.

Should the proposal change, please consult us again

- 5.10.3 8/12/23 - Despite the proximity of the application site to a European Site, The River Wye SAC/SPA/RAMSAR, the consultation documents provided do not include information to demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment. Natural England advises that a Habitat Regulations Assessment is required as the proposal has the potential to impact the SAC It is Natural England's advice that the proposal is not directly connected with or necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England must be consulted on any appropriate assessment your authority may decide to make. Please note that the usual 21 day deadline will apply on receipt of the consultation.

## **6.0 REPRESENTATIONS**

### **6.1 Hereford City Council**

Comment

- 6.1.1 8/3/24 - Hereford City Council Planning Committee notes the changes made to planning application 233442, however Councillors stand by their original comments and would prefer the pontoon in line with the original Stronger Hereford project
- 6.1.2 14/12/23 - Hereford City Council Planning Committee has no objection to planning application 233442, though Councillors noted that they would instead like the stairs to be a pontoon.

### **6.2 Third Party Representations**

- 6.2.1 28 representations received in objection to the application. The comments can be summarised as follows; -
- Hereford and District Angling Society has not seen the extent of land proposed to be subject of the application
  - Should any part of the application site encroach on property owned by the Hereford and District Angling Society, consent has not been given for encroachment which would be considered trespass.
  - Article 13(7) requires at least 21 days advance notice of the application to be served on land owner
  - Yellow planning notices were not on display
  - Visual impact – harm to conservation area.
  - Natural England have not been consulted
  - River bank in this location hosts otters, water rats, voles, kingfishers, herons.
  - Why is the Angling Association not listed as a consultee?
  - River Wye in this location is a high quality location for fishing.
  - Submission shows foundations / piling proposed on land owned by Angling Society
  - Steps and crane may present obstruction to fishing rights that benefit the Angling Society.
  - Proposal would lead to considerable bank erosion, undermining the integrity of the SAC.
  - The siting of the development is wrong
  - Waste of public funds which is significant and disproportionate to the benefits that would be realised

---

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

- There is an existing adequate launch site at Hereford Rowing Club which is in close proximity and underutilised
- Bishops Meadow would be a better location / improved access and parking.
- Disruption during construction would be unacceptable due to poor vehicular access.
- Insufficient parking.
- Access is permissive across Rowing Club land and could be revoked without notice
- Proposal includes making the river shallower next to the ramp, not detailed in written documents.
- Proposal includes making the river shallower next to the ramp, not detailed in written documents.
- Adverse impact on SSSI.
- Impact on views towards the Hunderton Bridge
- Proposal includes making the river shallower next to the ramp, not detailed in written documents.
- Current footway / path is adequate
- Should planning permission be granted, condition should restrict development until after June 2025 to avoid clash with fishing matches
- Floating rafts of vegetation and gravel trays / rip-wrap would obstruct fishing access.
- Adverse impact on tourism
- Herefordshire Council have sponsored this application, so the applicant is the Local Planning Authority.
- Potential for antisocial behaviour

6.2.2 35 representations received in support of the application. The comments can be summarised as follows; -

- Useful addition for the club
- Development would promote safe, low environmental impact and inclusive access to the river.
- Support local businesses – wider range of trade from river tourism
- Enhanced access to water sports for young people
- Quicker access to river for emergency services, if required
- Improved access to the river
- Help to improve public health mental wellbeing
- Would encourage tourism
- Safe platform to launch and recover boats
- Provision of teaching and supervision fixture
- Reduced risk of injury

6.2.3 3 representations received making general comments. These can be summarised as follows; -

- Useful addition for the club
- Development would promote safe, low environmental impact and inclusive access to the river.
- Support local businesses – wider range of trade from river tourism
- Enhanced access to water sports for young people
- Quicker access to river for emergency services, if required
- Improved access to the river
- Help to improve public health mental wellbeing
- Would encourage tourism
- Safe platform to launch and recover boats
- Provision of teaching and supervision fixture
- Reduced risk of injury

