

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>22 AUGUST 2018</b>
<b>TITLE OF REPORT:</b>	<b>180157 - PROPOSED NEW 2 BEDROOM DWELLING AT GREEN BANK, SUTTON ST NICHOLAS, HEREFORD, HR1 3AX</b>  <b>For: Mr &amp; Mrs Gow per Mr Alex Whibley, Watershed, Wye Street, Hereford, Herefordshire, HR2 7RB</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180157&amp;search=180157">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180157&amp;search=180157</a>
<b>Reason Application submitted to Committee – Member Redirection</b>	

**Date Received: 15 January 2018**

**Ward: Sutton Walls**

**Grid Ref: 353015,245799**

**Expiry Date: 31 August 2018**

Local Member: Councillor K S Guthrie

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

- 1.1 The site lies on the northern side of the C1126, towards the western extremities of the village of Sutton St Nicholas. It is within the Sutton St Nicholas Conservation Area and adjacent to a Grade II listed building, known as 'The Creswells'. Presently the site comprises the side garden of Green Bank, a detached Victorian property set on higher land than the road. A mature hedgerow demarks the roadside boundary. There is an access track to the west of the site serving agricultural land immediately to the north of the site. The site falls within the SSSI Impact Zone.
- 1.2 Permission is for the erection of dwelling on a plot formed from the subdivision of the existing garden. A new vehicular access is proposed onto the 'C' classified road, to be sited centrally in the roadside boundary. The dwelling would be sited at the rear of the plot, some 25m back from the road. The principal elevation would face south, towards the road, with roof ridge orientated on a northwest-southeast axis. Parking and turning would be provided to the front of the site with a lawn and landscaped area between it and the proposed dwelling. Existing ground levels are proposed to be reduced, with 0.6 metre retaining sleeper walls to the north, east and west of the dwelling. The existing mixed native species hedgerow to the north and west boundary is proposed to be retained, whilst the newly created boundary with Green Bank would be planted with similar. A section of the recently planted yew hedging to the roadside would be removed to provide for the vehicular access.
- 1.3 Amended plans have been submitted during the consideration of the proposal, which now proposes a one and a half storey dwelling, with projecting gable to the principal (south) elevation. To roof ridge the dwelling would be 6.2 metres in height and 3 metres to eaves. The dwelling would be 13.27 metres in width and would have a depth of 8.7 metres, with 7 metre wide gable ends to the east and west side elevations. An artificial slate roof, with red brick

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Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

elevations and timber cladding to the projecting gable to the principal elevation are proposed. Fenestration would be powder coated aluminium and solid course lintels are proposed to above the windows.

- 1.4 The proposed property would provide two bedrooms, each with ensuite bathrooms and a gallery landing at first floor. This accommodation would be contained within the roof void, including the projecting gable and with rooflights to front and rear elevations and windows in the gable ends to provide natural light. At ground floor there would be a sitting room, open plan kitchen, dining area and lounge, with separate study, W.C and lobby. A detached cycle store is proposed in the rear garden.
- 1.5 The application was accompanied by an (amended) Design, Access and Heritage Statement. This sets out the rationale for the proposed scheme and a review of the Conservation Area and existing development. A photomontage of the proposed dwelling in its context is included. It also explains that the applicants wish to downsize into the proposed dwelling and remain in the village.

## 2. Policies

- 2.1 The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:- [https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)
- SS1 - Presumption in Favour of Sustainable Development
  - SS2 – Delivering new homes
  - SS4 – Movement and transportation
  - SS6 – Environmental quality and local distinctiveness
  - SS7 – Addressing climate change
  - RA1 - Rural Housing Distribution
  - RA2 - Housing in settlements outside Hereford and the Market Towns
  - H1 – Affordable housing – thresholds and targets
  - H3 – Ensuring an appropriate range and mix of housing
  - MT1 - Traffic Management, Highway Safety and Promoting Active Travel
  - LD1 - Landscape and Townscape
  - LD2 - Biodiversity and Geodiversity
  - LD4 - Historic Environment and Heritage Assets
  - SD1 - Sustainable Design and Energy Efficiency
  - SD3 - Sustainable Water Management and Water Resources
  - SD4 – Waste water treatment and river water quality
  - ID1 – Infrastructure delivery
- 2.2 The Sutton St Nicholas Neighbourhood Development Plan (made on 8.3.2017) policies can be viewed on the Council's website by using the following link:- [https://www.herefordshire.gov.uk/directory\\_record/3107/sutton\\_st\\_nicholas\\_neighbourhood\\_development\\_plan](https://www.herefordshire.gov.uk/directory_record/3107/sutton_st_nicholas_neighbourhood_development_plan)
- POLICY 1: SETTLEMENT BOUNDARY
  - POLICY 2: DELIVERING NEW HOUSING
  - POLICY 3: CRITERIA FOR NEW HOUSING DEVELOPMENT
  - POLICY 6: LANDSCAPE
  - POLICY 7: BUILDING DESIGN
  - POLICY 9: GREEN INFRASTRUCTURE
- 2.3 National Planning Policy Framework (NPPF)
- Chapter 1 – Introduction
  - Chapter 2 – Achieving Sustainable Development
  - Chapter 4 – Decision-making
  - Chapter 5 – Delivering a sufficient supply of homes

