

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>16 October 2019</b>
<b>TITLE OF REPORT:</b>	<b>184593 - CHANGE OF USE OF EXISTING ANNEX INTO HOLIDAY LET ACCOMMODATION AT WOODMILL COTTAGE, OCHRE HILL, WELLINGTON HEATH, LEDBURY, HR8 1LZ</b>  <b>For: Mr &amp; Mrs Clack per Mr John Kendrick, Procuro, St Owens Cross, Hereford, Herefordshire HR2 8LG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=184593&amp;search=184593">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=184593&amp;search=184593</a>
<b>Reason Application submitted to Committee – Re-direction</b>	

**Date Received: 18 December 2018    Ward: Ledbury North    Grid Ref: 371399,240547**  
**Expiry Date: 6 June 2019**

Local Member: Councillor Liz Harvey

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

- 1.1 The application site totals approximately 0.6ha and forms part of the land holding which forms Woodmill Cottage, on Ochre Hill, within the parish of Wellington Heath and within the Malvern Hills Area of Outstanding Natural Beauty (Malvern Hills AONB). The site itself comprises an existing dwelling, this being Woodhill Cottage, and a brick-facing with render annex, which is sited to the north of site and dwelling, which this application concerns. The vernacular of this part of the village represents homes in a variety of styles but with a roadside perspective and continuation upon Ochre Hill. The annex has been subject to some re-building, with what was previously a stable block, including a grinding machine for sheep feed with sheep dip during the early 1990s.
- 1.2 Given its location on Ochre Hill, the site is somewhat elevated. The land steeply slopes to the east, to the rear of Woodmill Cottage. It lies within the forest smallholdings and dwellings landscape character type and one will note that this landscape character, given it is set atop a steep valley, offers views which are generally internal and short ranged, framed and closed with hedges, small pasture lands and trees. Where longer views exist they are often spectacular, sometimes encompassing the textures and patterns of intensive commercial orchards or key features such as the contours of British Camp, an important respected view within the Malvern Hills AONB, which itself is an important asset nationally as a protected landscape.
- 1.3 The application proposed seeks planning permission for the change of use of the existing annex into holiday let accommodation. One will note that no external alterations are proposed and that solely internal changes are proposed to facilitate the change of use. For ease of understanding, I refer one below to the proposed plans, under Figure 1. One will see the site plan showing the

existing elevations alongside the existing and proposed floorplans. A closer view of existing and proposed floor plans is available under Figures 2 and 3 respectively.

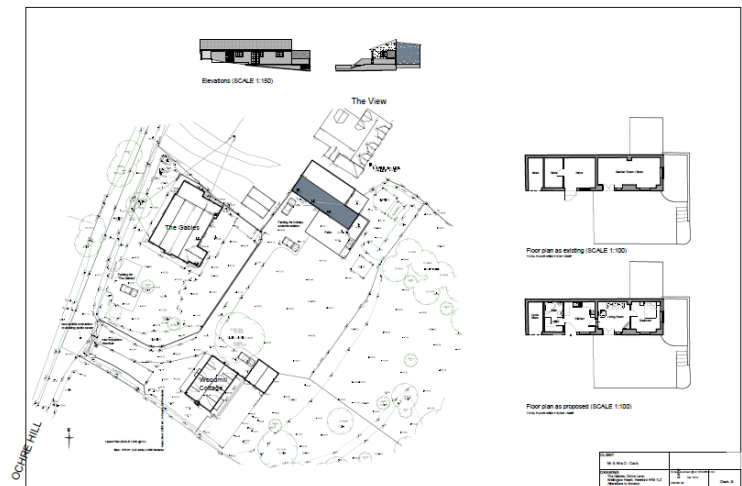


Figure 1: Site Plan indicating existing and proposed floor plans, elevations and layout

