

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>18 JANUARY 2021</b>
<b>TITLE OF REPORT:</b>	<b>192672 - PROPOSED RESIDENTIAL DEVELOPMENT OF 10 DWELLINGS AT LAND ADJACENT TOWN HOUSE B4352, MADLEY, HEREFORDSHIRE</b>  <b>For: Mr Powell per Mr D F Baume, Studio 2, Thorn Office Centre, Holme Lacy Road, Rotherwas, Hereford, Herefordshire HR2 6JT</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192672&amp;search=192672">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192672&amp;search=192672</a>

**Reason Application submitted to Committee – redirection**

**Date Received: 25 July 2019**

**Ward: Stoney Street**

**Grid Ref: 342102,238769**

**Expiry Date: 15 January 2021**

Local Member: Councillor David Hitchiner

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

- 1.1 The site lies on the northeastern side of the B4352 at Madley, some 100 metres from its junction with the C1196 at Madley crossroads and comprises 0.53 hectares of uncultivated land surrounded by vegetation, set beyond a grassed highway verge. Its roadside frontage is approximately 50 metres in length and it has a depth ranging between approximately 69 and 92 metres. Levels rise into the site from the road and become more gradual from the southwest to the northeast.
- 1.2 A Public Right of Way (MY9) passes outside of the site, along its southeastern boundary, across agricultural land. To the west of the site lies the Grade II listed Town House and attached outbuilding, with a further separately listed Grade II barn some 27 metres to the northwest, which now comprises two dwellings following conversion (granted in 2009). Alongside, and immediately to the east of the listed barn conversions lie a further two semi-detached dwellings, one comprising a barn conversion and the other a new build (granted in 2009). Immediately beyond, to the north, of these three barn conversions and attached new build there are a further two detached dwellings (granted 2009). There are two modern agricultural buildings to the northeast of the site, the most northerly being of 21<sup>st</sup> century construction. To the southeast of the site, on the opposite side of the road, lies the Grade II listed Vicarage, with the Grade I listed Church of the Nativity of the Blessed Virgin Mary beyond to the southwest, some 85 metres distant. Mature vegetation demarks the roadside boundary and there are mature trees and vegetation along the southeast boundary.

1.3 Planning permission is sought, in full, for the erection of ten dwellings and associated driveways all to be served from a new vehicular access, located to the southern corner of the site, onto the B4352. The layout provides for detached, semi-detached and terraced units (numbered 3-10) around a central courtyard parking area and two detached dwellings (numbered 1 and 2) to the northwest of the vehicular access facing the road. The scheme proposes 3 x 2 bed units, 5 x 3 bed units, 1 x 4 bed unit and 1 x 5 bed unit, ranging between 98 and 189 square metres in gross internal floor area. Four of the dwellings would have garaging (detached/attached). All dwellings would be two storey, other than plots 2 and 8, which include bedroom/study accommodation within the roof void with rooflights and windows to their projecting rear gables.



1.4 The eight dwellings around the courtyard take the form of a historic farmstead typology and the palette of materials predominately comprises timber boarding, over brick plinths and tiled roofs. Parking is included either in garages and in plot spaces or in the courtyard, which also includes 3 visitor parking spaces. The two detached units facing the road would have vehicular access from the rear, shared driveway with pedestrian access directly on to the proposed footpath to the front. These units would be of a more overtly domestic design, with their principal elevations facing the road.



Extract of 'Proposed Site Elevations' showing units 3-8, within the 'courtyard'



Extract of 'Proposed Site Elevations' showing Units 1 and 2 (facing the B4352)

- 1.5 The proposal also includes the provision of a footway, approximately 130 metres in length, along the existing grassed verge on the northeastern side of the B4352, from the proposed vehicular access to the village cross roads, including tactile paving and dropped kerbs and realignment of the footpath on the corner adjacent to 2, The Cross.
- 1.6 The following documents have been submitted with or during the consideration of the application: Design, Access and Planning Statement, Transport Statement (and ATC Survey Report and Designer's Response to Stage 1 Safety Audit), Ecological Appraisal and Impact Assessment, Great Crested Newt Method Statement, Great Crested Newt Survey and Report, Great Crested Newt Mitigation Proposals, Tree Survey, Heritage Statement (amended), Surface Water Management Plan/Foul Drainage (amended), Drainage information from Welsh Water and Climate Change and Biodiversity and Ecology compliance checklists.

## 2. Policies

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

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

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Ensuring Sufficient Housing Land Delivery
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA1	-	Rural Housing Distribution
RA2	-	Housing in Settlements Outside Hereford and the Market Towns
RA3	-	Herefordshire's Countryside
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure Delivery

## 2.2 National Planning Policy Framework (NPPF) 2019

Section 1	-	Introduction
Section 2	-	Achieving Sustainable Development
Section 4	-	Decision-Making
Section 5	-	Delivering a sufficient supply of homes
Section 8	-	Promoting healthy and safe communities
Section 9	-	Promoting sustainable transport
Section 11	-	Making effective use of land
Section 12	-	Achieving well-designed places
Section 14	-	Meeting the challenge of climate change, flooding and coastal change
Section 15	-	Conserving and Enhancing the Natural Environment

## 2.3 National Planning Practice Guidance

## 2.4 Natural England – Standing Advice for Protected Species

## 2.5 Natural England Guidance Note: European Protected Species and the Planning Process. Natural England's Application of the 'Three Tests' to Licence Applications

## 2.6 Madley Neighbourhood Development Plan

A Neighbourhood Development Plan Area was designated on 7 March 2015. The designation follows the Parish boundary.

The Madley Neighbourhood Development Plan was sent for examination on 25 February 2020. The examiner's report was received on 3 September 2020 and makes no recommendations for modifications. The draft plan can be afforded significant weight.

Policy M1	-	Sustainable development
Policy MH1	-	Housing delivery
Policy MH3	-	Madley settlement boundary
Policy MH4	-	Type and size of housing
Policy MH5	-	Housing in the wider countryside
Policy ME1	-	Landscape character and wildlife
Policy ME2	-	Building design
Policy ME3	-	Historic environment
Policy MSC4	-	Flood resilience and resistance

<https://www.herefordshire.gov.uk/downloads/file/21187/neighbourhood-development-plan-september-2020>

## 3. Planning History

### 3.1 None

## 4. Consultation Summary

Since its submission the scheme has been amended and supplemented by further documents. The representations received in relation to the original submission and subsequent amendments are reported below.

### Statutory Consultations

### 4.1 Historic England

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

#### 4.2 Natural England (HRA Response)

##### SUMMARY OF NATURAL ENGLAND'S ADVICE NO OBJECTION

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

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

##### Internationally and nationally designated sites

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

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have.

