

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	15 JULY 2020
TITLE OF REPORT:	191449 - SITING OF SHEPHERD HUT TO PROVIDE TOURIST ACCOMMODATION INCLUDING CONSTRUCTION OF NEW VEHICULAR ACCESS AND ASSOCIATED LANDSCAPING WORKS AT NEW HOUSE, CUSOP, HAY-ON-WYE, HR3 5TG For: Mr Rose per Mr Barry Rose, New House, Hay-on-Wye, Hereford, Herefordshire HR3 5TG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191449&search=191449
Reason Application submitted to Committee – Redirection	

Date Received: 24 April 2019

**Ward: Golden Valley
North**

Grid Ref: 326583,240193

Expiry Date: 4 July 2019

Local Member: Councillor Jennie Hewitt

1. Site Description and Proposal

- 1.1 The application site is located to the north of the C1205 which runs from the east of Cusop to Michaelchurch Escley. The site itself comprises of an agricultural field and benefits from hedgerow and vegetation on all boundaries with an outbuilding associated with New House, the residential dwelling to the east, forming part of the eastern boundary. There is common land located to the east of New House (New House Patch) and New House Wood to the south of the road and across from the site.
- 1.2 New House is within the applicant's ownership who also runs a small Bed & Breakfast business from one of the rooms therein. At this level, there is not a material change of use and planning permission is not required for this function.
- 1.3 This planning application seeks permission for the siting of one shepherds hut along with landscaping and a new access at a central location within the roadside boundary. While there is an existing access in the south east corner of the site onto the C1205, this will be closed as part of the application in order to provide an improved vehicular access in terms of highways safety.
- 1.4 Below is the submitted block plan and shows the site layout along with the relationship with New House and the road:



Proposed Site Plan

1 : 500

2. Policies

2.1 Herefordshire Local Plan – Core Strategy (CS):

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS5	-	Employment Provision
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA6	-	Rural Economy
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
E1	-	Employment Provision
E4	-	Tourism
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Waste Water Treatment and River Water Quality

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

2.2 National Planning Policy Framework (NPPF):

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 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

2.3 Cusop Neighbourhood Development Plan (NDP) (Made 1 December 2017)

Policy 1	-	Settlement Boundary
Policy 8	-	Parking.
Policy 11	-	Employment-generating proposals outside the Settlement Boundary
Policy 12	-	Cusop Hill
Policy 15	-	Avoiding Light Pollution
Policy 16	-	Design

https://www.herefordshire.gov.uk/download/downloads/id/11080/neighbourhood_development_plan_august_2017.pdf

3. **Planning History**

- 3.1 182146/F – Proposed change of use of land to allow the placement of two self contained shepherd huts on case iron on cast iron wheels. Refused

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 designated sites and has no objection.

Internal Council Consultations

4.2 **Team Leader Area Engineer** – no objection

No objections to the proposed, the site provide an improved access to the existing access to the site. . Please conditions as follows

CAB - Visibility Splays : - 2 x 48m eastbound, 49.6 x 2 m westbound
CAD - Access gates
CAE - Vehicular access construction
CAH - Driveway gradient
CAI - Parking – single/shared private drives
CAT - Construction Management Plan
CB2 - Secure covered cycle parking provision

I11 – Mud on highway
I05 – No drainage to discharge to highway
I47 – Drainage other than via highway system
I35 – Highways Design Guide and Specification

4.3 **Principal Natural Environment Officer (Ecology) – no objection**

Initially commented (29 May 2019):

The location of the site and being within the River Wye SAC catchment triggers a Habitat Regulations Assessment process. The required appropriate assessment submitted by the LPA must be formally ‘approved’ by Natural England PRIOR to any grant of planning consent. The relevant mitigation must be secured through a condition on any planning consent granted:

Habitat Regulations (River Wye SAC-SSSI) – Foul and Surface Water Management

All foul water shall discharge through connection to existing septic tank private foul water treatment system; and any additional surface water shall discharge to appropriate soakaway-infiltration features; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2018), National Planning Policy Framework, NERC Act (2006), NPPF (2019) and Herefordshire Council Core Strategy (2015) policies LD2, SD3 and SD4.

From information supplied and images available there are no immediate ecology related concerns with this proposal. There are no ecological records of important or Protected Species immediately on or adjacent to the site. The applicant and their contractors have their own legal duty of care towards wildlife protection under UK Legislation that applies throughout any demolition and 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 further information as part of the planning application or include a specific ecology protection condition. However a relevant information note is requested.

Wildlife Protection Informative

The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained. Any external lighting shouldn’t illuminate any ‘natural’ boundary feature or increase night time sky illumination (DEFRA/NPPF Dark Skies Guidance 2019/2013).

