

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	18 September 2019
TITLE OF REPORT:	191813 - PROVISION OF A SINGLE MOBILE CLASSROOM AT SUTTON PRIMARY SCHOOL, BAYLEY WAY, SUTTON ST NICHOLAS, HEREFORD, HR1 3SZ For: Sutton Primary Academy per Mr Andrew Baker, Easters Court, Leominster, Herefordshire, HR6 0DE
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191813&search=191813
Reason Application submitted to Committee – Council has an interest in the land,	

Date Received: 21 May 2019

Ward: Sutton Walls

Grid Ref: 353524,245752

Expiry Date: 16 July 2019

Local Member: Councillor Kema Guthrie

1. Site Description and Proposal

- 1.1 The application relates to Sutton Primary School, an academy school located in the village of Sutton St Nicholas to the north of Hereford. It is situated on the northern fringe of the village of Sutton St Nicholas where it fronts the C1125 (Hereford - Bodenham) road. Adjoining the site to the south east and south west are residential properties, to the north east farmland and fronting the opposite side of the road are further dwellings. The school building occupies an approximate T shaped footprint. Architecturally it may be characterised as a pleasant modern range with a distinctive composition and roof geometry including mono pitched, dual pitched and gabled elements together with deep overhangs.
- 1.2 The school currently benefits from an archetypal, rectilinear, double mobile classroom unit which would adjoin the proposal. The existing temporary classroom was granted consent in June 2015 with the permission requiring the structure to be removed by 1st July 2020. The site of the proposed classroom is currently occupied by plant equipment.