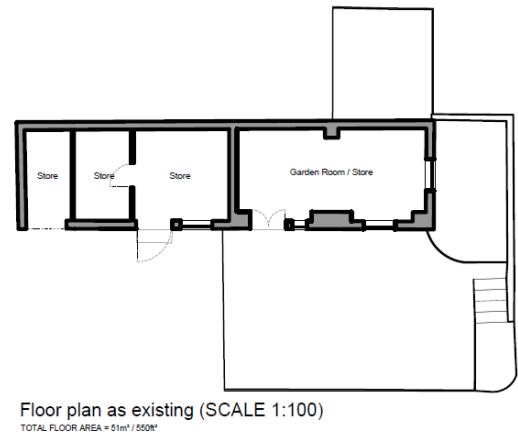


Figure 2: Existing floor plans

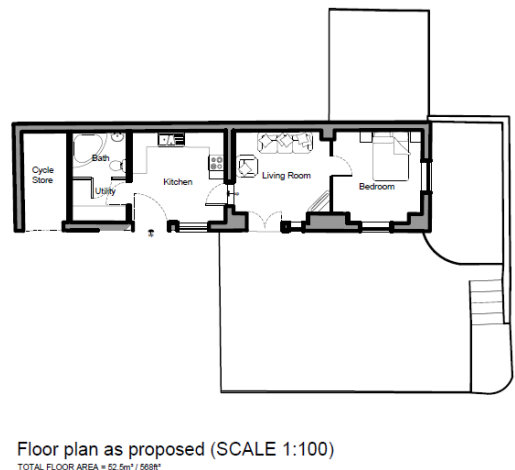


Figure 3: Proposed floor plans

- 1.4 For clear understanding, one should be made aware that Ochre Hill is not a public highway, it actually forms public footpath WH14, to which there is vehicular access currently used by residents of Ochre Hill. Given the nearest public highway is The Common (U66402), the red line has been amended to run to the U66402, in order to reflect National Planning Practice

Guidance, in which the red line needs to show means of access to the nearest public highway. As a result, it was made clear to the applicant that correct certification would need to be served on residents of Ochre Hill, as well as other potential landowners, this being Certificate C, which was undertaken in late March 2019, following the application being invalidated by officers. The application has subsequently been re-validated following this and has undergone further public consultation.

- 1.5 As shown on the photo below (Figure 4), one will identify the current siting of the annex under consideration:



*Figure 4 – Photograph of annex*

## **2. Policies**

### **2.1 Herefordshire Local Plan – Core Strategy 2011-2031 (adopted October 2015)**

Officers view that the following policies below are applicable in considering this application:

SS1	-	Presumption in favour of sustainable development
SS4	-	Movement and transportation
SS6	-	Environmental quality and local distinctiveness
RA5	-	Re-use of rural buildings
RA6	-	Rural economy
MT1	-	Traffic management, highway safety and promoting active travel
E4	-	Tourism
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
SD1	-	Sustainable design and energy efficiency
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality

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

[https://www.herefordshire.gov.uk/info/200185/local\\_plan/137/adopted\\_core\\_strategy](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

## 2.2 Wellington Heath Neighbourhood Development Plan (Wellington Heath NDP)

The Wellington Heath NDP was made on 18 October 2018. The NDP now has full material weight as set out in paragraph 48 of the National Planning Policy Framework (June 2019) which itself is a significant material consideration.

Officers consider that the following policies below are applicable in considering this application:

WH1	-	Settlement Boundary
WH6	-	Development Outside the Settlement Boundary – and in the Countryside
WH10	-	Employment
WH12	-	Pollution, Water, Waste and Light Management
WH16	-	Footpaths
WH17	-	Vehicle Parking and Access Arrangements

The Wellington Heath Neighbourhood Development Plan policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

[https://www.herefordshire.gov.uk/directory\\_record/3113/wellington\\_heath\\_neighbourhood\\_development\\_plan\\_made\\_18\\_october\\_2018](https://www.herefordshire.gov.uk/directory_record/3113/wellington_heath_neighbourhood_development_plan_made_18_october_2018)

## 2.3 National Planning Policy Framework (NPPF)

The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The National Planning Policy Framework has been considered in assessing this application. The NPPF was updated on 19th June 2019, and as such, the following sections are considered relevant to this application:

Chapter 1	-	Introduction
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 places
Chapter 14	-	Meeting the challenge of climate change, flooding and coastal change
Chapter 15	-	Conserving and enhancing the natural environment

The National Planning Policy Framework can be viewed by using the following link:-

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

## 3. **Planning History**

- 3.1 The annex has not been subject to previous planning applications or planning history. Members should be aware of a number of other applications on site, which bears relevance:

P163182/RM – Application for approval of reserved matters following outline approval 160541 – approved under delegated powers on 20 December 2016

P160541/O – Site for proposed erection of one new 3 bedroom dwelling – approved under delegated powers on 12 April 2016

#### **4. Consultation Summary**

##### Statutory Consultations

##### **4.1 Natural England – No objection:**

*“Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected sites”.*

##### **4.2 Severn Trent – No objection:**

*“Thank you for the opportunity to comment on this planning application. Please find our response noted below: With Reference to the above planning application the company’s observations regarding sewerage are as follows. As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied. Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.”*

##### **4.3 Welsh Water – No comments to offer:**

*“We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development. Welsh Water do not provide sewerage services for this area, therefore we have no comments to make on the above Planning Application. Notwithstanding the above we do provide potable water service and have no objection to the proposed development”.*

##### **4.4 Public Rights of Way – No objection**

*“No objection”*

##### **4.5 The Ramblers – No objection**

*“Many thanks for the notification of this planning application which has been sent to me on behalf of the Ramblers’ Association. The proposed development does not appear to have any impact on public footpath WH14 so NO OBJECTION. It would have been helpful if the public footpaths were clearly marked on the location plan. We ask you to ensure that the development is aware that there is a legal requirement to maintain and keep clear and safe public right of way at all times during development”.*