The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have<sup>1</sup>.

##### European site - River Wye SAC - No objection

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

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

##### River Wye SSSI – No objection

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

##### Other advice

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

#### 4.3 Welsh Water

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

It is unclear as to how the additional surface water will be captured and disposed of from the proposed development. In the absence of a surface water strategy in which an assessment is undertaken to explore the potential to dispose of surface water by sustainable means, we cannot support the application in full. Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

#### Conditions

No development shall commence until a drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. Thereafter the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.

Advisory Notes The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of [www.dwrcymru.com](http://www.dwrcymru.com)

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011.

Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

#### 4.4 Welsh Water – amended comments (following confirmation that surface water would not be to the mains)

On that basis I can change any requirement for a pre commencement condition to:

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.



## Internal Council Consultations

- 4.5 Public Rights of Way  
The proposed development would not appear to affect the public footpath MY9. No objection.
- 4.6 Service Manager Built and Natural Environment (Ecology)  
Approve with conditions

### **Habitat Regs. Assessment**

The site falls within the River Wye SAC catchment and within the River Wye SAC Impact Risk Zone “any discharges of water or liquid including to mains sewer.” This application is subject to a formal Habitat Regulations Assessment (HRA) process by this local planning authority (LPA) as the competent body in consultation with Natural England.

The required Appropriate Assessment completed by the LPA must be submitted to and formally ‘approved’ by Natural England PRIOR to any grant of planning consent. The approved mitigation must be secured a condition on any consent granted;

### **Mains Sewer and Surface Water to Sustainable Urban Drainage**

All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through a SuDs system within the development boundary; unless otherwise agreed in writing by the Local Planning Authority.

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire.

### **Nature Conservation – Ecology Protection and Mitigation and Biodiversity Net Gain**

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the report by Worsfold & Bowen, dated July 2018 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire Core Strategy (2015) policies LD2, SD3 and SD4.

### **Hedgerow protection during construction**

Before any work commences and, equipment or materials moved on to site, appropriate hedgerow protection areas, (based on guidance in BS5837:2012) shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

- 4.6.1 Service Manager Built and Natural Environment (Ecology) –additional details  
The updated Worsfold & Bowen Great Crested Newt Method Statement (dated November 2019) identifies the need to apply for a Natural England Great Crested Newt mitigation licence, following the findings that a Medium population of GCN is present in a pond located 2m from the applicant site boundary (Swift Ecology, May 2019).

As the GCN Method Statement confirms a NE licence will be applied for, I am satisfied that the NE licencing process will now adequately protect the on-site newt population and will ensure appropriate mitigation is put in place.

In addition, in terms of net gain and biodiversity enhancement, sections 7 & 8 in the ecology report (Worsfold & Bowen, July 2018), covers provision of bat and bird boxes per dwelling, and briefly outlines proposed lighting to minimise impacts to bats. I would request that a detailed Biodiversity Enhancement Plan is included, showing locations of bat and bird boxes, and also including locations of amphibian hibernaculae and refugia, and provision of e.g. hedgehog & insect homes, within the proposed layout.

As well as the conditions in my original comments (13/08/19), I would like to recommend the additional conditions:

#### Nature Conservation – Ecology Protection, Mitigation, Biodiversity Net Gain and Protected Species

The ecological protection, mitigation, compensation and working methods scheme including recommended Biodiversity Enhancements and required European Protected Species Licence (Great Crested Newt), as recommended in the ecology report (Worsfold & Bowen dated July 2018), and the Great Crested Newt Method Statement (Worsfold and Bowen dated November 2019) shall be implemented in full as stated, and hereafter maintained, unless otherwise approved in writing by the local planning authority and Natural England as relevant to the protected species licence.

To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

#### Nature Conservation - Biodiversity Enhancement Plan (Net Gain)

Prior to commencement of development a fully detailed and specified Biodiversity Enhancement Plan including a relevant location plan that is appropriate with the scale, nature and location of the development including provision of fixed habitat features shall be provided to the planning authority for approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the planning authority.

Informative: Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

To ensure that all species and habitats are protected, conserved and enhanced (Biodiversity net gain) having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

#### Nature Conservation protection – Lighting

No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.

To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).



#### Informative - Legal Duty of Care

The applicant has a legal obligation/duty of care regarding wildlife protection under the Wildlife and Countryside Act that applies throughout any site clearance or construction process. Any breach of this legal Duty of Care would be a criminal offence. If at any time protected species are found or suspected on site a suitably experienced ecologist should be consulted.

#### 4.6.2 Service Manager Built and Natural Environment (Ecology) – further comments

In response to new information coming to light regarding presence of GCN (Medium population) in a pond less than 2m from the development site boundary (Swift Ecology dated May 2019):

The recommendations included within the GCN Method Statement (Worsfold & Bowen dated November 2019) are appropriate and should be followed, in addition to the recommendations with the original ecology report (Worsfold & Bowen July 2018).

#### Nature Conservation – Ecology Protection and Mitigation and Biodiversity Net Gain

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the Ecological Appraisal (Worsfold & Bowen dated July 2018) and the GCN Method Statement (Worsfold- Bowen dated November 2019) shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire Core Strategy (2015) policies LD2, SD3 and SD4.

The additional conditions as proposed in previous comments still apply:

#### Mains Sewer and Surface Water to Sustainable Urban Drainage

All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through a SuDs system within the development boundary; unless otherwise agreed in writing by the Local Planning Authority.

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire.

#### Hedgerow protection during construction

Before any work commences and, equipment or materials moved on to site, appropriate hedgerow protection areas, (based on guidance in BS5837:2012) shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

#### Nature Conservation - Biodiversity Enhancement Plan (Net Gain)

Prior to commencement of development a fully detailed and specified Biodiversity Enhancement Plan including a relevant location plan that is appropriate with the scale, nature and location of the development including provision of fixed habitat features shall be provided to the planning authority for approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the planning authority.

Informative: Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

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

To ensure that all species and habitats are protected, conserved and enhanced (Biodiversity net gain) having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

#### Nature Conservation protection – Lighting

No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.

To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

#### Informative - Legal Duty of Care

The applicant has a legal obligation/duty of care regarding wildlife protection under the Wildlife and Countryside Act that applies throughout any site clearance or construction process. Any breach of this legal Duty of Care would be a criminal offence. If at any time protected species are found or suspected on site a suitably experienced ecologist should be consulted.