Commented further on 25 February 2020:

I note hedgerow is being translocated to behind visibility splay so a minimal length will be lost to create the new access. If not within a planning application then this creation of a new access (not any translocation) would be exempt from any requirements under the Hedgerow Regulations 1997. We could perhaps consider a condition to ensure translocated hedgerow is managed, maintained as necessary gapped up for 10 years to ensure full and proper establishment – similar with any new planting.

Eg: “The translocated length of hedgerow and all new planting shall be gapped up, dead plants replaced like for like and the planting managed and maintained in line with all best practice guidance for a minimum of 10 years from completion of works and planting on the site – unless otherwise approved in writing by the LPA”

Reasons: To ensure establishment of ecological mitigation and enhancement features in compliance with Conservation of Habitats and Species Regulations, NPPF, NERC Act, Core Strategy SS6, LD1-3

I cannot see any indications that any significant trees within the hedgerow are proposed to be removed. The trees indicated for retention could be secured by a relevant standard condition if we want to be sure.

Thus any potential wildlife connectivity created by the hedgerow is maintained with retained trees acting as additional 'beacons' for wildlife to follow. This wildlife value is actually enhanced by the proposed additional corner copse planting and 'thickening' of the hedgerow.

There is no indication of any identified Habitat of Principal Importance (Priority Habitats) such as woodland within the site boundary based on latest mapping data we have from Natural England/Forestry Commission.

And further the same date:

Sorry there is a strip of deciduous woodland - likely an overgrown hedgerow or a fragmented line of hedgerow trees – but the mapping confidence is low on this so likely a fragment created by the GIS process NE/FC use for the forest inventory (2014) entry it relates to – likely as the trees on aerial images create a bigger looking area than a basic hedgerow would. Not recorded as any form of 'Ancient' woodland just means there are trees present - so no significant consideration and as only indicated as thin strip I would treat this as a hedgerow in all respects.

Looking on street view, clearly just a hedgerow.

Interestingly the mixed plantation woodland shown on mapping and as established trees on 2016 aerial images and street view on opposite side of the road has no habitat records associated with it.!

Suggest we just secure proposal with conditions. With this retained and woodland opposite no issues of habitat connectivity lost in any way + new planting is the Bio Enhancement.

4.4 Principal Natural Environment Officer (Trees) – no objection

Initially commented on 5 February 2020:

I confirm that I do not have an objection to the proposed siting of shepherd hut to provide tourist accommodation including construction of new vehicular access and associated landscaping works.

The proposals are, in my opinion to be compliant with policies LD1 & LD3.

Commented further on 25 February 2020:

From what I can see the quality of individual trees isn't great and as James says we can include a condition to make sure only identified trees are removed.

Condition
CKA Retention of existing trees

No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for [...] years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars.

Reason: To safeguard the character and amenity of the area and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4.5 **Environmental Health Service Manager (Private Water) – no objection**

The proposed development plans to use an existing spring water supply. The applicant is advised that the Private Water Supplies (England) Regulations 2016 (as amended) and the Water Supply (Water Quality) Regulation 2016 will apply. In accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard.

If the supply is to be used for shared or commercial purposes including renting, the Private Water Supplies (England) Regulations 2016 specify that the water supply cannot be used until it has been risk assessed by the local authority's private water supplies team (01432 261761) and found compliant.

Applicants that are connecting to existing private water supplies or accessing sources of water on land over which they have no control are advised to give careful and specific attention to contractual/civil arrangements including rights of access, maintenance arrangements, provision of alternative water supply are agreed in writing at the outset.

5. **Representations**

5.1 **Cusop Parish Council – object**

Cusop Parish Council objects to Planning Application P191449/F on the following grounds: -

- It appears from the plans submitted that approximately 50 metres of hedgerow needs to be removed – set back. This would leave an area of land in questionable ownership. Moreover, who would be responsible for maintaining this land? The Highway Authority or the landowner?
- It would also appear that some of the hedgerow to be removed/set back falls outside the ownership of the applicant.
- There is a lack of information about the adequacy of the water supply and the impact on other users.
- There are concerns about highway sightlines for access to parking. If Herefordshire Council is minded to give permission it should be subject to conditions: (a) strictly limiting use to holiday accommodation, (b) requiring removal of the shepherd's hut if it ceases to be used as holiday accommodation for more than six months.
- The area of changed use to the footprint of the shepherd's hut should be explicitly limited.
- External lighting to be kept to an absolute minimum in accordance with Neighbourhood Plan Policy 15. Preferably no lighting at all to maintain minimum light pollution levels.