##### **4.6 Malvern Hills AONB Partnership – No response received**

##### Internal Council Consultations

##### **4.7 Transportation – Conditions recommended:**

*“Proposal acceptable, subject to the following conditions and / or informatives:-*

*The site is access via a PROW - Footpath. To access the site the applicant will have to agree the use of the footpath with the residents. Please see informative I50. Whilst this permission is for a holiday let, there is a concern that future permissions will be sort to change it to a dwelling;*

*therefore increasing the use on the footpath to vehicles, therefore if permission is given conditions should restrict the use.*

*CAL - Access, turning area and parking*

*CAZ - Parking for site operatives*

*CB2 - Secure covered cycle parking provision*

#### **HIGHWAY INFORMATIVE NOTES**

*I11 – Mud on highway*

*I10 – Access via public right of way*

*I09 – Private apparatus within the highway (Compliance with the New Roads and Streetworks Act 1991, the Traffic Management Act 2004 and the Highways Act 1980)*

*I05 – No drainage to discharge to highway*

*I50 – Vehicular use of public rights of way*

*I47 – Drainage other than via highway system*

*I35 – Highways Design Guide and Specification”*

#### **4.8 Ecology – Conditions recommended:**

*“There are no ecological records for or immediately adjacent to the site, but opportunistic protected species (eg Bats) and birds could be transient or present on the site as they are recorded in the wider locality. The applicant and their contractors have their own legal duty of care towards wildlife protection under UK Legislation that applies throughout any construction process. Any breach of this legal Duty of Care would be a criminal offence. In this instance this LPA has no reasonable cause to require this information as part of the planning application.*

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

*Nature Conservation – Biodiversity and Habitat Enhancement*

*Prior to first occupation as accommodation evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the application site of at least TWO Bat roosting enhancements and TWO bird nesting boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting on the newly created accommodation or associated access should illuminate any habitat enhancement or existing boundary feature.*

*Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Core Strategy LD2, National Planning Policy Framework (2018), NERC Act 2006. Dark Skies Guidance Defra/NPPF 2013 (2018)”.*

#### **4.9 Environmental Health Officer (Contaminated Land) – Conditions recommended**

*“I refer to the above application and would make the following comments in relation to contaminated land and human health issues which echo those made at the pre-application stage. According to our records, the development will fall at least in part on a former sawmills. This is a potentially contaminative use which will require specialist consideration in accordance with good practice.*

*Recommended condition*

*1. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:*

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice;

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors;

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health.

3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of human health.

#### *Technical notes about the condition*

1. I would also mention that the assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2012.

2. And as a final technical point, we require all investigations of potentially contaminated sites to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.

## **5. Representations**

### **5.1 Wellington Heath Parish Council – Objection to both consultations:**

1<sup>st</sup> consultation (February 1<sup>st</sup> 2019) –

*“Wellington Heath Parish Council does not support this application for the following reasons:*

*1. This new dwelling lies outside Wellington Heath’s settlement boundary as defined in our adopted Neighbourhood Development Plan (NDP ). Within the NDP document it is specifically stated that “In general, new housing development will be allowed only within the Settlement Boundary”.*



2. *Although the intended use is given as that of a holiday let there is a potential for a converted storeroom facility of this type to be used as a permanent dwelling by any subsequent owners of Woodmill Cottage.*

3. *We believe that the likely loss of amenity (noise disturbance) that might be experienced by neighbours should this application be approved has been underestimated by the applicant . This runs contrary to NDP policy WH12.1.*

4. *Access to this property is via a privately owned and privately maintained drift-way that is also a public footpath. Increased vehicular use of this access route would potentially result in further surface wear/damage and would therefore involve increased maintain costs”.*

2<sup>nd</sup> consultation (29<sup>th</sup> April 2019) –

*“We note various recent e-mail correspondence published in relation to this application, together with additional representation from AFA Planning Consultants on behalf of a group of Ochre Hill residents. We wish to confirm our objections to this application given in our representation dated 1st February 2019”.*

## 5.2 Site Notice/Newspaper

At the time of writing, 22 letters have been received from 16 residents.

17 of these letters object to the application and their comments are summarised as follows:

- Contrary to NDP;
- Impact on wildlife;
- Unauthorised works undertaken;
- No employment benefit;
- Ownership issues on Ochre Hill;
- Highway/pedestrian safety;
- Impact on amenity;
- Sustainability of proposed development;
- Contaminated land;
- Water pressure issues

A further 5 letters support this application and their comments are summarised as follows:

- Promotes sustainable tourism, namely walking and cycling within the AONB;
- Near to services and facilities in the area;
- A need for holiday lets in the area

Full consultation responses for this application, as well as the proposed plans and supporting documentation, 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=184593&search=184593](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=184593&search=184593)

## 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 is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration. It is also noted that the site falls within the Wellington Heath Neighbourhood Area, which made a Neighbourhood Development Plan (Wellington Heath NDP) on 18 October 2018.