6.2.4 The full comments are accessible via the Herefordshire Council website.

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=233442&search-term=233442](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=233442&search-term=233442)

## **7.0 OFFICER APPRAISAL**

### **Principle of development**

- 7.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that 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.
- 7.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy. The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 7.3 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.
- 7.4 The Core Strategy supports tourism proposals along the River Wye in Hereford through Policy E4, which promotes opportunities for tourism and recreational activities. It encourages sustainable tourism development that utilizes the county's natural assets, such as its landscape and rivers, while preserving these assets and enhancing the overall environment. Additionally, it favours proposals that promote cycling, walking, and heritage tourism, including the development and enhancement of long-distance routes.
- 7.5 Policy SC1 aims to protect, retain, or enhance social and community facilities, emphasising safe accessibility through walking, cycling, and public transport. This policy also supports the development or enhancement of higher education, training, and skills facilities.
- 7.6 The River Wye flows to the south of Hereford's city centre and has played a crucial role in the city's history and development. Currently, various groups such as anglers, canoeists, rowers, and swimmers compete for recreational use of the river. This is exemplified by the site's proximity to the Hereford Sea Cadets, the Rowing Club, and Hereford Rugby Football Club. The land adjacent to the river, which is at risk of flooding, is suited for less vulnerable uses, shaping the development of this area over time.
- 7.7 There has been significant local objection raised by the Hereford and District Anglers Association and its members. They have raised several issues, highlighting a conflict surrounding the recreational use of the River Wye at this particular location. Their concerns indicate that the proposed development would depend on third-party land, which could lead to direct conflict.
- 7.8 Although a procedural matter, the Local Planning Authority is satisfied that the appropriate notice has been served on other landowners, in accordance with Article 14 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). Therefore, it is not for the Local Planning Authority to consider potential implications for the applicant in obtaining consent from respective landowners to access the land and carry out the development. Instead, it must focus on assessing the acceptability of the proposed

development in planning terms. The granting of planning permission does not override any other legal constraints, such as ownership issues.

- 7.9 The proposed development would enhance the facilities available to both Hereford Rowing Club and the Sea Cadets, who use the river for recreational purposes integral to their activities.
- 7.10 The applicant has set out that the proposal intends to provide the following social and community benefits; -
- Enable inclusive 'access for all' facilities to the river.
  - Increase footfall around the river environment.
  - Aim to boost the tourist numbers visiting Herefordshire.
  - Encourage take-up of commercial pop-up establishments along riverbanks in the vicinity of new power outlets.
  - Ensure greater safety and security of the riverside walks.
  - Assist emergency teams, lifeboat services, and river operators for launching and recovery of river craft in time critical situations.
- 7.11 Clearly, the development would create a more attractive community facility overall, increasing opportunities for tourism by capitalising on the river's proximity to the city centre and its sustainable location. This, in turn, has the potential for wider social and economic benefits for Hereford through increased visitor numbers.
- 7.12 While the development may facilitate the establishment of pop-up businesses along the river, as stated in the applicant's supporting documentation, this aspect does not form part of the current application and would require separate planning permission and/or licensing as needed.
- 7.13 It is also recognised that emergency services use this location to launch craft onto the River Wye. The proposed development would improve emergency access, thereby potentially reducing response times.
- 7.14 It should be noted that regardless of private ownership of the River Wye, a public right of navigation exists between Hay-on-Wye and Chepstow. Thus, while the proposal may intensify the existing use of facilities and the river in this location, the right to utilise the river for recreational purposes is already established.
- 7.15 Several concerns relating to the principle of the development have been raised. Direct impacts on other recreational uses, such as environmental degradation and bank erosion (e.g., angling), are discussed in the following sections of this report.
- 7.16 Other sites have not been considered for this proposal, as they would not be suitable for realising the benefits that this scheme aims to deliver in terms of enhancing existing community facilities.
- 7.17 Therefore, the proposals, in principle, can be supported in light of Policies E4 and SC1 of the Core Strategy, as they aim to enhance existing community facilities while promoting sustainable tourism that capitalises on the city's asset—the River Wye. However, careful consideration of environmental constraints is necessary, and these will be discussed further below.