Commented further on 20 February 2020:

Resolved: that the Parish Council objects to this application as amended because:

- a) when balanced against the gain of one shepherd's hut (which in effect is a caravan and by its nature temporary) the total or partial removal of 25 metres of mature hedge and trees is a disproportionate loss,
- b) the remote hilltop location, reached up a steep and narrow hill road with hairpin bends, is an inappropriate location for new holiday accommodation intended for car users. The accommodation does not need to be in this location,
- c) the extent and nature of the change of use sought is unclear. Section 17 of the Application Form indicates Use C1 Hotels for the shepherd's hut, but the Location Plan red-lines the

- entire site including New House itself. The current permitted use of the field is agricultural and of New House is residential and both should remain so,
- d) apart from the resolution of the ownership of the hedge to be removed, all six points made in the Parish Council's objection dated 27 June 2019 stand.

5.2 Dorstone Parish Council – object

Dorstone Parish Council has been consulted as an adjoining parish. Our Neighbourhood Development Plan Policy on Tourism, DNPT1, encourages the promotion of tourism opportunities. However, the Council considers there is a number of problems with this application that count against the granting of planning permission in this case.. Our concerns are:

- a) We are alarmed at grubbing out of the old hedge, no information if an ecological survey has been carried out, no plan to move the existing hedge to accommodate the visibility splay thereby not destroying potentially ancient existing habitat.
- b) We feel it is very important to preserve the environment in this fragile upland landscape.
- c) We are informed there is a road drain issuing into the field of the proposed site for the shepherds hut. We are concerned that interruption of this drainage flow may lead to road flooding problems
- d) We note the original decision,P182146/F, included change of use of land, we note this application does not include change of use
- e) We are concerned about effects of additional demands on the limited shared water supply and how this will impact the adjacent dwelling within Dorstone Parish.

We cannot therefore support the application

- 5.3 To date a total of 10 objecting responses have been received with 12 supporting responses. The comments therein are summarised below:

Objecting comments

- Inconsistencies between the documents and application form
- Concerns over the hut proposed on the site and if there would be additional ones sited in the future
- Access is depicted in two different locations (this has since been amended to the central access point and re-consultations carried out)
- Implications of hedgerow loss not fully assessed. Biodiversity impacts not assessed
- After severe local flooding to remove hedgerows seems ill-advised
- Important to assess the impact that climate change will have. Both drought and floods
- Concerns over the traffic implications and traffic survey carried out
- No indication of drainage arrangements
- Landscape impacts with lack of buildings along the road and public footpaths in vicinity. On edge of AONB
- Tourism needs to be controlled. Proposal does nothing to improve employment opportunities
- Details of trees missing both for the customer and for privacy of neighbours
- Impacts on water supply and usage
- Existing dwelling could provide space for expansion of B&B use
- Parking is already an issue and there is a lack of details relating to parking areas. No explanation regarding number of car parking spaces
- Lighting impacts noting it is on the edge of a designated dark skies area
- No mention of change of use
- Unsure on what base the hut would sit
- Does not fall within NDP settlement boundary
- Non-compliant access onto the lane
- Other holiday accommodation has been refused within 1.5 miles

- Hay on Wye is only some 3 miles away with 71 establishments for tourists to stay
- Encroachment onto common land adjacent to New House (this is not related to the current application for consideration)

Supporting comments

- Evidence has shown their existing bed & breakfast has always been fully booked up
- Increasing value to the Wye Valley area of tourism, as highlighted in the media
- Such trends must be capitalised upon in a manner sympathetic to the local environment and endemic population.
- Shepherd hut intended to evoke a sense of rural idyll for visitors. As a means of extending the B&B business seems a sound approach
- In Cornwall many existing accommodation businesses offer extended capacity by opening fields for seasonal camping, or establish semi-permanent yurts
- Shepherd hut would be a great addition to the local pool of accommodation
- There is a shortage of quality, reasonably priced accommodation in and around Hay-on-Wye, especially during the Festival
- Hay-on-Wye thrives economically and culturally because of the Festival
- Dorstone NDP encourages the promotion of tourism opportunities
- Main concern appears to be grubbing out of an old hedge but this is not ancient
- Another concern is that the shared water supply may run dry. New House has its own separate supply and it is a large house suitable for a large family with only two people living there
- Would only mean 1 extra car each day on a quiet rural road
- Recently quite a few B&Bs in Hay and the surrounding area have closed down due to retirement etc
- Accommodation is sympathetic and fits into its surroundings
- Rewilding and copse planned with the development

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=191449

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

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

6. Officer's Appraisal

Policy context

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

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

6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS) and the 'made' Cusop Neighbourhood Development Plan (NDP). At this time the policies in the NDP can be afforded full weight as set out in paragraph 48 of the National Planning Policy Framework 2019, which itself is a significant material consideration.