#### Principle of development

- 6.3 Whilst the application is not phrased as a dwelling, the site lies beyond the defined settlement boundary for Wellington Heath, given the adoption of the Wellington Heath NDP, outlined under Policy WH1 of the NDP. However, it is not appropriate to consider this application in terms of new residential development in meeting the Council's 5 year housing land supply deficit. The application solely concerns a change of use and is for a holiday let and is not a new residential dwelling. Certainly, in the context of its surroundings, the site falls beyond the settlement boundary although is clearly not isolated given the presence of surrounding development, as shown on figure 5 below (the site under consideration is denoted by the red star). Indeed, there are a number of properties on Ochre Hill, to which two dwellings have been approved within the last 18 months by the Council.

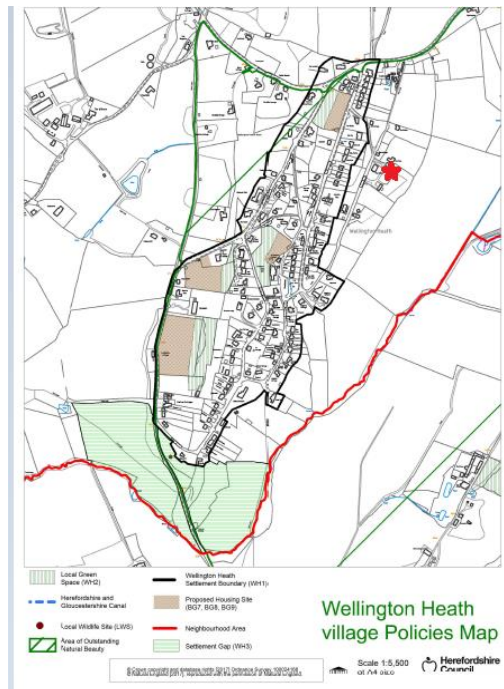


Figure 5 – Settlement boundary of Wellington Heath and indication of the application site by red star

- 6.4 The application is assessed on the principle of development, this being the suitability of the provision of a change of use of an annex to a holiday let, in considering tourism accommodation hereabouts and to consider the point about the impact of the proposed change of use in the locality.

#### Tourism provision

- 6.5 Planning policies outline the benefits from tourism related development (primarily covered under policy E4 of the Herefordshire Core Strategy) as well as the NPPF, which promotes that decisions may sometimes be found beyond defined settlements, as identified under paragraphs 83 and 84 of the NPPF (June 2019), and which is also quoted below:

*“83. Planning policies and decisions should enable:*

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) the development and diversification of agricultural and other land-based rural businesses;*
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and;*
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.*

*84. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist”.*

- 6.6 As stated above, the adoption of the Wellington Heath NDP and the Herefordshire Core Strategy are both important to assessing this application, as this represents a key material planning consideration, as applications should be assessed in accordance with the development plan.
- 6.7 The only reference to tourism development in the Wellington Heath NDP is contained within the supporting information of listed buildings and heritage assets within the parish. As such, there is no local guidance on tourism and its benefits under policy, however employment is certainly of relevance (discussed below).
- 6.8 Notwithstanding this, Policy E4 of the Herefordshire Core Strategy (Tourism), identifies Herefordshire will be promoted as a destination for quality leisure visits and sustainable tourism by utilising, conserving and enhancing the county's unique environmental and heritage assets and by recognising the intrinsic character and beauty of the countryside. In particular, the tourist industry will be supported by a number of measures including:

- “1. recognising the unique historic character of Hereford and the market towns as key visitor attractions and as locations to focus the provision of new larger scale tourist development;*
- 2. the development of sustainable tourism opportunities, capitalising on assets such as the county's landscape, rivers, other waterways and attractive rural settlements, where there is no detrimental impact on the county's varied natural and heritage assets or on the overall character and quality of the environment. Particular regard will be had to conserving the landscape and scenic beauty in the Areas of Outstanding Natural Beauty;*
- 3. retaining and enhancing existing, and encouraging new, accommodation and attractions throughout the county, which will help to diversify the tourist provision, extend the tourist season and increase the number of visitors staying overnight. In particular proposals for new hotels will be encouraged. Applicants will be encouraged to provide a 'Hotel Needs Assessment' for any applications for new hotels;*
- 4. ensuring that cycling, walking and heritage tourism is encouraged by facilitating the development of long distance walking and cycling routes, food and drink trails and heritage trails, including improvements to public rights of way, whilst having special regard for the visual amenity of such routes and trails, and for the setting of heritage assets in their vicinity; and*
- 5. the safeguarding of the historic route of the Herefordshire and Gloucestershire Canal (shown on the Policies Map), together with its infrastructure, buildings, towpath and features. Where the original alignment cannot be re-established, a corridor allowing for deviations will be safeguarded. New developments within or immediately adjoining the safeguarded corridor will*