### **Visual / landscape and historic environment impact**

- 7.18 As noted in several objections, there are multiple designated heritage assets in the wider area. These include the Wye Bridge (Old Bridge) SAM / Grade I-listed, the Cathedral Church of St Mary & St Ethelbert SAM / Grade I-listed, St Nicholas Church Grade II-listed, Waterfields

Grade II-listed, Nos. 24, 26 & 28 Barton Road Grade II-listed, All Saints Church Grade II\*-listed, and the Broomy Hill Pumping Station, which is Grade II\* listed (Water Tower Grade II-listed). Additionally, the Hunderton Bridge is considered a non-designated heritage asset.

- 7.19 The site is also located within the Hereford (Central) Conservation Area. As such, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires the Local Planning Authority to give special attention to preserving or enhancing the character or appearance of a conservation area when exercising planning functions. Similarly, Section 66 imposes a duty to consider the impact on listed buildings.
- 7.20 These duties are reflected in the policies of the development plan, particularly Policy LD4, as well as the principles outlined in the NPPF. Chapter 16 of the NPPF emphasises that heritage assets, being irreplaceable resources, should be conserved in a manner that reflects their significance so that they can continue to contribute to the quality of life for both current and future generations.
- 7.21 In line with NPPF principles, the applicant has submitted an Archaeology and Heritage Statement. This statement assesses the significance of the relevant heritage assets and the potential impact the development may have on them.
- 7.22 The most noticeable visual changes resulting from the development would be the installation of the crane and the construction of the boat ramp. Both elements are designed with functionality in mind and are suited to their intended purpose. The re-routing of the public right of way and the creation of a new access road are not expected to result in any significant change, though it is recommended that the finer construction details be secured through planning conditions.
- 7.23 The proposed crane would stand just under 5 metres in height and would be positioned in front of the Hereford Rowing Club. As a result, it would be viewed in the context of the club and its associated hardstanding, including the existing steps to the river. From the vantage point of the Greyfriars Bridge, the crane would be visible along with other nearby development such as the Sea Cadets building, the Rugby Club building, and the floodlighting. Thus, the crane is considered to fit satisfactorily within the existing context of the site and would not appear as isolated development, nor would it cause unacceptable visual harm or disrupt the character of this section of the riverbank.
- 7.24 The proposed boat ramp would be located in front of the Sea Cadets building and would measure approximately 15 metres in length. It would be stepped (rather than a true ramp) and supported by cantilevered steel members to reduce its impact on the riverbed. The ramp would be built on foundations of steel-encased piles. Although this ramp is separate from the much larger facilities at the Rowing Club, its design is less intrusive, as it would be elevated from the riverbank. While it would result in a visual change, it would still be in keeping with the existing development and the associated infrastructure found along the northern banks of the river.
- 7.25 The proposal does not involve the removal of any hedgerows or tree cover along the riverbank. As such, the overall verdant character of the river corridor when viewed to the west would not be negatively affected by the development.
- 7.26 Taken together, the proposed additions are considered relatively minor in nature. It is considered that the development would not result in any discernible harm to the character and setting of the identified heritage assets, including the Conservation Area. Therefore, the scheme is considered to comply with the expectations set out in Policies SD1, LD1, LD3, and LD4 of the Core Strategy.