Principle of development

- 6.3 With the application seeking planning permission for the provision of holiday accommodation, policies RA6 and E4 of the CS are engaged in the first instance, along with Policy 11 of the NDP. Chapter 6 of the NPPF is also relevant which touches on supporting a thriving and prosperous economy.
- 6.4 Policy 11 states that employment-generating proposals will be permitted outside the Settlement Boundary in excepted circumstances including where they are activities such as farming or some types of tourism that can function effectively only if based within the countryside.
- 6.5 This policy of the NDP is reinforced through policies RA6 and E4 of the CS. Policy RA6 acknowledges that the rural economy will be diversified through a range of economic activities, including sustainable tourism proposals of an appropriate scale and in accordance with policy E4.
- 6.6 Policy E4 states that the tourism 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 in Hereford 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.*
- 6.7 The postscript to policy E4 acknowledges that many visitors to the county come to enjoy the beautiful countryside and there is likely to be a demand for new facilities and accommodation associated with this. It goes on to state that whilst some small scale tourism associated development may be appropriate in rural areas, any significant new development for accommodation and facilities should be focused in Hereford and the market towns to maximise sustainable transport opportunities and to protect environmental amenity.

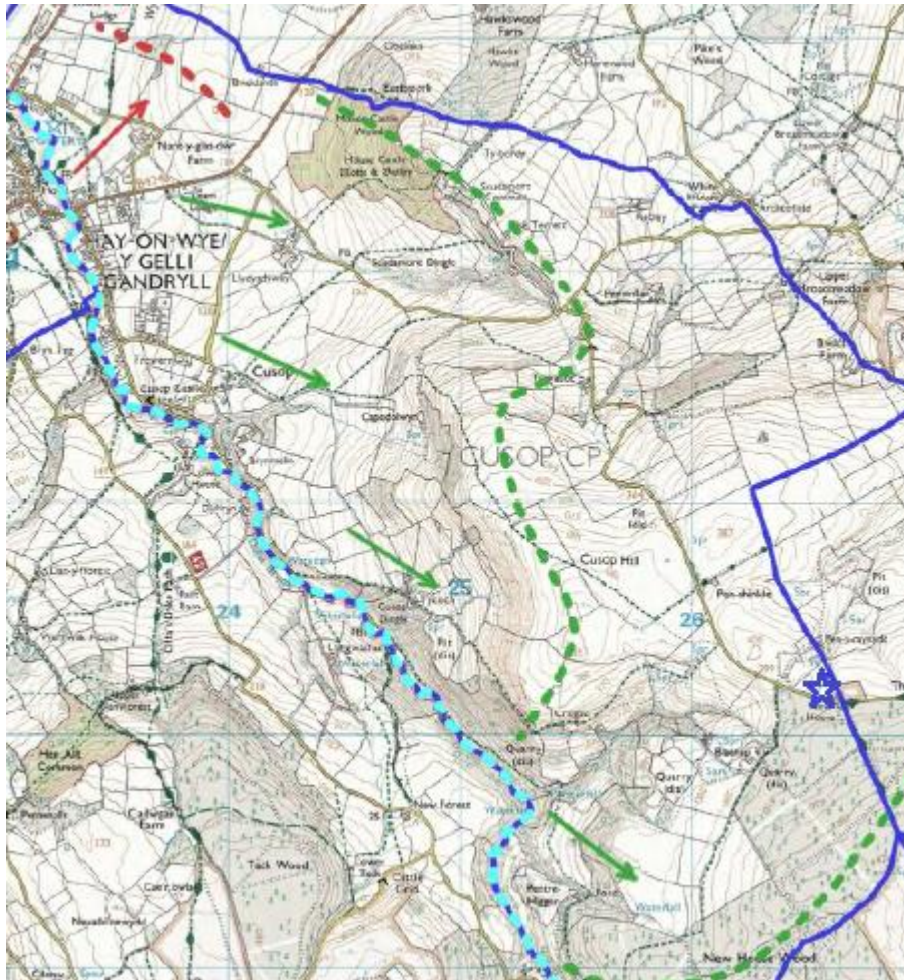
- 6.8 The foregoing is supported by Chapter 6 of the NPPF which comments that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. It goes on to touch on tourism specifically saying that planning policies and decisions should enable sustainable rural tourism and leisure developments which respect the character of the countryside. Paragraph 84 of the NPPF states:

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.