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Chapter 6 – Building a strong, competitive economy  
Chapter 9 – Promoting sustainable transport  
Chapter 11 – Making efficient use of land  
Chapter 12 – Achieving well-designed places  
Chapter 15 – Conserving and enhancing the natural environment  
Chapter 16 - Conserving and enhancing the historic environment  
Annex 2 – Glossary

2.4 National Planning Policy Guidance

### 3. Planning History

3.1 None.

### 4. Consultation Summary

Statutory Consultations

4.1 Natural England

#### SUMMARY OF NATURAL ENGLAND'S ADVICE

#### NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of River Wye Special Area of Conservation
- damage or destroy the interest features for which River Wye / Lugg Site of Special Scientific Interest has been notified.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- Foul sewage to be disposed in line with Policy SD4 of the adopted Herefordshire Core Strategy. Where a package treatment plant is used for foul sewage, this should discharge to a soakaway or a suitable alternative if a soakaway is not possible due to soil/geology.
- Surface water should be disposed of in line with Policy SD3 of the adopted Herefordshire Core Strategy and the CIRIA SuDS Manual (2015) C753.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. Subject to the above appropriate mitigation being secured, we advise that the proposal can therefore be screened out from further stages in the Habitats Regulations Assessment process, as set out under Regulation 63 of the Habitats Regulations 2017.

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

#### Further advice on mitigation

To avoid impacting the water quality of the designated sites waste and surface water must be disposed in accordance with the policies SD3 and 4 of the adopted Herefordshire Core Strategy.

#### Foul sewage

We would advise that package treatment plants should discharge to an appropriate soakaway which will help to remove some of the phosphate (see NE report below). Package Treatment Plants and Septic Tanks will discharge phosphate and we are therefore concerned about the risk to the protected site in receiving this. We therefore propose that the package treatment plant/septic tanks and soakaway should be sited 50m or more from any hydrological source. Natural England research indicates that sufficient distance from watercourses is required to

allow soil to remove phosphate before reaching the receiving waterbody. (Development of a Risk Assessment Tool to Evaluate the Significance of Septic Tanks Around Freshwater SSSIs) Where this approach is not possible, secondary treatment to remove phosphate should be proposed. Bespoke discharge methods such as borehole disposal should only be proposed where hydrogeological reports support such methods and no other alternative is available. Any disposal infrastructure should comply with the current Building Regulations 2010.

#### Surface water

Guidance on sustainable drainage systems, including the design criteria, can be found in the CIRIA SuDS Manual (2015) C753. The expectation is that the level of provision will be as described for the highest level of environmental protection outlined within the guidance. For discharge to any waterbody within the River Wye SAC catchment the 'high' waterbody sensitivity should be selected. Most housing developments should include at least 3 treatment trains which are designed to improve water quality. The number of treatment trains will be higher for industrial developments.

An appropriate surface water drainage system should be secured by condition or legal agreement.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (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.

#### Other advice

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

Should the developer wish to discuss the detail of measures to mitigate the effects described above with Natural England, we recommend that they seek advice through our Discretionary Advice Service.

We would not expect to provide further advice on the discharge of planning conditions or obligations attached to any planning permission.

#### 4.2 Welsh Water SEWERAGE

As the applicant intends utilising a private treatment works we would advise that the applicant contacts The Environment Agency / Herefordshire Council Land Drainage Department who may have an input in the regulation of this method of drainage disposal.

However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

#### Internal Council Consultations

#### 4.3 Transportation Manager

##### Traffic Generation

It is not considered that this level of development will have a significant impact upon the public highway.

##### Site Location and Access

Green Bank is situated on Marden Road (C1126) to the west of the village centre. A new access will be created on the public highway as part of this proposal.