### **Access and highway safety**

- 7.27 In line with Policy MT1 of the Core Strategy, Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if it would result in an unacceptable impact on highway safety or if the residual cumulative impact on the road network would be severe.
- 7.28 In this case, the proposal would not alter the lawful use of the site, and the public right of navigation along the River Wye between Hay-on-Wye and Chepstow remains. However, it is reasonable to anticipate that the proposal would enhance the site's attractiveness, potentially leading to an increase in visitor numbers and trips.
- 7.29 The proposal does not involve changes to the existing access points for the Hereford Rowing Club and the Sea Cadets, nor does it alter the number of parking spaces currently available. The plans include extending the current access road to the immediate rear (west) of the Sea Cadets building to accommodate a site compound. While limited details have been provided regarding the construction and management of this access, these could be addressed through a condition requiring the land to be restored to its pre-development state after completion.
- 7.30 Although some concerns were raised about the site's accessibility, the application must be assessed on its own merits. The development pertains to an established lawful use within a sustainable location, where reliance on private vehicles for access is not essential. There are also public car parks available within a reasonable walking distance of the site.
- 7.31 The proposal includes an additional footpath that would provide more space between pedestrians and the Hereford Rowing Club, as well as the proposed crane. While the proposal does not obstruct the current public right of way, an application for a diversion order has been submitted. If successful, the existing route could be closed. While the Local Highways Authority's (LHA) comments are acknowledged, the new footpath may offer an enhanced pedestrian route compared to the existing one. Therefore, requiring it to meet adoptable standards for vehicular access is not deemed reasonable in this context.
- 7.32 Considering the above, the proposal is not expected to have an unacceptable impact on highway safety, nor would it cause severe cumulative effects on the local road network. The development is therefore considered to be in accordance with Policy MT1 of the Core Strategy, as well as the principles outlined in the NPPF.

#### **Impact on residential amenity / other uses**

- 7.33 The proposals pertain to the existing lawful recreational use of the River Wye. While the development may potentially increase visitor numbers and the overall use of the river, it is not expected to adversely affect the amenity of the nearest residential properties along Greyfriars Avenue. The application is accompanied by a Construction Management Plan, and it is recommended that a condition be imposed to ensure the development is carried out in accordance with this plan.
- 7.34 Additionally, it may be considered reasonable to impose a condition restricting construction hours to mitigate potential noise and disturbance to nearby residential properties.
- 7.35 The concerns raised by the Hereford and District Angling Society are acknowledged. Although the proposal may lead to increased recreational use of the river (e.g., rowing, canoeing), these rights of use already exist. The granting of planning permission does not override any private rights held by members of the Angling Society. The management and resolution of any conflicts related to the river's recreational use in this area are not within the scope of a planning determination and as such do not amount to reasonable grounds for the refusal of permission.