*be required to incorporate land for canal restoration. Development not connected with the canal that would prevent or prejudice the restoration of a continuous route will not be permitted”.*

- 6.9 In this instance, the scheme is sited within reasonable distance of the market town of Ledbury, which itself provides an important tourism contribution to the county as a whole. The inclusion of cycle storage as part of the change of use, ensures that future occupiers have the opportunity to access nearby services and facilities without requiring the use of a private motor vehicle or indeed, potentially without needing to utilise the road network, using the PROW which runs via Frith Wood and Bradlow. Being sited within the Malvern Hills AONB, the scheme would promote sustainable cycling and walking tourism to visit and utilise the landscape appropriately. The siting of the annex is in a positive and unique landscape asset, which is continually visited regularly by users. The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings, is supported and encouraged through the NPPF.
- 6.10 Whilst officers accept that potential future occupiers may need to travel to site via car/taxi, possibly to/from Ledbury Train Station, the scheme proposed is clearly sustainable in terms of opportunities to promote walking, cycling and public transport use, to accord with paragraph 102 of the NPPF and Policy E4 of the Herefordshire Core Strategy. It would promote and enhance existing accommodation to allow visitors to undertake long distance walking and cycling routes, which is identified under Policy E4. The proposal is considered to be sustainable in locational terms given its immediate relationship to Wellington Heath, relative proximity to Ledbury and that it is within the Malvern Hills AONB. However, sustainability is more than simply a matter of location, given there are further matters which are need to be discussed in order to establish the planning balance.

#### Highways

- 6.11 Many of the objections received to this application have cited highways concerns, particularly in terms of pedestrian safety but also wear and tear on Ochre Hill and visibility onto The Common. One will note that paragraph 109 of the NPPF cites that,
- “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*
- 6.12 The Council’s highways area engineer has visited the site and has concluded that the proposal is acceptable subject to appropriate conditions. Members will note that whilst this permission is for a holiday let, the scheme would increase the use on the footpath to vehicles, therefore if permission is given conditions should restrict the use. Officers have therefore recommended a number of conditions to ensure that the building which is the subject of this application shall be used for holiday accommodation only and for no other purpose. Conditions 5 and 12 will restrict the use in terms of use solely as a holiday let and indeed, length of stay.
- 6.13 One will note that the site is access via a PROW – Footpath WH14. The applicant is aware of this, and appropriate informatives have been recommended. The development would result in vehicles being driven across or along a Public Right of Way, however, other vehicles on Ochre Hill already do this. As a result, notification will be given to the Highway Authority before the permission is implemented. In addition, where public and private rights co-exist, permission should be sought from the landowner in order to obtain lawful authority to drive on the Public Right of Way.
- 6.14 The scheme has also proposed cycle storage, demonstrating that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location within the AONB. The existing access and egress from the site is clearly capable of accommodating the proposal and vehicle parking, to allow vehicles to safely get back onto Ochre Hill and onto The Common, in a forward gear.

- 6.15 Officers have considered the nature of the application and given the proposed vehicle numbers and other active modes of travel, including the cycling storage proposed, it accords with Policy MT1 of the Herefordshire Core Strategy, section 9 of the NPPF, importantly, not contravening paragraph 109 and also according with Policy WH17 of the Wellington Heath NDP.
- 6.16 For clarification, the ownership issues in terms of private rights of access, covenants and rights of way are not material planning considerations, but are civil matters between the applicant and other adjacent land owners and cannot be a material planning consideration in assessment of this application.

#### Locality Impact

- 6.17 Certainly, Wellington Heath and particularly upon Ochre Hill, the rural appeal tends to be significant but small-scale. Such features as the tranquillity, landscape and the winding network of rural lanes foster pursuits including walking and the quiet enjoyment of the countryside, actively promotes the social well-being within the Malvern Hills AONB. Indeed, at paragraph 172 of the NPPF, great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.
- 6.18 One will note that the AONB Malvern Hills Partnership had been consulted but have not formally responded, but again one should make clear that the scheme is change of use only. No impact in terms of landscape or locality impact is identified which would subsequently not conflict with Policy LD1 of the Herefordshire Local Plan – Core Strategy; Policy WH6 of the Wellington Heath NDP or Section 15 of the NPPF, with particular regards to paragraph 172.

#### Residential Amenity

- 6.19 A number of objections received have also raised the issue concerning residential amenity. As one will note, the siting of the annex abuts the northern boundary with The View and The Gables to the west. However, given the proposed use, this being a holiday let, officers do not consider that the proposed use competes with adjoining land uses. Officers therefore consider that the proposed development and its use would safeguard future occupiers in terms of residential amenity, in accordance with Policy SD1 of the Herefordshire Core Strategy, as well as Policy WH6 of the Wellington Heath NDP, which discusses development beyond the settlement boundary.
- 6.20 Indeed, there are a small number of similar examples of holiday lets throughout the parish and this is also raised in the Wellington Heath NDP under the supporting information for policy WH10 (employment), discussed below.