#### Parking, Turning and Manoeuvring

Vehicle tracking plans have been provided as part of this development and are satisfactory as a light vehicle is able to access and egress in a forward gear. However, the development sets out that three car parking spaces shall be provided, it should be shown on a plan that a vehicle can access and egress in a forward gear with two additional car in the proposed driveway.

#### Visibility

Although visibility splays have been provided by the applicant in drawing 2601 - P(0) 24 revision A, the full extent of the visibility splays to the left of the access are not visible and no distance is stated for the splay to the right of the access.

A revised plan, 2601 P(0) 26 has provided details of the visibility splays.

#### Drainage

The developer should ensure that no surface water runs off on to the public highway because of this development.

#### Conclusion

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

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

It should be shown on a plan that a vehicle can access and egress in a forward gear with two additional cars parked in the driveway. This is due to the application stating the creation of three parking spaces.

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

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

#### CAE - Vehicular access construction

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

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

#### CAB - Visibility splays

Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.0 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 50 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.

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

Informative

I05 – No drainage to discharge to highway

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

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

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

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

#### 4.4 Conservation Manager (Historic Buildings) – original plans

Recommendation:

In principle, some development on this constrained site should be feasible; however, an innovative solution will be required to achieve this without having a negative impact.

The proposed scheme fails to satisfy the requirements of national and local policies, specifically relating to development within the setting of heritage assets and conservation areas; on this basis it cannot be supported in its current form.

Policy:

National Planning Policy Framework

Chapter 7: - Policies 60; 61; 62; 63; 64.

Chapter 12: - Policies 128; 131; 134; 135 & 137.

Herefordshire Core Strategy

Policies LD4 and SS6.

Comments:

Whilst comprehensive pre-application advice was provided, it does not appear to have informed an appropriate design.

Key concerns previously detailed related to building scale/bulk, ensuring adjoining heritage assets retained primacy, lack of understanding and acknowledgment of Conservation Area context, and failure to present a quality of development that could be considered to make a positive, and enhancing, contribution to its surroundings.

The applicants aspiration, to 'downsize to a smaller home', should be compatible with the constraints presented by both the size of garden plot available for development, and the proximity of the Grade II listed building.

Developments outside the Conservation Area should not be the main point of focus to justify any new design; it should be the positive features that contribute to the conservation areas significance.

#### 4.5 Conservation Manager (Historic Buildings) – amended plans

Refusal of this application is recommended as it is considered the submitted scheme would cause harm to aspects of setting which contribute to the adjacent listed building's significance, and to the character of the wider Conservation Area; specifically, the scale, form and architectural character of the proposed dwelling.

On this basis, the development would fail to satisfy statutory obligations, as set out in Sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990; policy requirements set out in Chapters 12 & 16 of the National Planning Policy Framework; and heritage policies within the Herefordshire Core Strategy.

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

Policy:

Planning (Listed Buildings & Conservation Areas) Act 1990:

Section 66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 requires Local Planning Authorities to consider the impact of development proposals on the setting of listed buildings, and, as was reinforced by the Barnwell Manor Court of Appeal case, "considerable importance and weight" should be given to the desirability of preserving that setting.

In the 2014 - Forge Field Society v Sevenoaks DC - High Court case, the judge, in relation to sections 66 & 72 of the Act, concluded that,

"As the Court of Appeal has made absolutely clear in its recent decision in Barnwell, the duties in sections 66 and 72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the decision in Barnwell it has now been firmly dispelled. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight."

Furthermore,

"...the Court of Appeal emphasized in Barnwell, that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one..."

With these judgements in mind, it is reasonable to conclude that under the terms of Sections 66 and 72 of the Act, there is a strong statutory presumption against planning permission being granted on the basis of the individual and cumulative harm the proposed development would cause to the adjacent heritage assets and wider Conservation Area.

## National Planning Policy Framework:

### Chapter 12:

Paragraph 127 advises decisions should ensure that developments are,

- visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;

Paragraph 130 advises permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area.

### Chapter 16:

Paragraph 189 requires applicants to describe the significance of heritage assets affected by development proposals, including the contribution made by their setting.

Paragraph 192 advises LPAs should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 advises great weight should be given to an asset's conservation irrespective of the level of harm the development causes.

Paragraph 194 advises any harm to, or loss of, the significance of a designated heritage asset from development within its setting should require clear and convincing justification.

Paragraph 196 advises that where a development will lead to less than substantial harm to the significance of a designated heritage asset that harm, which should be given great weight, should be weighed against any public benefit the development may have.