#### **Ecology and impact on the River Wye SAC and SSSI**

- 7.36 Policy LD2 of the Core Strategy seeks to ensure that development proposals conserve, restore, and enhance biodiversity assets in Herefordshire. Important sites, habitats, and species must be retained and protected in accordance with their status. The NPPF, particularly Chapter 15, provides relevant guidance and principles.
- 7.37 The application site lies within the River Wye SAC/SSSI, both of which have been identified as areas of concern due to the potential adverse effects of the proposed development. The physical construction of the boat ramp, ongoing operations, and anticipated increase in recreational use pose risks to the features of the SAC and SSSI. Notably, the transmission of crayfish plague, which threatens white-clawed crayfish—a key species of the SAC—has also been highlighted by the Council’s Ecologist. A Habitat Regulations Assessment (HRA) must be undertaken in accordance with Regulation 63 of the Conservation of Species and Habitat Regulations 2017 (as amended). When an ‘Appropriate Assessment’ is undertaken, Natural England is a statutory consultee in the process.
- 7.38 The initial submission, while outlining the constraints, failed significantly to set out detailed and evidenced mitigation measures for consideration and approval, as required by the HRA process.
- 7.39 Following initial concerns raised by the Council’s Ecologist regarding the unassessed, unmitigated risks, the applicant supplied a revised Construction Environmental Management Plan and a revised Ecological Impact Assessment. In terms of construction, this set out some biosecurity measures to prevent invasive species, as well as siltation control to avoid soil erosion in water bodies and pollution mitigation to prevent environmental damage. The details specified how machinery and equipment would not enter the water channel, and construction would be scheduled outside the migration and spawning periods of relevant fish species to protect aquatic life. Additionally, it was outlined that no night work was planned, and vibration would be limited to the hydraulic insertion of load-bearing steel framework above normal water levels to minimise disturbance. Furthermore, the proposed use of pre-cast concrete steps and a cantilever galvanized steel framework would aim to minimise liquid concrete usage, prevent contamination, avoid riverbed disturbance and protect habitats by utilising already disturbed areas and employing rock gabions to prevent bank erosion.
- 7.40 The details also laid out habitat mitigation and enhancement measures, including artificial gravel beds and rock gabions to provide crevices for wildlife, along with promoting best practices for aquatic environment use and biosecurity. To protect nocturnal wildlife activity, a condition limiting the use of the launching facilities and river access to between 6 a.m. and 11 p.m. was considered by the Local Planning Authority, balancing operational flexibility with wildlife preservation.
- 7.41 With the above additional information submitted, a positive HRA (including Appropriate Assessment) was undertaken by the Council as the competent authority and submitted to Natural England as the statutory consultee. However, Natural England did not agree with the Council’s conclusions that there would be no adverse effect on the integrity of the designated site. They highlighted the need for a comprehensive HRA to evaluate cumulative habitat loss from existing and proposed developments, which could exacerbate recreational pressures and further degrade critical habitats. Key concerns included the expansion of artificial bank structures, potential harm to protected species like otters and white-clawed crayfish, and risks posed by increased recreational activities and disturbances. The HRA was deemed insufficient as it did not adequately assess the impacts on wildlife or account for the cumulative effects of ongoing and proposed developments along this already heavily disturbed section of the river.
- 7.42 Following the above unfavorable outcome, the applicant decided to advance a shadow Habitat Regulations Assessment (sHRA). This was submitted to Natural England for their consideration and reviewed by the Council’s Ecologist. Natural England maintained their

previous objection to the proposal, remaining wholly unconvinced that the proposed development would not give rise to any adverse effects on the integrity of the SAC.

- 7.43 Natural England first highlighted that the sHRA does not sufficiently address the impact of the development on the designated features, taking into account local circumstances and site-specific factors.
- 7.44 A key failing of the submission is that the measures proposed, as detailed in the sHRA, are primarily compensatory, not mitigatory. This distinction is crucial: mitigation must prevent or reduce adverse effects at the location of impact, whereas compensatory measures allow for damage in one area while attempting to offset it elsewhere. This approach is not compliant with the Conservation of Habitats and Species Regulations 2017, which require effective on-site mitigation.
- 7.45 The proposal includes the provision of a new section of reinforced bank with pile installation and the construction of a davit arm crane. This would extend the existing artificial features along the riverbank and would lead to some permanent destruction of part of the river habitat, which in itself is a feature for which the site was designated. The sHRA acknowledges a loss of approximately 0.012 hectares of bankside habitat while proposing the creation of new habitat to offset this loss. However, Natural England argues that the permanent loss of habitat—particularly riverbed cover—cannot simply be compensated by habitat creation or restoration elsewhere, as explained above. This loss undermines the integrity of the SAC and violates the restoration objectives established for the site. Furthermore they say that the statement that impacts would be “effectively de minimis” lacks a thorough scientific basis and that given the complexity of the ecological dynamics within the SAC, such assertions require strong empirical evidence that the proposed measures would adequately protect sensitive species and habitats.
- 7.46 While the sHRA identifies increased recreational use as a potential concern, significant issues remain regarding the lack of detailed information on the scale, type, and quantity of boats expected to use the proposed ramp and the river. The sHRA indicates that the ramp would be utilised “ad hoc by members of the public,” creating unacceptable uncertainty about the level of recreational activity and its potential impact on sensitive species. The assessment does not adequately address the implications of the physical presence of boats, the operation of the crane/davit arm by emergency services, or the associated noise impacts on the site’s features. These omissions prevent a comprehensive understanding of how such activities may adversely affect species, particularly otters, which are active during the proposed extended operational hours from 6 a.m. to 11 p.m. Similarly, the submission acknowledges that white-clawed crayfish are generally more active at night, yet it fails to consider the cumulative effects of increased recreational pressure, noise, and disturbance on these nocturnal species. A survey is referenced that identifies the site as being unsuitable for crayfish; nevertheless, the proposal would impede the ability for this to be restored.
- 7.47 The proposed development, particularly the introduction of reinforced bank structures and other modifications, is also inconsistent with the objectives of the Site Improvement Plan (SIP) for the River Wye SAC and the associated River Restoration Plan (RRP). These plans emphasise minimising physical modifications and preserving the natural river ecosystem, which the sHRA does not adequately consider.
- 7.48 In conclusion, Natural England’s objection to the sHRA reiterates the principal concerns raised when responding to the HRA undertaken by the Council. It outlines its failure to comprehensively assess the ecological impacts, mischaracterisation of compensatory measures as effective mitigation, and lack of rigorous scientific evidence. Given these deficiencies, Natural England advises against granting planning permission for the proposed development, as adverse effects on the integrity of the River Wye SAC and its designated features cannot be ruled out.