#### Employment

- 6.21 Policy WH10 of the Wellington Heath NDP can also be considered appropriate. Whilst the proposal would create one part-time job, the change of use does not give rise to adverse loss of residential amenity to nearby properties and given no external alterations are proposed, the proposal is in keeping with the scale, form and character of surrounding development. Planning requirements to safeguard the character of locations and their settings, residential amenity, highway safety, and water quality as set out in policy RA6 of the Herefordshire Core Strategy. To complement this strategic approach, the NDP positively supports sustaining existing operations and securing more employment in sectors such as farming, business, and tourism and leisure. The aim is to enable small-scale employment in Wellington Heath to continue to evolve, with a flexible approach to developing enterprises.
- 6.22 Indeed, the supporting background information to Policy WH10 of the Wellington Heath NDP supports a wide variety of businesses. At the smallest scale these are home-based activities

such as consultancy, computer services, and tutoring, but on the other hand there are large horticultural farms employing and accommodating hundreds of seasonal workers. Other notable business activities include equestrian livery and stabling, livestock farming, meetings facilities at Priors Court, bed and breakfast services, a public house, and contractors undertaking kitchen and bathroom installation, landscaping, and building. Officers consider that this is a limited yet modest benefit in favour of the scheme and should be weighed into the planning balance.

### Contaminated Land

- 6.23 The issue of contaminated land also needs consideration. Officers from the Council's Environmental Health department for contaminated land have considered the proposals and have identified that the site lies on what was a former sawmill and also the previous site history of being a stable block as a grinding machine for sheep feed and sheep dip. In the interests of human health and to ensure that to ensure that new development does not contribute to, or suffer from, adverse impacts arising from contamination, and to conform with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, conditions have been recommended in the first instance of a 'desk-based' study to ensure contamination is not present. Members will note that the conditions are in phases, if the 'desk-based' assessment confirms the possibility of a significant pollutant.

### Drainage

- 6.24 Foul sewerage will be dealt with by means of a main sewer connection, to which Severn Trent, as the statutory sewerage provider advise that they have no objections to the proposals and do not require a drainage condition to be applied. Surface water will be dealt with by means of soakway. Members will note that whilst the matter of weak water pressure has been raised, the statutory consultee has no objections to this proposal for change of use.

### Planning Balance

- 6.25 CS policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The NPPF encompasses the government's view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.
- 6.26 The application is for a change of use of an annex to a holiday let which would still be classed under Use Class C3, given the interpretation is a fact of matter and degree. In the light of this, the proposal should be considered against the test prescribed at NPPF paragraph 11, which considers a presumption in favour of sustainable development and Herefordshire Core Strategy Policy SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF when considered as a whole. In coming to this conclusion, reference must be made to paragraph 8 of the NPPF to which achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- 6.27 Applying this to the current case, it is acknowledged that the scheme would have some benefits in the economic sphere by increasing the provision of tourism accommodation and consequently contributing to visitor expenditure in the local economy. However, this benefit would not be unique to the scheme (in the sense that it would occur with any proposal, regardless of its location) and overall the contribution to the local economy would be relatively modest. Any additional economic activity would also have benefits in the social sphere in terms of its contribution to increasing the vitality of the rural community; however again these would be very modest.

- 6.28 In the environmental sphere, it is clear that limited harm would occur as a result of the proposal. The application proposes a change of use which is sited within built development that comprises Ochre Hill. The site is not significantly removed from the nearest services, facilities and attractions that are likely to be frequented by occupants of the building. Indeed, Wellington Heath is identified as a locally sustainable community under Policy RA2 of the Herefordshire Core Strategy. Members will note that the site lies beyond the defined settlement boundary for the village, however, they are advised to consider this application solely on the remit of a change of use, it is not a new residential dwelling. Future occupiers would have the opportunity of utilising cycling and walking tourism, promoting the social well-being of the Malvern Hills Area of Outstanding Natural Beauty, which is a tremendous asset to the county as a whole, and would not be totally dependent on the use of the private car during their stay. The scheme is not at odds with the aims and objectives of the Framework and local development plan in terms of directing development to the most sustainable locations and reducing the need to travel.
- 6.29 The permanent nature of the building and year-round nature of the use does not incur landscape harm within the Malvern Hills AONB, it is solely a change of use. The proposal would uphold the intrinsic character and beauty of the countryside, reinforcing the landscape character of the locality and preserving residential amenity as a result of the scheme.
- 6.30 Considering the three roles of sustainable development together, it is considered that the very limited harm in the environmental dimension would not demonstrably and significantly outweigh the benefits accrued in the social, economic and environmental spheres. The proposal is therefore representative of sustainable development and hence benefits from the positive presumption at the heart of the NPPF. No conflict has been identified with policies of the development plan, namely policies within both the Herefordshire Local Plan – Core Strategy and the Wellington Heath NDP.