Paragraph 197 advises the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining that application; with a balanced judgement being required with regard to the level of harm or loss and the significance of the asset.

Paragraph 200 advises LPAs should look for opportunities for new development within Conservation Areas and the setting of heritage assets to enhance or better reveal their significance, and that proposals that can demonstrate this should be treated favourably.

### Herefordshire Core Strategy:

Policy LD1 requires development proposals to demonstrate that the character of the townscape has positively influenced the design, scale, nature, and site selection of the designated area.

Policy LD4 states development proposals that affect heritage assets and the wider historic environment should protect, conserve and enhance them in a manner appropriate to their significance through appropriate management, uses and sympathetic design; and that where opportunity exists contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas.

### Background:



The proposed site is situated within the Sutton St. Nicholas Conservation Area, on a plot which currently forms the curtilage of the non-designated heritage asset, Green Bank. It is located within 5 metres of the Grade II listed Creswells, a 17th century timber-framed cottage.

Comments:

It has not been satisfactorily demonstrated that the development would enhance or better reveal the significance of adjacent heritage assets, nor that it would contribute positively to local character and distinctiveness.

Concerns highlighted at pre-application stage related to the scale and form of the proposed scheme, the contribution the building would make to the character of the Conservation Area, and its impact on the setting of the adjacent heritage assets.

One of the positive characteristics of the Conservation Area is the space that exists between and around heritage assets; with most pre-1948 buildings benefitting from relative isolation within their plots; Green Bank being a typical example of that, a simple, Victorian, red brick, building with restrained proportions and detailing.

The proposed development is of a scale and form that would dominate the plot, negatively alter the wider setting, compromise the primacy of Creswells and Green Bank, and dilute their prominence within the streetscape.

Dividing the plot to accommodate a new dwelling would inevitably reduce amenity, interrupt sight-lines between heritage assets, and the open countryside, and affect the setting of adjacent listed buildings. In order to help mitigate these issues, the scale, form, positioning, and orientation of any new development are critical.

Due to the compromised size of the plot, and the proximity of the neighbouring heritage assets, a 1-1.5 storey building was suggested as the most appropriate scale; with the potential for a contemporary design, that referenced positive architectural characteristics of the Conservation Area, and which might better respond to the identified constraints.

If traditional designs are to contribute positively to local character and distinctiveness, they would ideally conform to certain rules of scale and proportion, and avoid pastiche or overly suburban characteristics. However, the traditional approach may unacceptably constrain the footprint and scale of dwelling that appears to be required.

4.6 Conservation Manager (Ecology)  
Approve with conditions

Thank you for consulting me on this application. As this is a well maintained garden it would be disproportionate to require full ecological surveys. However, as the LPA is tasked with seeking ecological enhancement I would recommend that an ecological enhancement plan is submitted which can be secured as a condition as follows:

Prior to commencement of the development, a habitat protection and enhancement scheme should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.

Reasons:

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

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

As we are not requiring a ecological surveys, I would advise that the applicant is made aware that construction may impinge upon biodiversity at the site predominantly, I would venture, nesting birds. Consequently, I think it advisable that the following informatives should be add

4.7 Conservation Manager (Ecology) – additional comments

Thank you for consulting me again on this application. The application falls within the SSSI risk zone in relation to foul water disposal. As per Natural England's comments

*"Where a package treatment plant is used for foul sewage, this should discharge to a soakaway..."*, the application complies with this requirement in amended proposed site plan 2601P(0) 23. Where the package treatment plant and drainage field soakaway are clearly marked as per the applicant's drainage engineer's requirements.

## 5. Representations

5.1 Sutton St Nicholas Parish Council

Having considered the matter the Parish Council resolved to support the application.

5.2 Sutton St Nicholas Parish Council –amended plans

The Parish Council noted the comments of the Conservation Officer regarding key concerns. having considered the matter the Parish Council resolved to support the application.