- 6.9 The applicants own and occupy New House which is directly adjacent to the field in which the shepherds hut is proposed to be sited. Whilst it is acknowledged that the applicants currently run a Bed & Breakfast from their dwelling, this does not require planning permission based upon the low key level at which this functions (one bedroom used). As such, this use could cease at any point and would not require any permission or prior approval from the Local Planning Authority and as such no weight has been given to the Bed & Breakfast use or the potential beneficial effects that the proposed shepherds hut might have on this existing activity.
- 6.10 From the above assessment, it is clear that there is broad support for accommodation, truly designed for holiday purposes, even if these are within open countryside locations. The site is located to the south west of Cusop and outside the settlement boundary indicated within the NDP. This notwithstanding, the NDP does support development outside of this area if it is for purposes that function only in such locations and tourism is one such use that is specifically exempted.
- 6.11 The proposal seeks planning permission for the siting of one shepherds hut for tourism accommodation with a new access point and landscaping. The principle of small scale tourism facilities are touched on under policy E4, acknowledging that a draw to the County is the countryside and that there will be a demand associated with this. The modest scale of this proposal is found to be compliant with this aim and will provide one unit of accommodation. Concerns in relation to additional units in the future are not for consideration under this application and the occupation of the proposed would be conditioned to ensure it is used solely for tourist accommodation.
- 6.12 The hut proposed is traditional in design and form with a height of 3.14m to the highest point (including wheels) and a length of 5.49m. The finish and colour would be conditioned on any approval to ensure that it assimilates into the wider landscape but the principle of a hut in this open countryside location is not found to be unacceptable – it represents tourist accommodation (it is not redolent of a dwelling) and not a wholly uncommon feature in rural areas.
- 6.13 Given the foregoing, and appreciating that both the NDP and CS, as well as National guidance, encourage small scale tourist accommodation, the proposal is found to be acceptable in principle. The following sections will go on to consider whether there are any other material considerations of such weight and magnitude that might lead to a conclusion that the proposal represents an unsustainable form of development.

Landscape impacts

- 6.14 Policy 12 of the NDP states that *development proposals must protect the character and scenic beauty of Cusop Hill and views of it from the Cusop settlement and Parish. The extent of this Asset and the directions of views of it for the purposes of this Policy are shown on Map 3. For ease, an extract of this map is found below with the green lines indicating Cusop Hill and views towards it, and the site indicated by the blue star:*



- 6.15 While not specific to Cusop Hill, policy LD1 of the CS reinforces that development proposals demonstrate that character of the landscape has positively influenced the design, scale, nature and site selection, protection and enhancement of the setting of settlements and conserve and enhance the natural, historic and scenic beauty of important landscapes and features. The site lies outside of any landscape designations including Areas of Outstanding Natural Beauty and National Parks.
- 6.16 The postscript to policy 12 of the NDP states that *developments beyond the Hill to the east or south-east may also need assessment if they would be visible above the ridgelines.* In terms of the proposal, the ridge of Cusop Hill is approximately 0.5km to the south of the site which benefits from screening. As touched on above, a shepherds hut in a rural location such as this is not an alien feature and with the additional planting and mitigation that is proposed as part of the scheme, the proposal is found to protect views both from and to Cusop Hill. Given the scale and nature of the proposal it is not considered to lead to detrimental impacts on the wider landscape. More localised impacts associated with the loss of hedgerow will be covered in detail below.

Design and amenity

- 6.17 The detail of the design is assessed by policy SD1 of the CS. This policy states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.
- 6.18 The policy mentioned within the foregoing paragraph is reinforced through policy 16 of the NDP. This states that the design of new buildings and extensions to existing buildings should deploy locally distinctive styles and materials and in particular respect their immediate neighbourhoods in terms of styles, materials, siting, scale, layout, roofline, proportions and massing. Different styles and materials will be permitted if there is clear evidence that higher energy conservation standards cannot be achieved without them.
- 6.19 Given the nature of the proposal, for the siting of a shepherds hut, technically it is not a building but rather a chattel (a moveable structure). This notwithstanding, it is found appropriate to condition the finish and colours to ensure it is appropriate with the rural location. I also find it reasonable to condition that the hut will be removed from site, with the land reinstated, if it becomes redundant for its intended purpose.
- 6.20 With regard to the impacts of the proposal on the amenity of neighbouring properties, the nearest to the site is New House owned by the applicant. Given that this ensures an element of self management, any approval will ensure that they are not separated from one another by condition and limits the impact upon their amenity.
- 6.21 In terms of other neighbouring dwellings, the next nearest to the site is Penymynydd located approximately 230m to the north. While the CS does not include minimum window to window distances, this is far in excess of what would be considered an acceptable distance in terms of impacts on residential amenity including overlooking or overshadowing as a result of the proposal. With the proposal being for one unit of accommodation, issues of noise and disturbance are also not found likely. With regard to loss or change of a private view, this is not a material planning consideration.
- 6.22 Comments have been received in relation to private water supply and potential impacts on this as a result of the proposal. This can be a material consideration, but noting the response from the Council's Environmental Health Officer in this regard, and given the very modest scale of this proposal it is considered to fall outside the planning remit and would be appropriately controlled under other legislation governing the protection of private water supplies. An informative note to this effect will be placed on any approval but it does not in itself represent a reason to withhold planning permission. Paragraph 183 of the NPPF makes the distinction between the role of a planning decision and other controls and states the following:
- The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.*
- 6.23 Given the above, and subject to the attachment of conditions relating to the finish and colour of the hut, the proposal is found to comply with the aims of both the NDP and Core Strategy.