#### 4.6.3 Service Manager Built and Natural Environment (Ecology) – Great Crested Newt Survey and Report

The ecology report: includes details of updated great crested newt survey information for the pond at Town House (Worsfold & Bowen, dated July 2020), in order to inform the GCN licence application. A maximum of 11 GCN were recorded, which is considered to be a 'Medium' population of great crested newts confirmed to be present. The ecology consultant (Worsfold & Bowen) have confirmed that they will be applying for a Natural England mitigation licence to capture and translocate great crested newt from the applicant site.

Where a European Protected Species (Great crested newt) are found to be present on a development site and will be affected by the development proposals, the Local Planning Authority has to consider whether the application satisfies the three tests prior to determining the application.

The three tests are:

- 1) That the development is "in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment".
- 2) That there is "no satisfactory alternative"
- 3) That the derogation is "not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range"

The final details of the mitigation scheme will be subject to approval by the Natural England licensing process. However from the information supplied in the report, I am not entirely confident that the Third Test can be met, i.e. that 'Favourable Conservation Status' of GCN will be achieved by the proposed scheme, with regard to the proposed Receptor Area for translocated newts.

The following information has been supplied in the report by Worsfold & Bowen, regarding the Receptor area for great crested newts:

The report states that, 'Management of the site will have to be specified in the licence application. It is expected that it will entail allowing rough tussocky grass and managed scrub development. Control of scrub and rank vegetation might well be aided by seasonal grazing'.

It also states 'The receptor site will be enhanced by construction of two amphibian hibernaculae according to the design in the GCN Mitigation Guidelines (see Appendix 5 ). Creation of shallow ponds by excavation is considered unlikely to succeed, in view of the finding of no water table during soundings done in preparation for the SUDS scheme'.

I am in agreement with the comments from Swift Ecology (Letter dated 12th August 2020) regarding the Receptor site:

- a) The Receptor area is isolated from the breeding pond (by a concrete road and yard).
- b) There is no alternative breeding site (i.e. a pond) for newts translocated to the receptor site.
- c) Insufficient detail regarding the management and long-term security of the receptor area has been supplied (presently an arable field with headlands).

#### **A Habitat Fragmentation - Access between receptor area and breeding pond**

There is a degree of habitat fragmentation between the breeding pond and the receptor area, due to the presence of the concrete track and yard and farm storage buildings in between. There is a potential terrestrial habitat route, for GCN to travel from west to east using gardens and the farm track bordered by hedgerow to the north of the applicant site, but this requires the GCN to travel 150-200m east through gardens and turn a 90 degree corner northwards along the back of the farm sheds to reach the receptor site. I think that in reality a large proportion of newts may never do this. A potential solution could include installation of GCN road underpass to connect the north-west corner of the applicant site with the Receptor Area.

#### **B Creation of an alternative breeding site within the receptor area**

A GCN breeding pond should be included in the design of the Receptor Area, to compensate for the habitat/population fragmentation effect.

#### **C Habitat management and long-term management of receptor area**

A detailed habitat enhancement scheme for the receptor area including long-term (at least next 20 years) should be provided, to include grassland creation (to replace arable habitat) as well as locations and details of new receptor ponds and hibernaculae (over-wintering habitat piles).

As per previous comments (dated 13/08/2019) the following conditions apply:

#### **Mains Sewer and Surface Water to Sustainable Urban Drainage**

All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through a SuDs system within the development boundary; unless otherwise agreed in writing by the Local Planning Authority.

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire.

## Nature Conservation – Ecology Protection, Mitigation, Biodiversity Net Gain and Protected Species

The ecological protection, mitigation, compensation and working methods scheme including recommended Biodiversity Enhancements and required European Protected Species Licence (Great Crested Newt), as recommended in the ecology report (Worsfold & Bowen dated July 2018), and the Great Crested Newt Method Statement (Worsfold and Bowen dated November 2019) shall be implemented in full as stated, and hereafter maintained, unless otherwise approved in writing by the local planning authority and Natural England as relevant to the protected species licence.

To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

### Nature Conservation - Biodiversity Enhancement Plan

Prior to commencement of development a fully detailed and specified Biodiversity Enhancement Plan including a relevant location plan that is appropriate with the scale, nature and location of the development including provision of fixed habitat features shall be provided to the planning authority for approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise agreed in writing by the planning authority.

Informative: Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

To ensure that all species and habitats are protected, conserved and enhanced (Biodiversity net gain) having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

### Nature Conservation protection – Lighting

No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation and biodiversity enhancement features.

To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

### Hedgerow protection during construction

Before any work commences and, equipment or materials moved on to site, appropriate hedgerow protection areas, (based on guidance in BS5837:2012) shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

#### 4.6.4 Service Manager Built and Natural Environment (Ecology) – Great Crested Newt Survey and Report

##### **Great crested newts - Summary**

The supplied great crested newt survey report (Worsfold and Bowen July 2020), confirms the presence of a GCN breeding pond with a few metres of the applicant site on the north-west boundary.

The optimal period survey data has been provided, and a recent report (Worsfold and Bowen 'Augmented Mitigation Proposals', dated 27th November 2020) has been submitted, to address issues raised by the ecologist in earlier comments (C.Winder dated 17/09/20).

Any loss of connected habitat suitable to provide hibernation and support the terrestrial phase of this protected species would not be acceptable. Mitigation and compensation must clearly demonstrate how any risk to Great Crested Newts and their ability for the local population to be fully sustained will be achieved, sufficient to demonstrate beyond all scientific and legal doubt that the required European Protected Species Licence application to Natural England will be achieved.

The required EPS Licence can only be applied for after the LPA has granted planning consent. The EPS Licence will have to be approved and issued by Natural England prior to ANY works commencing on site, including any site clearance or groundworks.

A Great Crested Newt Mitigation Strategy and Long-Term Management Plan is recommended to draw together proposed mitigation recommendations and long term site management proposals, as per the Great Crested Newt mitigation licence requirements.

In the recent 'Augmented Mitigation Proposals' report, (Worsfold and Bowen, dated 27th November 2020), the ecologist addresses the following issues identified in earlier correspondence (C. Winder, comments, dated 17/09/2020).

##### **A - Habitat Fragmentation**

In order for the proposed mitigation to be effective, there should be terrestrial habitat connectivity/access on land for great crested newts between the existing GCN breeding pond at Town House and the proposed Receptor site.

The ecologist has confirmed that amphibians will be able to cross the existing concrete track, and this principle is accepted. Therefore it is suggested that all site boundary treatments in the north western corner of the site will comprise native hedgerow planting, see Figure 1 below, such that a linear corridor for terrestrial newt movement to the north is provided. This should be secured by Condition, see below. If any additional fence panels are used, there must be a gap below fence panels through which a newt could potentially pass.