### Conclusion

- 6.31 In conclusion, the proposal does not conflict with relevant policies contained within the made Wellington Heath NDP, Herefordshire Core Strategy and the NPPF. As such, officers consider this application to be a justifiable form of sustainable development in accordance with paragraph 11 of the NPPF and Policy SS1 of the Herefordshire Core Strategy. In the absence of a technical reason for refusing this application from statutory consultees and the ability to mitigate the development through appropriate conditioning, this application is recommended for approval, subject to the conditions which are outlined below.

## **RECOMMENDATION**

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

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

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

- 2. The development shall be carried out strictly in accordance with the approved plans [Location Plan and Drawing Number Clack 3i revision received 28<sup>th</sup> June 2019], except where otherwise stipulated by conditions attached to this permission.**

**Reason. To ensure adherence to the approved plans in the interests of a**

satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy WH6 of the Wellington Heath Neighbourhood Development Plan and the National Planning Policy Framework.

3. During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. This permission is for change of use only and detailed plans of any proposed alterations or additions to the building shall be submitted to and approved by the local planning authority before development is commenced.

Reason: To enable the local planning authority to consider any future aspects of the development given the building's siting within the Malvern Hills Area of Outstanding Natural Beauty and to secure compliance with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

5. The building which is the subject of this application shall be used for holiday accommodation only and for no other purpose including any other purpose within Class C of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, unless otherwise agreed in writing with the local planning authority.

Reason: Having regard to Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy WH1 of the Wellington Heath Neighbourhood Development Plan and the National Planning Policy Framework, the local planning authority are not prepared to introduce a separate unit of residential accommodation, due to the relationship and close proximity of the building to the property known as Woodmill Cottage, Ochre Hill, Wellington Heath.

6. Prior to the first use of the development to which this permission relates, an area for car parking shall be laid out within the curtilage of the building, in accordance with the approved plans, which shall be properly consolidated, surfaced and drained, in accordance with relevant details to be submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any other purpose than for 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 WH17 of the Wellington Heath Neighbourhood Development Plan and the National Planning Policy Framework.

7. Development in respect of the change of use shall not begin until details of the following have been submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during alterations to facilitate the development hereby approved:



- Construction traffic access location
- Parking for site operatives within the application site

The development shall be carried out in accordance with the approved details for the duration of the construction of the development.

**Reason:** In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy; Policy WH17 of the Wellington Heath Neighbourhood Development Plan and the National Planning Policy Framework.

8. Prior to first occupation as accommodation evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the application site of at least TWO Bat roosting enhancements and TWO bird nesting boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting on the newly created accommodation or associated access should illuminate any habitat enhancement or existing boundary feature.

**Reason:** To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Core Strategy LD2, National Planning Policy Framework (2018), NERC Act 2006. Dark Skies Guidance Defra/NPPF 2013 (2018).

9. No alterations in respect of the change of use shall take place until the following has been submitted to and approved in writing by the local planning authority:

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice;

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors;

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing. The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

**Reason:** In the interests of human health and to ensure that new development does not contribute to, or suffer from, adverse impacts arising from contamination, to conform to the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

10. The Remediation Scheme, as approved pursuant to condition no. (9) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing

with the Local Planning Authority in advance of works being undertaken.

**Reason:** In the interests of human health and to ensure that new development does not contribute to, or suffer from, adverse impacts arising from contamination, to conform to the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 11 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

**Reason:** In the interests of human health and to ensure that new development does not contribute to, or suffer from, adverse impacts arising from contamination, to conform to the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 12 The holiday lodges hereby permitted shall only be used for holiday purposes by tourists only. As such, no person or group of persons shall occupy the accommodation for more than 28 days consecutive days at a time and no same person or group of persons shall occupy the accommodation for more than 156 days in any one calendar year. The owners/operators of the site shall maintain an up- to-date register of the names of all occupiers of the accommodation and of their main home address (i.e. place of residence) and shall make this information available at all reasonable times to the Local Planning Authority.

**Reason:** Having regard to Policies RA2, RA3 and SD1 of the Herefordshire Local Plan – Core Strategy; Policies WH1, WH6 and WH17 of the Wellington Heath Neighbourhood Development Plan and the National Planning Policy Framework, the local planning authority are not prepared to allow the introduction of a separate unit of residential accommodation, due to its proximity to Woodmill Cottage and as such, allow for sole use as holiday accommodation.

## **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. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
3. Access to the site is via a public right of way and the applicant's attention is drawn to the restrictions imposed by Section 34 of the Road Traffic Act 1988 regarding the prohibition of driving motor vehicles elsewhere than on roads.

4. This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford HR2 6JT, (Tel: 01432 261800), for consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority. A minimum of 4 weeks notification will be required (or 3 months if a road closure is involved).