Highways

- 6.24 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.'(NPPF para. 109).
- 6.25 The NDP does not have a policy relating to highways and while policy 8 comments on parking, this is for residential schemes as assessed under policies 4, 5, 6 and 7 (size of dwellings, extensions of dwellings, conversion of residential buildings and new dwellings within the curtilage of existing dwellings). As such, there is no applicable highways policy within the NDP for this proposal.
- 6.26 The previous application on the site was refused on highways grounds due to the proposed utilisation of the existing vehicular access. This did not provide the required visibility splays and due to a large tree in one direction and outbuilding associated with New House in the other, these could not be improved upon. A new access is now proposed under this application and will be located centrally along the site frontage (this has been clarified through the application and full re-consultations carried out). As part of this, there will be an element of hedgerow removal for the access itself and then translocation for the remainder is proposed in order to provide the splays in each direction. With the hedgerow being within the applicants ownership there are not considered to be issues over future maintenance.
- 6.27 As can be seen within the consultation responses, the Council's Area Engineer is satisfied with the new access and that the splays are adequate given the scale of the proposal. The concerns regarding the timing of the speed survey are noted but they are not considered to render the results null and void. The nature of the lane is also appreciated and a new access in this location, and the closure the existing, brings about highways improvements. At the present time, there are no restrictions on the use of the existing access but splays are constricted meaning implications for both vehicles using the access as well as oncoming vehicles.
- 6.28 With regard to the internal layout, a parking and turning area is proposed. This will be provided using reinforced grass, the exact details of this would be conditioned to ensure it is sensitive but the principle is acceptable. With regard to the level of parking, given the size of the unit only a small area is required. It will also allow vehicles to turn and enter the highway in a forward gear.
- 6.29 While the comments within the representations are noted in relation to highways safety, the NPPF makes it clear that developments should only be refused on highways grounds if the cumulative residual impacts amount to severe. In light of the lack of objection from the Council's technical officer in this regard, and given that the proposal seeks planning permission for one unit of tourist accommodation along with an improved access point, the highways implications are not found to be of a level that would justify refusal.

Ecology and trees

- 6.30 Policies LD2 and LD3 of the CS are applicable in relation to ecology and the impact on trees. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity asset of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.31 While the application is not accompanied by an ecology survey, there are no immediate ecology related concerns with this proposal. There are no ecological records of important or Protected

Species immediately on or adjacent to the site. Additional comments have been sought from the Council's Ecologist with regard to the loss of hedgerow for the new access and there are no overriding concerns subject to a condition ensuring the translocated hedgerow is managed and maintained and as necessary gapped up for 10 years to ensure full and proper establishment. In light of this condition and a biodiversity enhancement condition being attached, it is considered that all reasonable and responsible measures such as to ensure the Local Planning Authority has fulfilled its legal duty of care with regard to ecology have been undertaken.

- 6.32 The Council's Tree Officer is also satisfied with the foregoing paragraph and recommends a condition relating to the retention of trees also be attached to any approval.
- 6.33 The proposed development has been subjected to the required Habitat Regulations Appropriate Assessment which has not identified likely significant effect upon designated site. This has been supported by Natural England who raise no objection. As such, subject to the imposition of the recommended conditions, and in light of the additional planting and translocated hedge, the proposal is found to be compliant with policies LD2 and LD3 of the Core Strategy.

Drainage

- 6.34 Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.35 During the application, the drainage methods have been clarified and a package treatment plant will be utilised for foul water with soakaways for outfall and surface. Given the size of the land owned by the applicant I do not have in principle concerns with these methods that accord with the hierarchy of policies SD3 and SD4.

Other matters

- 6.36 The comments within representations with regard to saturation of the holiday accommodation market are noted, but I do not find this to be a justified reason to refuse an application that seeks planning permission for the siting of one unit.
- 6.37 In relation to the use of New House and whether the B&B element could be expanded, this is not what planning permission is applied for. It is the proposal as described which is to be assessed - this seeks permission for one unit. Any additional expansion in the future, should the applicant wish to go down this route, would be assessed on its merits at that time. This speculation is not material and is not for consideration under this application.
- 6.38 It is acknowledged there was initially some confusion over what was applied for, particularly with regard to the new access point (one was indicated on the block plan and another within the traffic survey). However, what is proposed is clear from the plans and capable of being determined.
- 6.39 With regard to the refusal of other planning applications for holiday accommodation, the one quoted was tantamount to a single storey detached dwelling. Such residential use in an open countryside location is contrary to planning policy. The unit proposed under this application is clearly designed for tourism purposes in light of its scale and design and is capable of immediate removal should the tourism use cease.