##### **Condition (NSC/C95) - Hedgerow boundary treatments/Great crested newts**

Boundary treatments will comprise native hedgerow planting, in order to maintain terrestrial habitat connectivity for great crested newts. If any additional fence panels are used, there must be a gap below fence panels through which a newt could potentially pass. The boundary treatment shall be completed prior to occupation (in accordance with a timetable to be agreed in writing with the local planning authority).

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3 and in the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.



Figure 1. Proposed site layout showing proposed location of hedgerow 'boundary treatment' condition (red line indicates important boundary connection for great crested newts to land to the north, the proposed 'Receptor Area').

### **B - Provision of a Great crested newt receptor pond**

A GCN receptor pond will be provided, within the Receptor area to the north of the applicant site, shown with a green-line boundary (Augmented Mitigation Proposals, Worsfold & Bowen dated November 2020). The proposals for the receptor pond are appropriate although I would make the following comments:

- The flood risk map (Hook Mason, Surface Water Management Plan, report L0129 Rep 1 (Rev 3), dated April 2020), indicates an area of flood prone land in the south-east corner of the site (Figure 2-6 Environment Agency Surface Water Flood Zones Map). This area could be used, as an alternative to the proposed the north-western field location.
- The principles of pond construction and dimensions are acceptable, although please note that amphibian ponds are ideally located with a southerly aspect and should not be bordered by mature trees to the extent that this causes shading (see Great Crested Newt Mitigation Guidelines (8.3.1, P.40).
- Pond marginal planting should include use of GCN favoured egg-laying plants, such as water mint, water forget-me-not, floating sweet grass and great willowherb.

The LPA must be satisfied that the detail provided within the mitigation proposals and proposed long-term habitat management scheme will secure the long term Favourable Conservation Status of GCN.

### **C – Habitat management and long term management of receptor area**

The GCN receptor site will be provided to mitigate for loss of newt foraging habitat on the development site. This includes the area to the north of the applicant site, shown with a green-line boundary (Augmented Mitigation Proposals, Worsfold & Bowen dated November 2020).

This includes wide boundary field margins with trees and long grass, and proposed habitat enhancements (a receptor pond and no. 2 amphibian hibernaculae), in conjunction with maintaining habitat connectivity with the known breeding site, is acceptable for the terrestrial habitat loss.

The provision and management of the receptor area must be secured by a legal agreement or condition, whichever is appropriate, e.g. long-term management and maintenance for e.g. 20 years, to ensure the favourable conservation of great crested newts.

### **Great Crested Newt Mitigation Strategy and Management Plan**

In order to draw together recommendations within previous reports and comments, and in conjunction with an NE mitigation licence for great crested newts, a Great Crested Newt Mitigation Strategy and Management Plan is therefore requested, this should include further details regarding the above points A (Habitat fragmentation), B (Provision of a Receptor Pond) and C (Habitat Management and long-term management of the receptor area), and will contain details as agreed in the NE mitigation licence.

### **Recommended conditions:**

#### **Condition Eco (NSC) – Nature Conservation– Great Crested Newt Mitigation Strategy**

Before any work, or site clearance begins a Great Crested Newt Mitigation Strategy (GCNMS) and Long-Term Management Plan, shall be supplied to the local planning authority for written approval, together with details of legal arrangements for long-term management. The approved GCNMS shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3.

#### **Condition Eco 12 – Nature Conservation - Ecological Working Methods**

Prior to commencement of any site clearance, preparation or development a fully detailed and specified Ecological Working Method Statement (EWMS) including details of appointed Ecological Clerk of Works shall be provided to the planning authority. The EWMS should consider all relevant species but in particular consideration for Great crested newts. The approved EWMS shall be implemented in full unless otherwise agreed in writing by the planning authority.

To ensure that all species and habitats are protected and conserved having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies SS6, LD1-3 and, Dark Skies initiative (DEFRA-NPPF 2013/18).

Comments: The Ecological Working Method Statement report (Worsfold & Bowen, dated November 2019), has already been submitted. The following items should be included:

- hand search/destructive search of tussocky/dense vegetation, log piles, old tree stumps, rocks etc., supervised by GCN licenced Ecological Clerk of Works (ECW) prior to any works commencing on site. Any hedgerow removal checked by ECW.
- Vegetation removal should be undertaken during April-September, when newts are active and able to move to safety (i.e. not during periods of hibernation).
- Means of preventing GCN returning onto site during construction: e.g. Licenced TAF on site boundary, or maintaining short vegetation/bare ground with no places a newt could shelter or seek refuge.
- No storage of materials on site in a way that they could provide places for newt shelter or refuge, e.g. materials stored on pallets.

As per previous comments (dated 13/08/2019) the following conditions apply:



### **Habitat Regs Assessment – River Wye SAC**

NB. It is noted that Land Drainage have raised concerns regarding surface water drainage (reports dated 20/08/2020 and 20/12/2020) but that these have now been resolved (report dated 01/05/2020), such that there is no need to amend the findings of the HRA AA sent to NE on (13/08/2019) and approved on (03/09/2019). The surface water drainage requirements listed in the abovementioned land drainage report (dated 01/05/20) should be met, prior to any drainage conditions being discharged.

### **Mains Sewer and Surface Water to Sustainable Urban Drainage**

All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through a SuDs system within the development boundary; unless otherwise agreed in writing by the Local Planning Authority.

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire.

### **Biodiversity net gain/ enhancement**

The ecological recommendations and enhancement as included in the original ecological appraisal (Worsfold & Bowen, dated July 2018), will form the basis of the requested Biodiversity Enhancement Plan:

All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through a SuDs system within the development boundary; unless otherwise agreed in writing by the Local Planning Authority.

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire.

### **Bats and Lighting**

There are confirmed bat roosts at the farmhouse and barns to the north-west of the applicant site, including common and soprano pipistrelles, brown long-eared, natterer's, and lesser horseshoe bat.

The existing trees and hedgerows will form important foraging and commuting routes for bats and there should be no impact from the development on bat flight paths.

A condition should be attached to any planning consent to ensure that there is no detrimental impact of lighting on night foraging routes of bats.

### **Condition Eco 09 – Protected Species, Dark Skies and Intrinsically dark landscapes (external lighting)**

- I. At no time shall any external lighting (except in relation to safe use of the property; and consisting of low lumens, warm LED 'down' lighting units on time limited PIR sensors) be installed or operated on the site without the written approval of this local planning authority.
- II. No external lighting should illuminate any boundary feature, adjacent habitat or area around the biodiversity enhancement features.