- 7.49 The Council's Ecologist acknowledges the sHRA submitted by the applicant and recognises the subsequent objection from Natural England, which reiterates concerns similar to those raised in their previous objection regarding the Council's own HRA.
- 7.50 Upon reviewing both the sHRA and Natural England's objections, the Council's Ecologist has concluded that significant potential adverse effects on the River Wye Special Area of Conservation (SAC) have not been adequately mitigated with the necessary scientific or legal certainty. Consequently, the Council cannot adopt the sHRA as its own assessment.
- 7.51 The objection from Natural England, as the statutory consultee for the natural environment in England, is deemed highly relevant and appropriate. The Council's Ecologist fully endorses this objection and formally raises their own concerns, emphasising that planning permission should not be granted.
- 7.52 Under the Conservation of Habitats and Species Regulations 2017, specific and rigorous legal tests for derogation provides very limited circumstances under which the Local Planning Authority may grant planning permission for development that would give rise to adverse effects on designated sites. Such derogations are exceptional and may only be granted if strict legal criteria are fully met. The three requisite legal tests are as follows:
1. There are no feasible alternative solutions that would be less damaging or avoid damage to the site.
  2. The proposal needs to be carried out for imperative reasons of overriding public interest.
  3. The necessary compensatory measures can be secured.
- 7.53 The current proposal is not considered to meet these tests for derogation. The proposal is inherently site-specific, relying on its geographical proximity and relationship with the River Wye; thus, alternative sites located away from the river cannot be considered feasible or appropriate solutions. Furthermore, while the proposal does offer certain benefits, it is considered to fall overwhelmingly short of meeting the threshold of needing to be carried out for imperative reasons of overriding public interest. The scale and nature of the proposed development do not rise to a level that justifies overriding the protections afforded to the designated site, under the aforementioned regulations. Finally, because the proposal does not fulfill the requirements of the first two tests, the consideration of compensatory measures is unnecessary, as their implementation would not be justifiable in the absence of a valid derogation. The proposal does not pass all three tests, and as such an HRA derogation notice form is not considered to be a reasonable action in this case.
- 7.54 The proposal is therefore contrary to Policy LD2 of the Herefordshire Local Plan – Core Strategy, the NPPF, and the Conservation of Species and Habitats Regulations 2017.