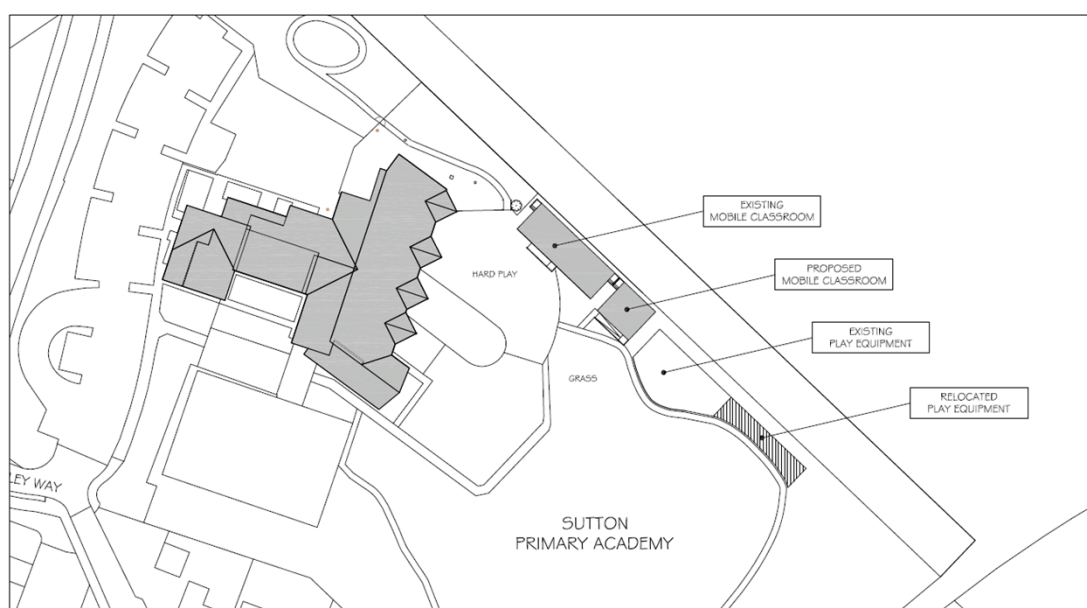


Application site edged in red

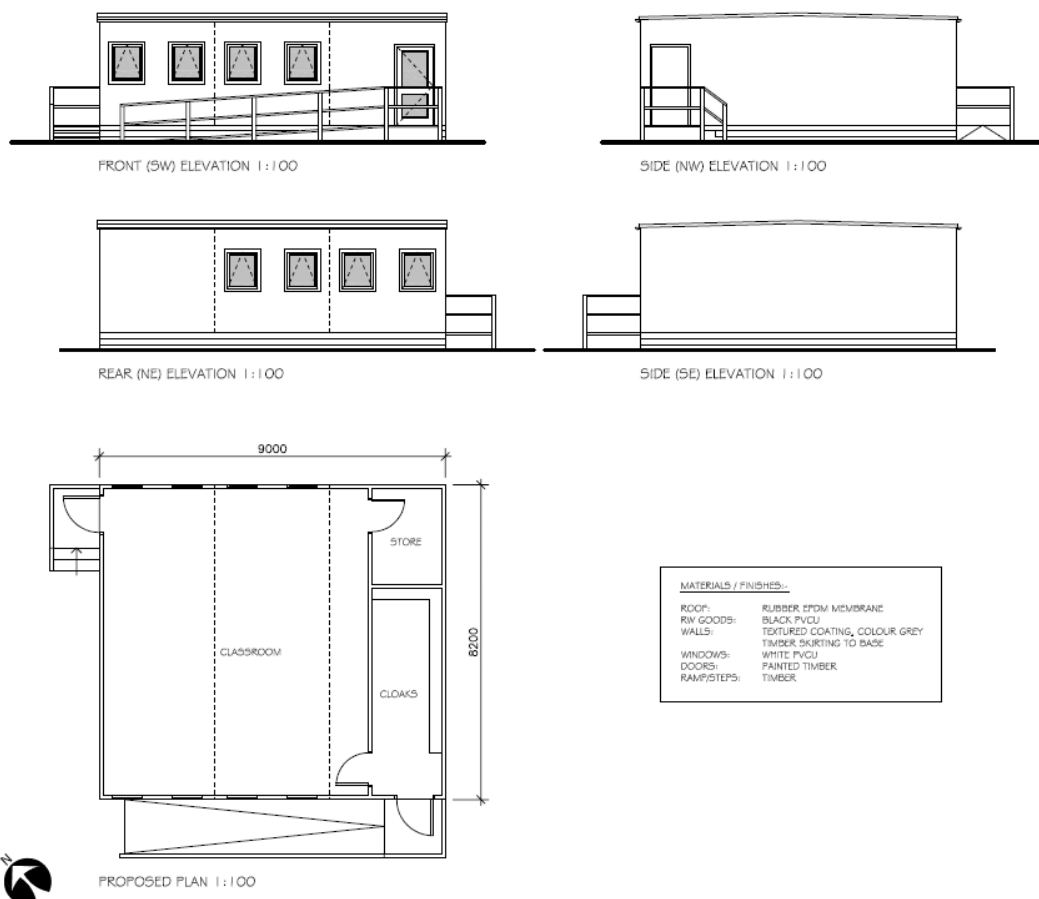


Aerial imagery of the application site (edged red)

- 1.3 The application proposes the siting of a mobile classroom to the rear of the existing primary school, the proposed location would adjoin the existing double mobile classroom on the site. The play equipment which presently occupies the space will be relocated circa 25m to the south east. The proposed mobile classroom is of a standard form, the footprint is roughly square (9m by 8.2m) with a mono-pitch roof and both a ramped and stepped access. The proposal will utilise a textured grey finish for walls with timber skirting around the lower portion of the structure, white UPVC windows & rubber membrane for the roof. Internally the structure provides a classroom, cloakroom and a modest storage area. The access arrangements to the school will remain unchanged, with the school benefiting from a parking area to the fore. The proposed classroom will allow an existing library area within the main school building to be returned to a library use, as it is currently being used as a small classroom area.