To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/19).

### **Hedgerow protection during construction**

Before any work commences and, equipment or materials moved on to site, appropriate hedgerow protection areas, (based on guidance in BS5837:2012) shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, NERC 2006.

#### **4.7 Principal Natural Environment Officer (Landscape)**

The road leading into Madley from the south-east is lined with trees (Refer figure 1), and provides a green 'gateway' from a rural landscape into an urban settlement. The development proposes to remove a substantial percentage of these trees and will adversely impact on the arrival experience.

The applicant has identified that the trees are low quality with minor value (category C) and therefore may see this as a reason for their removal, however they fail to acknowledge their value in terms of landscape character and village identity.

It is recommended that the applicant review their proposal and provide a landscape treatment that enhances the landscape experience into Madley. A suggested approach is to establish a high quality specification hedge, similar to the existing neighbouring hedge (Refer figure 2) and to add suitably scaled and shaped trees behind the hedge to reinforce the village gateway.

Recommended conditions

CK3 Landscape Scheme

CK4 Implementation

CK5 Maintenance Plan (5 years)



*Figure 1: View arriving into Madley (Proposed development right of road).*

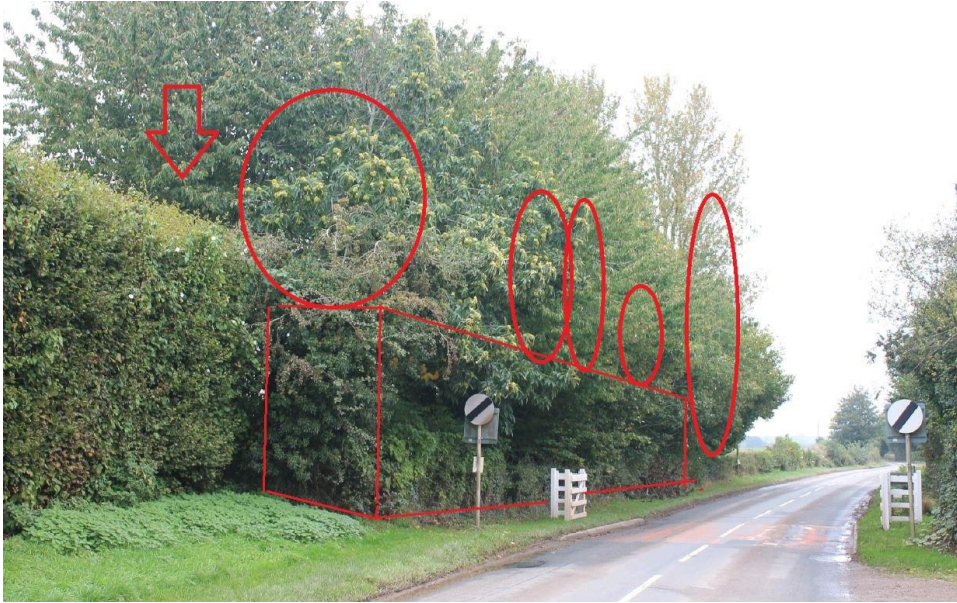


Figure 2: Existing Beech hedge (left foreground, denoted with an arrow) with indicative outline of new hedge and trees.

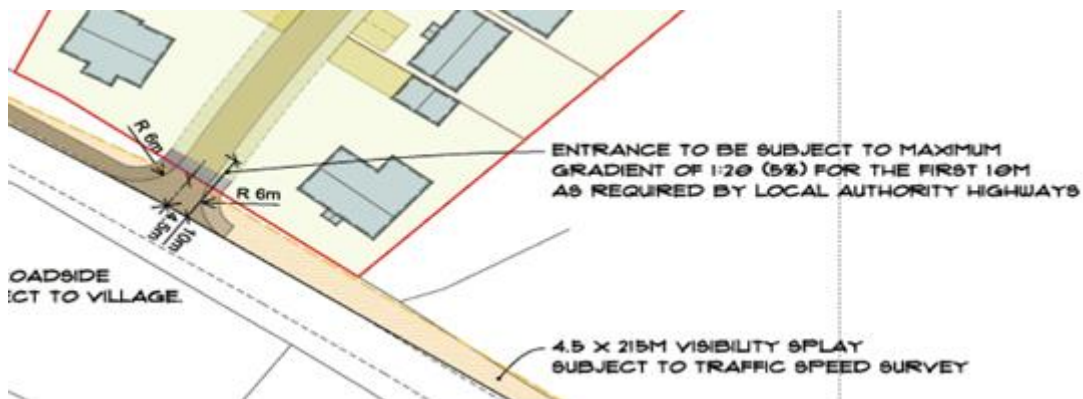
#### 4.8 Principal Natural Environment Officer (Trees)

The pre app 171920 comments submitted by the ecological officer requested that a BS5837:2012 survey should be submitted with a full planning application.

Having viewed the plans I agree that the tree report is required so that I can submit an informed comment.

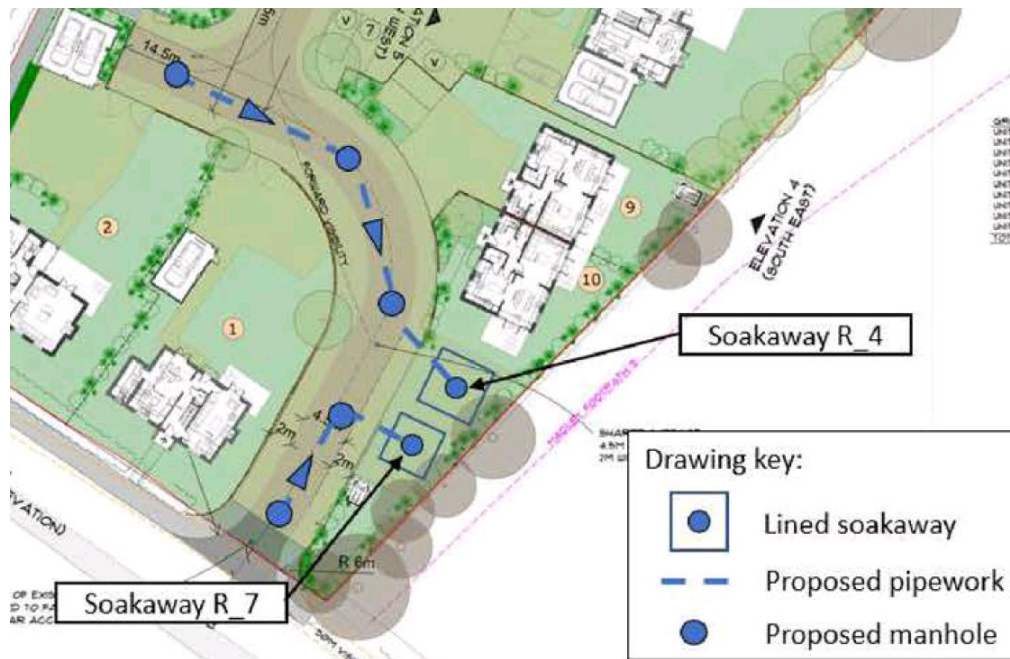
Having looked at the plans I have the following comments to make which need to be considered when the tree survey is carried out.