### **Drainage and flood risk**

- 7.55 The application site expectedly lies within Flood Zone 3 and it is anticipated that much of this would be within Flood Zone 3b – land designed to flood. The applicant has supplied a Flood Risk Assessment (FRA) as required.
- 7.56 The proposed development may be considered 'water compatible' as per the definitions given at Annex 3 of the NPPF; it would be 'water-based recreation'.
- 7.57 The development must be sited in this location in order to fulfil its intended function, intrinsically water-related. The exception test is not required and the Environment Agency are satisfied that the proposed development would not give rise to any increased flood risk elsewhere (due to reduction or changes to flood storage). Subject to conditions to ensure that the development would remain operational and safe for future users, a number of conditions are recommended.

## Other matters

- 7.58 Some concerns have been raised with respect to the public consultation undertaken by the Local Planning Authority. Despite claims that initial notices were removed, the Local Planning Authority can confirm, for the avoidance of any doubt, that a full 21-day consultation period involving the display of site notices has taken place between 18 June and 9 July 2024. Any further representations received will be provided as an update to this report (where not received prior to publication).
- 7.59 As already touched upon, in accordance with the requirements of the Development Management Procedure Order 2015 (as amended), the required notice has been served on any other the land-owner.
- 7.60 The Hereford and District Angling Society are not a statutory consultee and therefore would not be consulted on the application individually. Notwithstanding this they are aware of the application and have made representation.
- 7.61 Concerns about antisocial behaviour would typically be handled through site management and enforcement by the applicant rather than planning conditions, particularly since the intended use is not an inherently noisy one

## Conclusion

- 7.62 The proposed development aims to enhance tourism and improve an established community facility related to river-based recreational activities in Hereford. It would be expected to boost tourism, improve emergency access, and provide inclusive facilities while preserving the area's historic character. The visual impact is considered minimal, and no significant concerns have been raised regarding residential amenity or highway safety. The proposal is also deemed suitable in relation to the site's flood risk and would not exacerbate any risk elsewhere. Although concerns have been raised, the development itself would not infringe upon other recreational rights on the River Wye. However, the scheme presents unresolved adverse impacts on the integrity of the River Wye SAC. Both the Council's Ecologist and Natural England have found the proposed mitigation measures insufficient, leaving significant risks to protected habitats and species. While the development offers anticipated social and economic benefits, the environmental harm it poses renders the development unsustainable in the round. Consequently, the proposal is not considered in accordance with principal policies as contained within the development plan, and there are no material considerations which indicates a decision should be made, other than for refusal.

## 8. Recommendation: That planning permission be refused for the following reason:

**The application site is within the catchment 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 Special Scientific Interest. There is a requirement for a Habitat Regulations Assessment (HRA) to demonstrate beyond reasonable scientific doubt that the proposed development would not have any adverse effects on the integrity of the SAC. The submitted details fail to provide sufficient evidence that the proposed development would avoid adverse impacts on the SAC. The information provided in support of the application does not adequately address the potential ecological impacts or propose effective mitigation strategies to protect the sensitive features of the designated site; the measures do not avoid or reduce likely significant effects caused by the proposed new section of reinforced bank but rather would allow those effects to occur and compensate for them**

elsewhere. The proposal is also contrary to the objectives of the SAC Site Improvement Plan (SIP) and would not assist in the positive implementation of the associated River Restoration Plan (RRP). The submission also fails to adequately detail, with certainty, the extent to which the proposal would give rise to increased recreational pressures at the site. Consequently, the Local Planning Authority cannot be satisfied that the development would not harm the integrity of the designated site and cannot adopt a positive HRA, thus failing to comply with the requirements set out in the Conservation of Species and Habitats Regulations 2017 (as amended). Therefore, the proposal is contrary to Policy LD2 of the Herefordshire Local Plan – Core Strategy and the principles set out within the National Planning Policy Framework.