Proposed site plan



Proposed floor plans and elevations

2. Policies

2.1 Herefordshire Local Plan – Core Strategy 2011 – 2031 (Core Strategy)

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

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SC1	-	Social and Community Facilities
MT1	-	Traffic Management Highway Safety & Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality

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

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

2.3 Sutton St Nicholas Neighbourhood Development Plan (NDP)

The Neighbourhood Development Plan was designated on 28th November 2013, a plan was drafted which went to referendum on 2nd February 2017 and is now made, thus forming part of the development plan for the area. The following policies are considered to be relevant to this application:

Policy 5: Local Community Facilities

Policy 6: Landscape

Policy 7: Building Design

Policy 8: Open Spaces

The Neighbourhood Development Plan may be found at the link below:

www.herefordshire.gov.uk/directory_record/3107/sutton_st_nicholas_neighbourhood_development_plan

2.4 National Planning Policy Framework (NPPF or the framework)

Section 2 – Achieving sustainable development

Section 4 – Decision Making

Section 8 – Promoting healthy and safe communities

Section 9 – Promoting sustainable transport

Section 12 – Achieving well-designed places

Section 15 – Conserving and enhancing the natural environment

3. **Planning History**

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

- **151223** – Proposed provision of a double mobile classroom – Approved – 30th June 2015
- **130568** – Proposed extension – Approved
- **SI21009** - Proposed extension to existing building -Withdrawn-28/11/2012
- **DCCW2006/1247/RM** - Construction of community facility & replacement school - Approved
- **DCCW2004/1004/O** - Construction of a replacement primary school incorporating village hall and 15 houses – Approved -19/10/2004

4. **Consultation Summary**

Statutory Consultations

4.1 Sport England – No objection:

“Thank you for consulting Sport England on the above application.

It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (particularly Para 97) and against its own playing fields policy, which states:

'Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of:

- all or any part of a playing field, or*
- land which has been used as a playing field and remains undeveloped, or*
- land allocated for use as a playing field*

unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.'

Sport England's Playing Fields Policy and Guidance document can be viewed via the below link:

www.sportengland.org/playingfieldspolicy

The proposal involves the erection of a new mobile classroom on the north-eastern boundary of the site. In turn this will require the relocation of some existing play equipment to the south east along this boundary. This part of the playing field could not be used to provide part of a playing pitch, and the capacity of the remaining playing field to provide playing pitches will not be adversely affected.

Having assessed the application, Sport England is satisfied that the proposed development meets exception 3 of our playing fields policy, in that:

'The proposed development affects only land incapable of forming part of a playing pitch and does not:

- reduce the size of any playing pitch*
- result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas);*
- reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality;*
- result in the loss of other sporting provision or ancillary facilities on the site; or*
- prejudice the use of any remaining areas of playing field on the site.'*

This being the case, Sport England does not wish to raise an objection to this application..."

4.2 Natural England – No objection:

"Planning consultation: Provision of a single mobile classroom.

Location: Sutton Primary School Bayley Way Sutton St Nicholas Hereford Herefordshire HR1 3SZ

Thank you for your consultation on the above dated and received by Natural England on 03 September 2019

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

SUMMARY OF NATURAL ENGLAND'S ADVICE - NO OBJECTION

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

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

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

Competent authorities undertaking HRA should be mindful of this case and should seek their own legal advice on the implications of these recent ruling for their decisions.

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

Internationally and nationally designated sites

The application site is within the catchment of the River Lugg which is part of the [River Wye Special Area of Conservation \(SAC\)](#) which is a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the [River Lugg Site of Scientific Interest \(SSSI\)](#). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The [Conservation objectives](#) for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

European site - River Wye SAC - No objection

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse

¹ Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process.

The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website.
<http://www.defra.gov.uk/habitatsreview/implementation/process-guidance/guidance/sites/>

effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

River Lugg SSSI – No objection

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

Other advice

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

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk

Internal Council Consultations

4.3 Transportation Manager – No objection:

“There are no highways objections to the proposal.”