- The southern boundary where access is intended looks to be made up of individual trees rather than a continuous hedgerow. More detail is required identifying which trees are to be removed for the access.



- The western boundary is lined intermittently by mature Poplars, their rooting area has potential to be constrained by access and plots 9 & 10.
- Similarly the proposed location of the soakaway appears to be in or close to the rooting area of the poplars.





Had the tree report been submitted with the planning application these issues could have been addressed. A well considered tree report containing the following information will be able demonstrate the viability of the proposed layout:

Tree Survey  
Arboricultural Impact Assessment  
Tree Protection Plan  
Tree Method Statement (heads of terms)

#### 4.8.1 Principal Natural Environment Officer (Trees) – further comments

Following a visit to the site I have the following comments regarding the proposed residential development of 10 dwellings.

The group of trees which front the site have been categorised as C in accordance with BS5837:2012, suggesting that they are of negligible quality. In my opinion this group doesn't offer significant amenity value and the proposal to remove a large quantity of them is accepted.

I would suggest that retaining 3 trees, as has been proposed, is a poor option:

The trees have established as a group and therefore rely on each other for stability and protection from high winds.

The retained trees all have asymmetrical canopies on account of growing in proximity to others and will offer poor public amenity value.

I propose that all trees are removed and replaced by either a hedge or a line of small/medium sized trees with a narrow form.

#### Hedge Option

This should consist of a native species such as beech or hornbeam is planted for continuity with the adjacent boundary feature.

#### Tree Option

The boundary could be lined with evenly spaced species such as Malus or Prunus. Examples of each are:

Malus Rudolph

Malus Tribolata

Prunus Amanogawa

Prunus x hillieri Spire.

#### 4.9 Principal Building Conservation Officer - Support

##### Recommendations:

Recommend approval with conditions. The design of the proposals is appropriate for the location. Whilst there would be a change to the setting of the Townhouse, a G2 listed building, it is not felt that those elements of the setting which contribute to the significance of the building would be harmed and as such the proposals would accord with policy SS6 & LD4 of the adopted Herefordshire Core Strategy.

##### Conditions;

Roofing – CG4 -	A sample of the type of roofing material proposed; Treatment of gables and cappings; Treatment of verges and barge boards and so forth; And as shown on drawings to a scale of [ , 1:5 ,] where necessary.
Walling – CH3	Sample Panel
Joinery – CH8	(includes roof windows)
RWP's – CI2	Rainwater goods
Cladding- CI5	Timber Cladding

##### Comments:

The proposals are for a courtyard development, loosely based on vernacular archetypes and with appropriate landscaping for this layout, although the restrictions on integrating the road and hammer head due to adoption of roads is noted, it is not felt that this detracts from the scheme to any great degree. The roadside buildings could be argued to be rather grand, however in terms of scale, mass and design they are appropriate for the location.

##### Background to Recommendations:

1178762 – Town House, Grade 2 – 30m to the West of the site. This is a C16 timber framed house with cross wings. From map regression, the area of the site was originally an orchard relating to the farmstead associated with the Town House.

1178786 – Vicarage, Grade 2 – 40m to the SW of the site.

1348768 – Church of the Nativity – Grade 1

1099780 – Barn to N of town House – Grade 2

Pre-application advice has been provided, this is précised below:

- Density and setting of the LB – the scheme is well considered and based on previous comments, however a reduction in density, especially on the roadside elevation would be appreciated. The views to and from the Town House and the appreciation site as part of the setting of the building should be a consideration.
- Garages within the courtyard – locating these elsewhere may allow the courtyard form to be better read and appreciated.
- Shared surfaces – could an open space which incorporates a turning head and parking be considered?
- Street elevation for 'barn' buildings.

- Landscaping – in terms of the setting of the LB, this area was originally orchard – could this be incorporated into the landscaping for the scheme to support and better reveal the setting of the listed building? The scheme at Dilwyn common was a good example of this sort of approach.
- Any application would need a heritage statement, we would recommend reference to the Historic England GPA's on the Setting of Heritage Assets and Decision Making for the Historic Environment.
- We would also recommend that the D&A statement includes a site analysis outlining the decision making process for the application site.
- Street scene elevations including the listed building would also be recommended.

4.9.1 Principal Building Conservation Officer – further comments

I can confirm that the heritage statement submitted is acceptable and meets the requirements of the NPPF.

4.10 Service Manager Built and Natural Environment (Archaeology)

Standard archaeological 'Programme of Work' Condition E01 / C47 or similar.

The proposal site, whilst of comparatively close proximity to the core medieval form of the village, and having a degree of sensitivity, is not considered to be problematic, archaeologically.

However, it is anticipated that some below ground remains of moderate local interest could be present here that would require recording as mitigation, were the application to be approved.

Accordingly, in line with Para 199 of the NPPF, it is advised that a suitable archaeological condition be attached to any permission, in order to secure that recording.

4.11 Team Leader Area Engineer

No objection in principle, however there are a few issues which need to be resolved before conditions and approval can be provided.

1. Please undertake a stage 1 Road Safety Audit. Brief to be submitted before audit is undertaken.
2. Move the relocated speed signs further along the B4352 (away from the centre of Madley). Gateway features have been recently installed, therefore all street furniture needs to be located away from the sites visibility splay.
3. Provide vehicle tracking for HGV's around the junction to make sure the altered kerb line can accommodate large vehicles.
4. Review the possibility of moving the solar speed sign to allow for a straighter footway to be provided.
5. Review the possibility of relocating the bus stop away from the junction, therefore this may change the location of the drop crossing.