**Informative:**

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

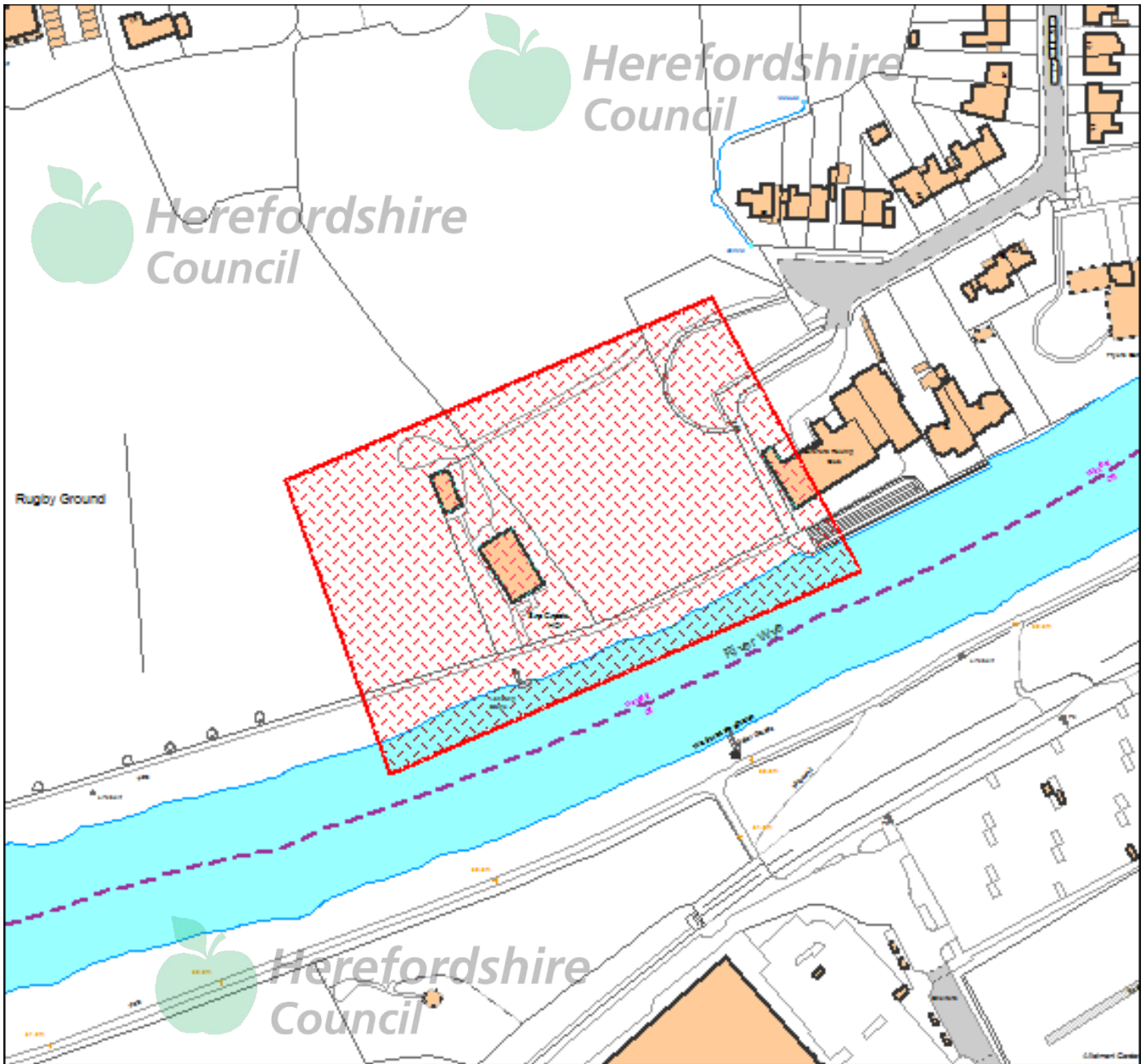
Decision: .....

Notes: .....

.....

**Background Papers**

None identified.



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

**APPLICATION NO:** 233442

**SITE ADDRESS :** 39 GREYFRIARS AVENUE, HEREFORD, HEREFORDSHIRE, HR4 0BE

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 Ollie Jones on 01432 260504