4.4 Conservation Manager (Ecology) – No objection

“The site falls within the River Lugg sub-catchment of the River Wye SAC. A relevant habitat Regulations Assessment screening is triggered. To ensure the certainty required to conclude through the HRA process that there will be no adverse effect on the integrity of the River Wye SAC (River Lugg SAC-SSSI) through this development a Condition on any consent granted is required to ensure that no additional foul water (phosphates) will be generated by this development (as plans currently indicate)

Habitat Regulations (River Wye SAC) – Foul Water

At no time shall any facility or apparatus producing any form of foul water be installed in or on the approved development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Habitat Regulations (2018), National Planning Policy Framework (2019), NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2, and SD4.”

HRA Screening - Appropriate Assessment undertaken please see background papers

5. Representations

5.1 Sutton St Nicholas Parish Council objects to the application:

“Having considered the matter the Parish Council noted the concerns of neighbouring householders, regarding the current adverse parking problems encountered by them, which would get worse. The Parish Council resolved to object to the application due to concerns about the increased traffic and the current parking problems, which would be expatiated due to additional vehicles attending the site, increasing the adverse impact on neighbouring properties.”

5.2 One letter from a member of the public – Objecting to the application:

"I would like to object to the proposed placing of a further temporary classroom at the rear of Sutton St Nicholas Primary School for the following reasons:

- 1) There is already one portable classroom on site and it does seem incredible that in such a relatively new school the Education Department is already having to rely on extra temporary classrooms. Temporary portakabin type structures are unsightly and not fit for purpose.. They are extremely hot in Summer and cold in Winter.*
- 2) The school was built only some 10 years ago to provide schooling for the local catchment area. However numbers wishing to attend the school have increased significantly but it would appear that children have been accepted from areas far outside the catchment area for Sutton (I understand that children are attending from as far away as Credenhill and South of the River on the other side of Hereford). If the school only took children from within the village/catchment area there may not be a need for extra temporary classrooms.*
- 3) My main concern is from a Health & Safety point of view as there is no infrastructure to support the growing numbers attending the school. The car park at 9.00 am and 3.00 pm is full to bursting and we as home owners in Lingen Field have been subjected to parents parking in the Lingen Field (they have been told by the school not to enter Lingen Field) obstructing drive ways, on residents grassed areas, the entrance to Lingen Field and when asked not to park in this manner subjected to abuse and unpleasantness. The car park cannot sustain further vehicles and are a hazard to those children who live in the village and who are walking to and from school, I believe there is an accident waiting to happen.*
- 4) Why have temporary classrooms? If the infrastructure to support growing numbers was in place and the Education Department only received children to the school within the catchment area if there was a need for extra space would it not be better to build a proper extension to the school in the area/space available to the north of the site. Although I do not believe the school should be made bigger at least development should be considered so that it does not impinge further on residents in Lingen Field.
I would be grateful if my objection could be put to the relevant Authority."*