5.3 31 letters of support (28 of a standard template) and one mixed representation have been received in respect of the original and amended plans. In summary the following points have been raised:

Support:

- Fits in very well with the surrounding area
- Similar in style to Tilton House (built approx. 15 years ago)
- Fully accords with Sutton St Nicholas NDP
- Need for smaller houses – as set out in the NDP
- Excellent architect designed one-off example
- Hope no further delay in approving

Mixed:

- Support application but object to contemporary design in traditional rural village setting
- Contemporary design flies in the face of wishes to maintain rural links and nature of the Parish and Conservation Area
- Provides for much needed smaller accommodation and appears to reflect and compliment rural and traditional nature of the village

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=180157&search=180157](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=180157&search=180157)

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

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

## 6. Officer's Appraisal

### *Policy context and Principle of Development*

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:  
*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*
- 6.2 In this instance the adopted Development Plan is the Herefordshire Local Plan – Core Strategy (CS) and the Sutton St Nicholas Neighbourhood Development Plan (SStNNDP). The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.3 Sutton St Nicholas lies within the Hereford Housing Market Area (HMA) and is listed as being one of the *'settlements which will be the main focus of proportionate housing development'* (figure 4.14). This seeks a 18% minimum growth target over the plan period across the HMA. The site lies within the SStNNDP defined settlement boundary, where new residential development is permitted in principle, as per policy 1 of the SStNNDP and CS Policy RA2. SStNNDP policy 2 acknowledges that windfall sites will contribute to the required growth and makes an allowance of 15 dwellings for such requirements.
- 6.4 CS policy RA2 states:-

*"The minimum growth target in each rural Housing Market Area will be used to inform the level of housing development to be delivered in the various settlements set out in Figures 4.14 and 4.15. Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets.*

*Housing proposals will be permitted where the following criteria are met:*

*1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement; and/or they result in development that contributes to or is essential to the social well-being of the settlement concerned;*

*2. Their locations make best and full use of suitable brownfield sites wherever possible;*

*3. They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and*

*4. They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlement, reflecting local demand.*

*Specific proposals for the delivery of local need housing will be particularly supported where they meet an identified need and their long-term retention as local needs housing is secured as such."*

- 6.5 In locational terms the site is considered to be acceptable for residential development, being within the settlement boundary and comprising a windfall site, as provided for in SStNNDP policy 2. The SStNNDP acknowledges that there are limited opportunities for redevelopment of brownfield sites and the scheme proposes a two bed unit, with scope for a bedroom at ground floor (in the study) served by the bathroom on the same floor, which in simple bedroom number terms would positively contribute to the range of housing in the village. It should be borne in

mind however that the proposed dwelling would be a substantial two bedroomed unit, with an internal floor area of approximately 128 square metres (excluding first floor stores and walk in wardrobes), and with three bathrooms. The appropriateness of the scale and design to the surrounding environment, which is in the village Conservation Area is assessed in paragraphs 6.8 to 6.13. In layout terms, there is no prevailing characteristic, such that the set back siting proposed would reflect its context.

- 6.6 In addition to CS policy RA2, policies LD1 and SD1 are relevant. These state that developments should demonstrate that the character of the landscape and townscape has positively influenced design, scale, nature and site selection and new buildings should be designed to maintain local distinctiveness whilst making a positive contribution to the architectural diversity and character of the area. Policies 3, 6 and 7 of the SStNNDP state that layout, design and landscaping should respect the landscape setting ensuring that the prevailing landscape character type, including key features and attributes, has positively influenced design, layout and scale, with the setting of adjoining heritage assets and dwelling amenity protected. There should be regard to the established built environment and historic characteristics. The SStNNDP notes that historically buildings have been built of local stone, with later brick builds and most recently brick and render.
- 6.7 The key considerations are impact on heritage assets, amenity of existing occupiers, highways, ecology/drainage (SSSI impact zone) and these are appraised below.

#### *Heritage assets*

- 6.8 The site lies within the village Conservation Area and a listed building lies to the west. Both of these are designated heritage assets (NPPF - Glossary) and it is a statutory duty under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, for the decision maker 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 (in the case of listed buildings – s66) and that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area (in the case of Conservation Area – s.72). When undertaking a planning balance the weight afforded to preserving the building, its setting or features of special architectural or historic interest and preserving or enhancing the character and appearance of the Conservation Area, is greater than that given to the other considerations, because they do not have a similar statutory duty requiring special attention to be given to them. Only powerful material considerations can rebut this presumption in favour of preserving the listed building's setting or the Conservation Area.
- 6.9 In policy terms LD4 of the CS applies. This relates to both Conservation Areas and listed buildings. The proposal would affect the setting of a listed building, these being the surroundings in which it is experienced (NPPF - Glossary). The CS policy requires developments to protect, conserve and where possible enhance the heritage asset. Policy 3 of the SStNNDP states that new housing developments should include layout, design and landscaping which respects the setting of adjoining heritage assets. Neither policy sets out the assessment if harm is identified. In such circumstances an application falls to be considered against that set out in the NPPF (chapter 16). This affirms that considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It continues that this requirement is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to significance. At paragraph 194 it is stated that any harm should require clear and convincing justification.
- 6.10 The Conservation Manager has appraised the proposal and considers that it would result in harm to the Conservation Area and to the setting of the listed building, due to the scale, form and architectural character of the proposed dwelling. The full appraisal of this harm is as set out

in paragraph 4.5 of this Report and it concludes that the harm would amount to less than substantial.