4.11.1 Team Leader Area Engineer – amended/additional plans

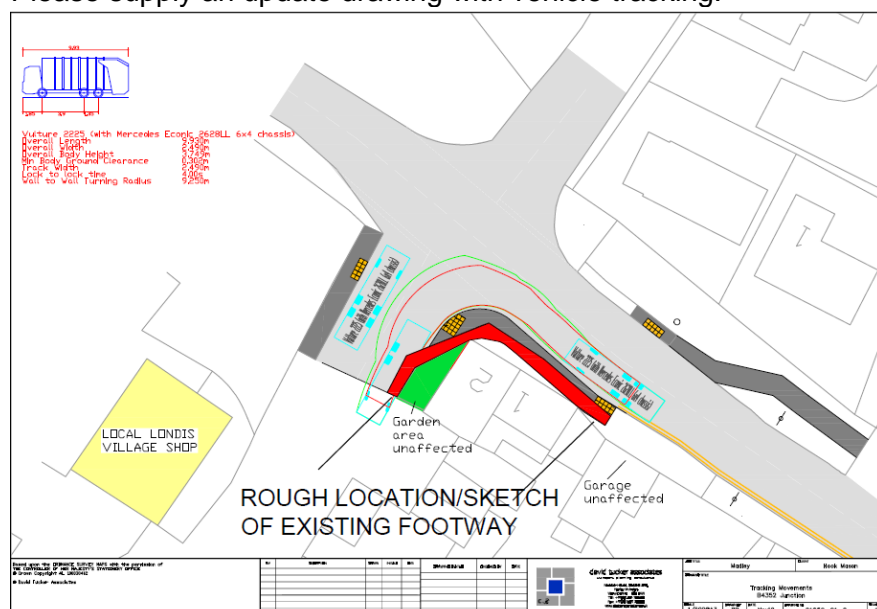
Having reviewed the submitted plans please see the following comments: -

1. The plans submitted showing the new footway around the junction of the B4352 and C1196 does not seem to correspond to what is actually on site. The submitted plan does not appear to take into account the existing footway and fenced garden area. Therefore this will need to be reviewed and tracking provided with any alterations.
2. The crossing point should not be provided in front of a garage access.
3. Tactiles should be provided directly opposite each other.

- #### 4.11.2 Team Leader Area Engineer – amended/additional plans

As shown in the sketch below, the tracking of the vehicle can not be achieved as the current/proposed layout reduces the ability of the turning vehicle.

Please supply an update drawing with vehicle tracking.



- #### 4.11.3 Team Leader Area Engineer – amended/additional plans

Please condition as follows.

CAB	-	Visibility Splays 90m x 2.4m
CAE	-	Vehicular access construction
CAH	-	Driveway gradient
CAJ	-	Parking – Estates



CAP	-	Highways Improvement/off site works
		1. Provisions of footway and crossing points as shown on submitted plans
		2. Extension of existing speed limit and relocation of gateway features.
CAQ	-	On site roads - Submission of Details
CAR	-	On site roads – phasing
CAT	-	Construction Management Plan
CAX	-	Direction of proposed lighting
CB2	-	Secure covered cycle parking provision
I11	–	Mud on highway
I09	–	Private apparatus within the highway
I45	–	Works within the highway
I08	–	Section 278 Agreement
I07	–	Section 38 Agreement & Drainage details
I05	–	No drainage to discharge to highway
I49	–	Design of street lighting for Section 278
I47	–	Drainage other than via highway system
I35	–	Highways Design Guide and Specification

#### 4.12 Waste Management

The area is accessed by a 26 tonne refuse collection vehicle (RCV).

A swept path analysis should be provided to show, in principle, that the RCV can enter and exit the site in forward gear. Dimensions of the RCV:

Height: 3500mm

Width: 2250mm (2650 including mirrors)

Length: 7565mm

Please note, in the event that the roads within this development do not become adopted by Herefordshire Council:

The council will only agree to travel private roads for the purposes of waste collection if:

The council and its contractors determine that collections can be carried out safely; and

The council receive written confirmation from the landowner/developer that the roads over which the RCV will travel are built to a suitable specification for a 26 tonne vehicle to travel over on a frequent basis;

and

The council and its contractor(s) are indemnified against damage to property and general wear and tear, other than that caused through negligence.

##### 4.12.1 Waste Management – amended plans

The tracking shows in principle that the RCV can access and turn within the development, so this is acceptable, provided the road is of a suitable construction for the RCV (see previous comments regarding unadopted roads).

#### 4.13 Land Drainage

This response is in regard to flood risk and land drainage aspects, with information obtained from the following sources:

- Surface Water Management Plan (June 2019/L0129)
- Design and Access Statement (DB/6919)

We highlight that any planning application should be submitted in accordance with the Herefordshire SuDS Handbook and the Herefordshire Council Planning Applications Flood Risk & Drainage Checklist available on the Council's website:

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/66/about\\_planning\\_services/11](https://www.herefordshire.gov.uk/info/200142/planning_services/66/about_planning_services/11)

## Site location and extract of flood map(s)

Figure 1: Environment Agency Flood Map for Planning (Rivers and Sea), August 2019



## Development description

The Applicant proposes the construction of 10 dwellings. The site occupies an area of 0.53ha and is currently used for agricultural purposes. Site elevations vary between 80.0m AOD and 81.8m AOD and slopes from west to east.

## Identifying the need for a Flood Risk Assessment

All Applicants must provide sufficient information to address the points listed below to enable an accurate assessment of flood risk and the need for a flood risk assessment to be made.

Information required	Reviewers comments
Confirmation of the site area in hectares or square metres	Site area confirmed as 0.53ha
Identification of all main rivers within 20m of the site boundary	There are not any main rivers in close proximity of the site, the nearest named watercourse to the site is the River Wye located approximately 1.8km north.
Identification of all ordinary watercourses and land drains within 20m of the site boundary	There are no known ordinary watercourses located in close proximity of the site. A brook is located approximately 300m north of the site.
Confirmation of the site's location in Flood Zone 1, Flood Zone 2 or Flood Zone 3, and taking climate change effects into account	Review of the EA's Flood Map for Planning confirms the location of the site in Flood Zone 1. The site is considered unlikely to be at risk with the effects of climate change are taken into account.
Confirmation and supporting justification of whether the site is at significant risk of flooding from other sources, including surface water flood risk or flood risk from minor watercourses with unmapped flood extents	The site is not located in an area at significant risk of surface water flooding.

## Completing a Flood Risk Assessment

A Flood Risk Assessment (prepared in accordance with NPPF and EA Standing Advice) must support the planning application for any development:

- Located in Flood Zone 2 or Flood Zone 31.
- With a site area greater than 1 hectare.
- Located in an area identified to be at significant risk of flooding from other sources, including surface water flood risk or flood risk from minor watercourses with unmapped flood extents.