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191813&search=191813

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

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

- 6.2 In this instance the adopted development plan (taken as a whole) is the Herefordshire Local Plan – Core Strategy 2011 – 2031 (CS) and the Sutton St Nicholas Neighbourhood Development Plan was made on 8 March 2017. The National Planning Policy Framework (‘NPPF’ or ‘the framework’ henceforth) is also a significant material consideration, but does not constitute a statutory presumption, unlike the development plan which carries the statutory presumption as set out above.
- 6.3 Policy SC1 of the Core Strategy sets out that, ‘development proposals which protect, retain or enhance existing social and community infrastructure or ensure that new facilities are available as locally possible will be supported. Such proposals should be in or close to settlements, have considered the potential for co-location of facilities and where possible be safely accessible by foot, by cycle and public transport. The Core Strategy defines community facilities as land & buildings uses to help meet health, education and social needs in terms of developing and maintaining the health and wellbeing of all; in this way the primary school is considered to be a community facility. The school is located within the existing settlement and is easily accessible by foot and cycle, the proposal is considered to accord with policy SC1 of the Core Strategy, as well as policy 5 of the NDP which states local community facilities will be protected, retained and enhanced.
- 6.4 Paragraph 94 of the framework places importance on the need to ensure a sufficient choice of school places are available to meet the needs of existing and new communities. The framework requires decision-makers to give great weight to the need to create, expand, or alter schools when determining applications.
- 6.5 The proposed classroom is a modest extension to the existing school, adjoining an existing double classroom. The applicant has indicated that the provision of the classroom will enable a small classroom to be relocated to the mobile building and this space within the main school building returned to a library use. In this way the proposal will not increase the capacity of the school, but increase the provision of facilities the school is able to offer to the existing pupils.
- 6.6 The proposed classroom will not be visually harmful to the landscape of the location and design is considered to be acceptable for a mobile structure, thus according with policy SD1 & LD1 of the Core Strategy, along with policy 6 & 7 of the made Sutton St Nicholas NDP. The proposed mobile classroom is not considered to be acceptable as a long term solution as the structure is mobile in nature and a condition is recommended to ensure the structure is removed within five years of the date of any permission.
- 6.7 The school was granted outline permission in 2004 (including a village hall and fifteen dwellings) with the approval of reserved matters following in 2006 and the school opening in 2008. The school is accessed via a wide access that meets the expected highway standards, with a proportionate car park on site. This arrangement is considered to be acceptable in highway terms, as made clear by the comments from the Council’s Highways Area Engineer. The framework is clear at paragraph 109 that development should only be refused on highway grounds where the residual cumulative impacts from a development are severe or there would be an unacceptable impact on highway safety. As the proposal is not increasing the capacity of the school, there is not considered to be an intensification of the highway access or parking arrangements, even if the proposal did result in one additional small classroom the intensification would be minor at most.
- 6.8 The key concerns raised in representations received relate to the impact upon the amenities of the local residents from vehicles blocking driveways, turning in driveways, waiting in the street, and also highway and pedestrian safety. It is accepted that, as a result of living close to a

school, a certain amount of 'school related' traffic will be a normal consequence of school related activities, and would have been a material consideration for the determination of the original outline application for both the school and the dwellings. The application being considered does not propose to increase the capacity of the school or intensify the use in this instance and therefore refusal on this basis is not justified.

- 6.9 The proposal has been assessed by the Council's Ecologist and a Habitats Regulations Assessment – Screening and Appropriate Assessment has been undertaken as a report. This concludes that due to the nature of the proposal which is secured via planning condition, it is not considered to result in any 'Likely Significant Effect' on the River Wye Special Area of Conservation. This document has been published on the Council's planning website and sent to Natural England for consultation, with their response indicating no objections to the proposal. Therefore in this aspect, the proposal is considered to accord with Policy LD2 as it is not considered to detrimentally impact the biodiversity or ecological significance of the River Wye.
- 6.10 In the absence of an objection from technical consultees, the application is considered to accord with the provisions of the development plan, and having regard to paragraph 11 c of the framework; officers recommend the application for approval subject to conditions (as outlined below).

RECOMMENDATION

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

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

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

- 2. The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. 292-01 & 292-02) and the schedule of materials indicated thereon.**

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

- 3. The mobile classroom hereby permitted shall be removed from the site within five years of the date of this permission with the land being remediated and restored to its former condition in accordance with a scheme of work including timescales submitted to the Local Planning Authority and approved in writing by the local planning authority.**

Reason: To protect the character and appearance of the locality given the temporary nature of the building in accordance with Policy SD1 of the Herefordshire Local Plan – Core Strategy 2011 – 2031, policy 6 & 7 of the Sutton St Nicholas Neighbourhood Development Plan and the National Planning Policy Framework.

4. At no time shall any facility or apparatus producing any form of foul water be installed in or on the approved mobile classroom, further all surface water shall be managed through a soakaway system within the development boundary; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure there are no likely significant effects on the integrity of the River Wye Special Area of Conservation, thus complying with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), and Herefordshire Local Plan - Core Strategy (2011 – 2031) policies LD2, SD3 and SD4.

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. The applicant is advised to enter into pre-application advice discussions with the Local Planning Authority prior to the expiration of this permission to enable discussions and to foster a collaborative approach to finding an acceptable, permanent solution to the need for additional classroom space at the school.

Decision:

Notes:

Background Papers

1. HRA Screening - Appropriate Assessment