- 6.11 In light of the identified harm the NPPF states, at paragraph 196, that where less than substantial harm is found it has to be weighed against the public benefit. When attributing weight in this exercise the statutory duty to have special regard to desirability of preserving the heritage assets, as set out in paragraph 6.8 of this Report, must be complied with.
- 6.12 To conclude on this issue it is considered that the amended scheme would not protect or conserve the setting of the heritage asset nor the character and appearance of the Conservation Area and therefore results in harm. This is quantified as less than substantial and as a result the scheme would only be acceptable if the public benefits outweigh this. The weight to be afforded to the protection of the heritage assets is greater than other considerations. The public benefits likely to be derived from the proposal can be considered under the economic and social objectives, which together with the environmental objective comprise the overarching objectives to achieving sustainable development. Paragraph 8 of the NPPF explains that these are interdependent and need to be pursued in mutually supportive ways. In economic terms there would be financial benefits during the construction phase (through the purchasing of materials and labour), payment of the New Homes Bonus and disposable income spend from future occupiers both in the village and wider area. In social objective terms the scheme would provide an additional dwelling and associated residents and visitors to help sustain village facilities and engage in community life. For a single dwelling these benefits would be modest and it is considered that they are of insufficient magnitude to outweigh the identified harm to heritage assets (both the setting of the listed building and to the Conservation Area), which is an environmental objective. Affording the statutory duties, under sections 66 and 72 of the Act, and apportioning greater weight to this consideration results in a conclusion that the public benefit is outweighed by the harm.
- 6.13 Following from the analysis of the proposed dwelling's impact on the Conservation Area, it is also considered that the scheme conflicts with CS policies RA2(3) and SD1 and SStNNNDP policies 3(4) and 7, because it would not be appropriate to its context, not make a positive contribution to the surrounding environment, would not protect and enhance the distinctive character and appearance of the village nor have regard to the established built and historic characteristics of the townscape context.

#### *Amenity of existing occupiers*

- 6.13 Development must ensure that it provides a good standard of living conditions for both existing and proposed occupiers, as set out in policy SD1 of the CS, policy 3 of the SStNNNDP and paragraph 127(f) of the NPPF. By virtue of its siting, scale, orientation and design it is considered that the scheme would achieve this.

#### *Transportation*

- 6.15 CS policy MT1 requires developments to provide safe access. Policy 3(5) of the SStNNNDP requires housing development to provide suitable vehicular access to the highway and safe pedestrian and cyclist access into the village to encourage active travel. The NPPF, at paragraph 108, also requires safe access to be provided and encourages appropriate opportunities for sustainable transport modes to be taken up, given the type of development and its location. It recognises at paragraph 103 that options for these vary from urban to rural situations.
- 6.16 The Transportation Manager has advised that the proposed access is acceptable and the modest traffic generation could be accommodated within the highway network. The site lies within the 30mph speed limit and suitable visibility splays are achievable. Connectivity to the village amenities is relatively poor by foot, due to the lack of footways from the site to the

crossroads with the C1125, which is some 352 metres to the southeast. From that point there are footways to the public house, church and primary school and access to a bus stop to facilitate onward travel. Cycling is a reasonable option and a secure and covered cycle store is proposed. There is, therefore, some conflict with policies promoting sustainable transport options, but given that the scheme is for a single, two bedroomed dwelling it is considered that it would be disproportionate to require the provision of footways to the crossroads, indeed even if it were achievable on highway land.

- 6.17 The proposal does not clearly demonstrate that sufficient parking and turning can be achieved within the site for 3 cars, as specified. Nevertheless, the Transportation Manager does not object on this ground, but rather recommends a condition to provide a revised plan which is suggestive that it is achievable. Secure and covered cycle storage is indicated on the site plan. Provision is achievable for the storage of waste and recycling receptacles within the garden and a collection point adjacent to the access is indicated on the amended Proposed Site Plan.