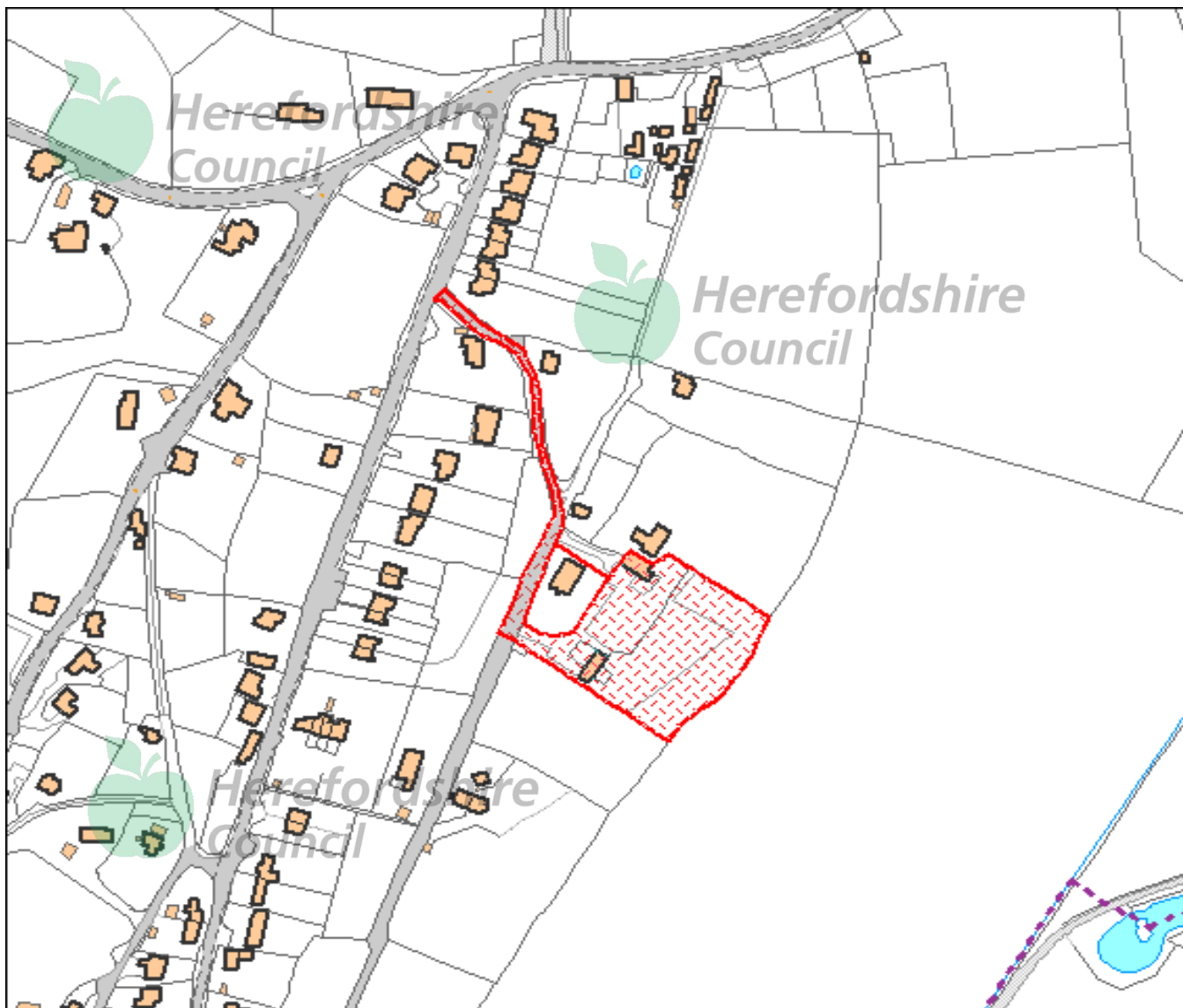
Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the 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 261800.

5. 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.
6. The development hereby approved may result in vehicles being driven across or along a Public Right of Way. As a result, notification should be given to the Highway Authority before the permission is implemented. In addition, where public and private rights co-exist, permission should be sought from the landowner in order to obtain lawful authority to drive on the Public Right of Way. For further information, contact Balfour Beatty (Managing Agent for Herefordshire Council) Public Rights of Way Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800).
7. It is the responsibility of the developer to arrange for a suitable outfall or discharge point. It cannot be assumed that the highway drainage system can be used for such purposes.
8. The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.
9. In respect of conditions 9, 10 and 11, the local planning authority would advise that the assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework.
10. In respect of conditions 9, 10 and 11, the local planning authority advises that all investigations of potentially contaminated sites should undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission when seeking to discharge such conditions.

Decision: .....  
Notes: .....  
.....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 184593

**SITE ADDRESS :** WOODMILL COTTAGE, OCHRE HILL, WELLINGTON HEATH, LEDBURY,  
HEREFORDSHIRE, HR8 1LZ

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