- 6.40 If there has been encroachment onto common land to the east of New House, that is not something to be considered through this planning application. For the avoidance of doubt, this application seeks planning permission on land wholly within the ownership of the applicant.
- 6.41 The comments from the Council's Ecologist in relation to the hedgerow removal are noted. While the drainage benefits of hedgerows are appreciated, the level of hedgerow removal to form the access itself would not require prior approval of the Local Authority – the level proposed could be removed at any time. The translocated hedge and additional planting is also appreciated in this regard. Furthermore, the site lies outside of any flood constraints (such as flood zones or area of surface water flooding).
- 6.42 The impacts of climate change are appreciated, as is the fact that the Council has declared a Climate Emergency. However, given the scale of the proposal and the biodiversity mitigation put forward, I do not find this to represent a justified reason to refuse the application.
- 6.43 While not touched on specifically by the Council's Ecologist, noting that the site is near to a designated Dark Sky designation, I find it appropriate to condition details if any lighting is to be installed.

Planning balance and conclusions

- 6.44 Both CS policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that development should be approved where it accords 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.

Economic

- 6.45 There are clear economic benefits derived through tourist accommodation and this is supported in principle by both the Core Strategy and NDP where the scale is appropriate. Relevant conditions attached to any approval would ensure that the hut is used in the way proposed, meaning that the provision would increase the number of visitors to the locality, and benefit local businesses and facilities both within the County and the neighbouring ones. The proposal would provide additional overnight accommodation and add to the diversity of holiday units on offer.

Environmental

- 6.46 While there is an element of hedgerow removal in order to create the new access, the rest of the hedgerow will be translocated to accommodate the visibility splays and additional planting is proposed within the site itself. With this in mind, there is a clear biodiversity and ecological mitigation as part of the scheme. There is also an improvement in terms of highways safety with the closure of the existing access which is constrained and the opening up of a new one with far better visibility splays. In terms of the landscape, a shepherds hut is not out of keeping within a rural context and conditioning the finish will ensure it assimilates into the wider setting.

Social

- 6.47 The social benefits of tourist accommodation will always be limited to a degree due to the nature of how it is used. It's unlikely that visitors will become integrated into the local community, in part due to the distance from the nearest settlement but also because of the temporary nature of any occupancy.

- 6.48 While the removal of the hedgerow is noted, this is not found to significantly and demonstrably outweigh the economic benefits of the proposal, highways improvements and biodiversity gains put forward. On balance, the proposal is found to represent sustainable development and is therefore recommended for approval subject to the conditions 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. **C01 - Time limit for commencement (full permission)**
2. **C07 - Development in accordance with approved plans and materials**
3. **No external surface of the shepherds hut hereby approved shall be of a colour and finish other than one which has previously been approved in writing by the local planning authority for that purpose.**

Reason: To conform to Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and to clarify the terms of the permission and minimise visual intrusion.

4. **All foul water shall discharge through connection to existing septic tank private foul water treatment system; and any additional surface water shall discharge to appropriate soakaway-infiltration features; unless otherwise agreed in writing by the Local Planning Authority.**

Reason: In order to comply with Conservation of Habitats and Species Regulations (2018), National Planning Policy Framework, NERC Act (2006), NPPF (2019) and Herefordshire Council Core Strategy (2015) policies LD2, SD3 and SD4.

5. **The translocated length of hedgerow and all new planting shall be gapped up, dead plants replaced like for like and the planting managed and maintained in line with all best practice guidance for a minimum of 10 years from completion of works and planting on the site – unless otherwise approved in writing by the Local Planning Authority.**

Reason: To conform to Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and to clarify the terms of the permission and minimise visual intrusion.

6. **No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for 5 years from the date of first use of the shepherds hut, other than in accordance with the approved plans and particulars.**

Reason: To safeguard the character and amenity of the area and to ensure that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7. **CAB - Visibility Splays : - 2m x 48m eastbound, 2m x 49.6m westbound**
8. **CAD - Access gates**
9. **CAE - Vehicular access construction**

10. CAH - Driveway gradient
11. CAI - Parking
12. CAT - Construction Management Plan
13. CB2 - Secure covered cycle parking provision
14. C81 Use as holiday accommodation
15. Within six months of any of the shepherds hut hereby permitted becoming redundant, inoperative or permanently unused, it and all associated infrastructure shall be removed and the land reinstated to its former condition.

Reason: To conform to Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework and to clarify the terms of the permission and minimise visual intrusion.

16. C64 - Restriction on separate sale (from New House)
17. Details of any external lighting proposed to illuminate the shepherds hut shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

Reason: To safeguard local amenities and biodiversity and to comply with Policies SD1 and LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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. I11 – Mud on highway
3. I05 – No drainage to discharge to highway
4. I47 – Drainage other than via highway system
5. I35 – Highways Design Guide and Specification
6. The applicant's attention is drawn to the following comments provided by the Council's Environmental Health Service Manager (Water Quality):

The proposed development plans to use an existing spring water supply. The applicant is advised that the Private Water Supplies (England) Regulations 2016 (as amended) and the Water Supply (Water Quality) Regulation 2016 will apply. In

accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard.