#### *Ecology/drainage- SSSI Impact zone*

- 6.18 The site falls within the Discharges "any discharge of water or liquid waste, including to mains sewer" SAC & SSSI Impact Risk Zone. Foul drainage is proposed to a Private Treatment Plant with soakways within the application site and this accords with the sequentially preferred options provided for in CS policy SD4, where a mains connection is not feasible. Welsh Water has not commented to the contrary. Natural England and the Conservation Manager (Ecology) have confirmed that this method of foul waste disposal is acceptable and allows a conclusion that there would be no likely unmitigated adverse impacts on the SSSI impact zone to be made.
- 6.19 Records indicate existing surface water issues along the road to the south of the site. The proposal includes permeable parking/turning area and a drain between the vehicular access and the highway. Subject to an implementation condition this would proportionately address this matter.
- 6.20 Due to the existing use of the site, as part of the garden to Green Bank, ecology surveys were not required. Nevertheless, as required by CS policy LD2 and the NPPF opportunities for biodiversity enhancement and net gains should be sought. The scheme proposes new soft landscaping and this along with other habitat enhancement (e.g. bat and bird boxes) could reasonably be conditioned.
- 6.21 There are a number of mature trees along the western boundary and the submitted Proposed Site Plan demarks a Tree Protection Zone. This is considered acceptable and compliance could be reasonably conditioned. If work were required to these trees consent would be required as they are within a Conservation Area.

#### *Other matters*

- 6.22 Financial contributions are not required, in accordance with the NPPG, for this development, which does not exceed 10 dwellings.

#### *Planning balance*

- 6.23 At present the Council cannot demonstrate a five year housing land supply (published figure of 4.54 years), and as such the policies which are most important for determining the application are to be considered as being out of date (paragraph 11d) footnote 7 of the NPPF). In such circumstances paragraph 11 continues that in decision-taking this means '*granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.* 'Assets' includes designated heritage assets and the policies are as referred to in the NPPF and not the Development Plan (footnote 6).

- 6.24 Paragraph 14 of the NPPF states that where the presumption set out in paragraph 11d applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:
- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
  - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
  - c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
  - d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.
- 6.25 This proposal is for housing development. the SStNNDP became part of the Development Plan on 8.3.2017 – less than 2 years ago, it contains policies and allocations to meet identified housing requirement, the local planning authority has 4.54 years supply of deliverable sites – more than 3 years and with regards criterion d) this will be assessed against the Housing Delivery Test to be published by the Government in November 2018 (footnote 9).
- 6.26 As set out in the section on Heritage Assets (paragraphs 6.8 to 6.13) and with particular regards to the conflict with the NPPF policies, it is considered that the identified harm to designated heritage assets provides a clear reason for refusing the development proposed.
- 6.27 Notwithstanding that NPPF paragraph 11d) i provides policy reason to refuse permission, the assessment under paragraph 11d) ii is set out below.
- 6.28 The economic and social benefits of providing a dwelling within the settlement are noted. These include the initial boost to the economy during the construction phase, through the purchasing of materials and labour, payment of the New Homes Bonus, disposable income spend from future occupiers and an additional dwelling and residents to help sustain village facilities and engage in community life. Conversely, it is considered that a significant negative environmental impact would result due to the harmful impact on designated heritage assets and the amenities of the area and also marginally due to the relatively poor connectivity for pedestrians to local services. With regards the harmful impact on designated heritage assets the weight to be afforded, by virtue of the statutory duty, is greater than the other considerations, such that it is considered that it outweighs the noted benefits.
- 6.29 By reason of the identified harm to designated heritage assets the proposal conflicts with policy requirements and this consideration outweighs the benefits. It is recommended that planning permission is refused.

## **RECOMMENDATION**

**That planning permission be refused for the following reasons:**

- 1. By virtue of the scale, form and architectural character of the proposed dwelling it would result in harm to the character and appearance of the Sutton St Nicholas**

**Conservation Area, the setting of the adjacent listed building and would not positively contribute to the character of the area and respect its context. This is contrary to policies LD4, RA2(3), LD1 and SD1 of the Herefordshire Local Plan – Core Strategy, policies 3(4) and 6 of the Sutton St Nicholas Neighbourhood Development Plan and the requirements of the National Planning Policy Framework.**

**The above harm, when taking into account the statutory duty under sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 in respect of designated heritage assets, and the policies of the National Planning Policy Framework provides clear reason for refusing planning permission (paragraph 11d) i) and notwithstanding that the identified adverse impacts significantly and demonstrably outweigh the benefits (paragraph 11d) ii).**

Informative

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations by identifying matters of concern with the proposal and discussing those with the applicant. Unfortunately, it has not been possible to resolve those matters and negotiate a scheme that is considered to be policy compliant. The Local Planning Authority is willing to provide further pre-application advice in respect of any future application for a revised development.

Decision: .....

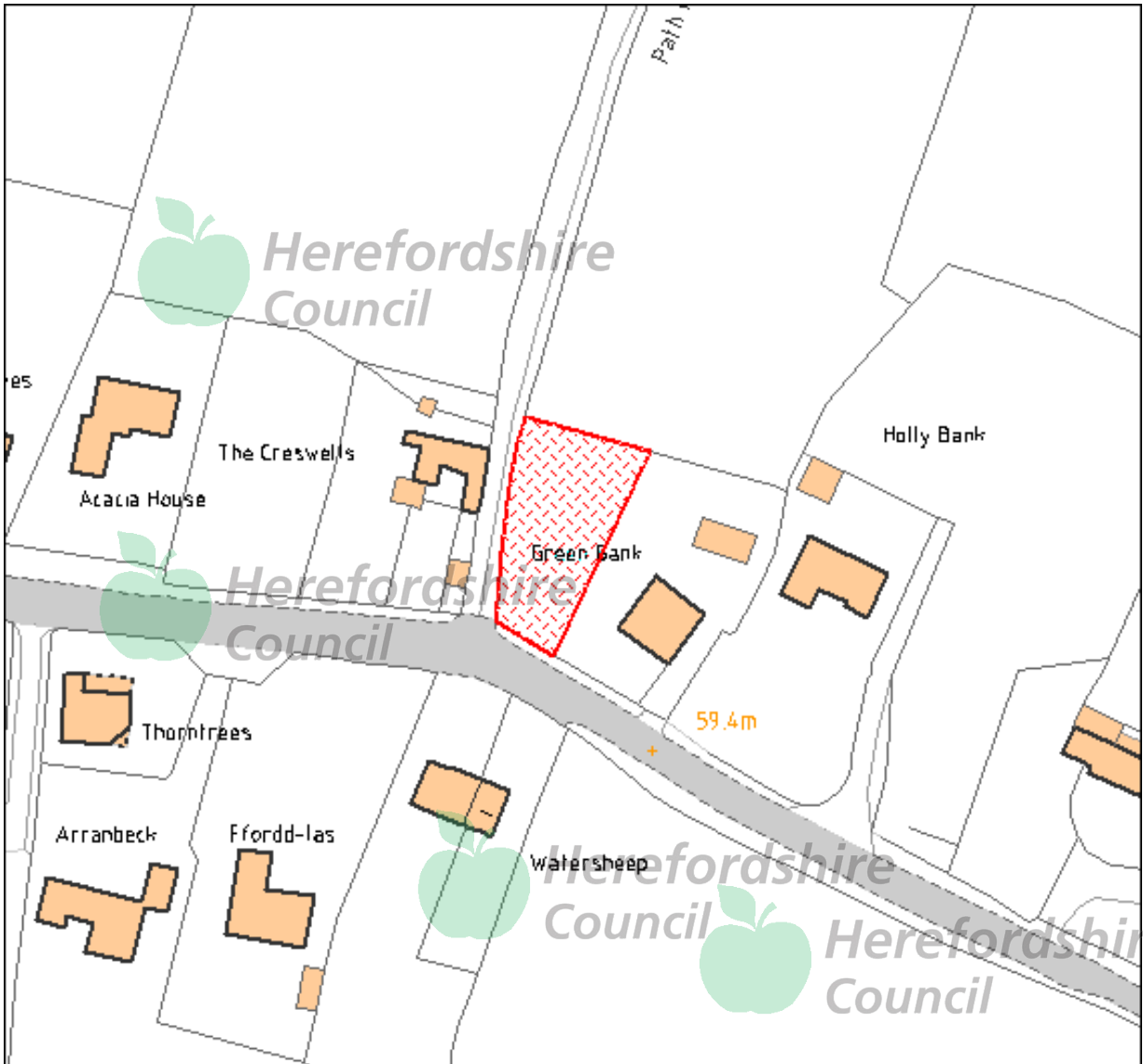
Notes: .....

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**Background Papers**

Internal departmental consultation replies.





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**APPLICATION NO:** 180157

**SITE ADDRESS :** GREEN BANK, SUTTON ST NICHOLAS, HEREFORD, HEREFORDSHIRE, HR1 3AX

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Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536