If the supply is to be used for shared or commercial purposes including renting, the Private Water Supplies (England) Regulations 2016 specify that the water supply cannot be used until it has been risk assessed by the local authority's private water supplies team (01432 261761) and found compliant.

Applicants that are connecting to existing private water supplies or accessing sources of water on land over which they have no control are advised to give careful and specific attention to contractual/civil arrangements including rights of access, maintenance arrangements, provision of alternative water supply are agreed in writing at the outset.

7. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special "protected species" such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained. Any external lighting shouldn't illuminate any 'natural' boundary feature or increase night time sky illumination (DEFRA/NPPF Dark Skies Guidance 2019/2013).

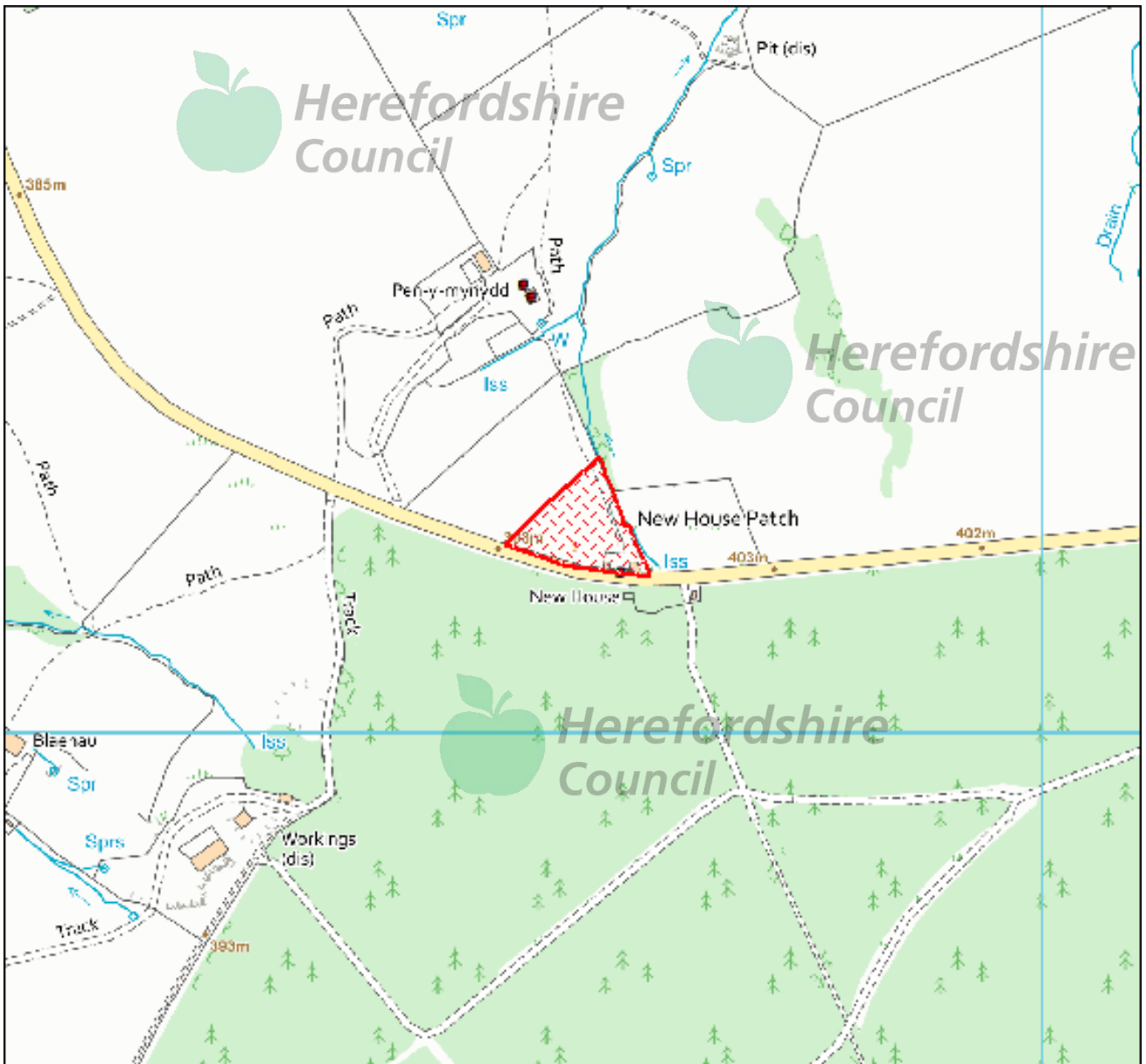
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



© Crown copyright and database right 2020 (100024168)

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

APPLICATION NO: 191449

SITE ADDRESS : NEW HOUSE, CUSOP, HAY-ON-WYE, HR3 5TG

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

Further information on the subject of this report is available from Mr Simon Withers on 01432 260612