Review of the information summarised in Section 1 indicates that a FRA is not required to support the planning application for this development.

#### Surface Water Management Strategy

A surface water management strategy should be submitted that includes the following information:

- ✓ Information provided is considered sufficient
- \* Information provided is not considered sufficient and further information will be required

Information required	Reviewer comments	✓ ✗
Strategy		
Summary of likely ground conditions including permeability and contamination risks	<p>Review of Soils Mapping shows soils to be freely draining however infiltration testing has been completed by the applicant at 3 locations within the site. The applicant concluded infiltration rates ranging between 0.0027 m/h (<math>7.5 \times 10^{-7}</math> m/s) and 0.014m/h (<math>3.9 \times 10^{-6}</math>) indicating lower permeability soils, although with an intention to use these rates to inform the design of the drainage system that will rely solely on infiltration to ground.</p> <p>We have completed our own review of the results of the infiltration testing. This indicates that the rates stated above are just based on the first test that was completed for each location. Subsequent tests were abandoned because no further infiltration occurred during a 17 hour period for all three locations. These results therefore indicate that infiltration is not a viable means of discharge for this site.</p> <p><b>We therefore recommend that an alternative strategy is provided prior to the Council granting planning permission.</b></p>	✗

#### Foul Water Management Strategy

A foul water management strategy should be submitted that includes the following information:

- ✓ Information provided is considered sufficient
- \* Information provided is not considered sufficient and further information will be required

Information required	Reviewers comments	✓ ✗
Description and illustration of the proposed foul water drainage system including location of manholes, external pipework, package treatment plants, drainage fields, pumping stations and discharge locations	No information regarding the proposed foul water drainage strategy has been provided. <b>We recommend that this is provided prior to the Council granting planning permission.</b>	✗

#### Overall Comment

As discussed above, we recommend that the Council do not grant planning permission until a viable strategy for surface water and foul water drainage has been provided.

We stress that this should be in accordance with the Herefordshire SuDS Handbook and the Herefordshire Council Planning Applications Flood Risk & Drainage Checklist available on the Council's website:

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/66/about\\_planning\\_services/11](https://www.herefordshire.gov.uk/info/200142/planning_services/66/about_planning_services/11)

#### 4.13.1 Land Drainage – additional information

This response is in regard to flood risk and land drainage aspects, with information obtained from the following sources:

- Surface Water Management Plan (November 2019/L0129)
- Design and Access Statement (DB/6919)

Previous comments were made on 20th August 2019 based on a limited amount of information for Flood Risk and Drainage. These comments suggested consideration of an alternative solution to infiltration be examined and that a foul strategy be provided.

We highlight that any planning application should be submitted in accordance with the Herefordshire SuDS Handbook and the Herefordshire Council Planning Applications Flood Risk & Drainage Checklist available on the Council's website: [https://www.herefordshire.gov.uk/info/200142/planning\\_services/66/about\\_planning\\_services/11](https://www.herefordshire.gov.uk/info/200142/planning_services/66/about_planning_services/11)

#### Surface Water Management Strategy

A surface water management strategy should be submitted that includes the following information:

- ✓ Information provided is considered sufficient
- ✗ Information provided is not considered sufficient and further information will be required

Information required	Reviewer comments	✓ ✗
<b>Strategy</b>		
Summary of likely ground conditions including permeability and contamination risks	<p>Previously submitted results indicated that infiltration is not a viable means of discharge for this site.</p> <p>Our previous response of 20/8/19 suggested that an alternative means of water disposal other than infiltration be considered.</p> <hr/> <p>The applicant has carried out further infiltration testing in November 2019</p> <p>The tests in two of the trial pits indicate permeability rates averaging 0.025m/hr (6.79x10<sup>-6</sup> m/s) and 0.032m/hr (8.88x10<sup>-6</sup> m/s). The report states the third trial pit, TP4, was abandoned as the test failed.</p> <p>These results show that permeability in the soil is varied but potentially feasible for the proposed infiltration basin location. However, the results are at the lower end of what is usually considered feasible and it is not clear if the two successful tests are at the exact location of the proposed infiltration basin. Given the variability of the soils as indicated by the failed tests, we recommend that prior to the Council granting planning permission the applicant either confirms that the tests were completed at the exact location <u>and depth</u> of the proposed basin, or that further tests at the exact location <u>and depth</u> of the proposed infiltration basin are undertaken in accordance with BRE365.</p> <p>We note that the access road is proposed to be discharged via a separate soakaway structure, indicated to be 2.5m deep. Prior to the Council granting planning permission we recommend that the applicant undertakes infiltration testing in accordance with BRE365 at the location <u>and depth</u> of this proposed soakaway. We also recommend that the applicant confirms that the base of the soakaways will be a minimum of 1m above groundwater levels.</p>	✗
Confirmation of whether the site is located in a Source Protection Zone or Principal Aquifer	The site is not located in a SPZ or Principal Aquifer.	✓



Summary and illustration of the proposed surface water drainage system including location of SuDS features, manholes, external pipework, attenuation features, pumping stations (if required) and discharge locations	<p>The applicant proposes to drain the majority of the development to an infiltration basin in the adjacent field and the impermeable area of the access road to two ring soakaways that are stated to be 2.5m deep. Whilst we agree with the strategy in principle, as discussed above we recommend that the applicant confirms infiltration potential and depth to the groundwater level at these locations.</p> <p>The impermeable surface areas from the dwellings will be conveyed to the infiltration basin via a swale. Whilst we agree with the strategy in principle, it is currently not clear from the information provided if an appropriate gravity connection between the site and infiltration basin can be achieved without pushing the invert level of the swale and pond down to an impractical level. <b>Prior to the Council granting planning permission we recommend that the applicant provides indicative levels for the swale in addition to any plan dimensions to demonstrate the feasibility and practicality of the proposals.</b></p>	✗
Demonstration that the SuDS hierarchy has been considered in accordance with NPPF and justification for the proposed method of surface water discharge	The submitted drainage reports demonstrates that the SUDS hierarchy has been considered in accordance with NPPF.	✓

Information required	Reviewer comments	✓ ✗
Confirmation that the system will be designed to prevent any flooding of the site in all events up to and including the 1 in 30 annual probability storm event with supporting preliminary calculations	<p>The report states that the proposed drainage infrastructure will be designed to ensure no flooding offsite for the 1 in 30 and 1 in 100 year event with 40% climate change allowance.</p> <p><u>We recommend that detailed calculations to demonstrate no surcharging for the 1 in 2 year event and no flooding from the system for the 1 in 30 year event be submitted to the Council for approval as part of a suitably worded planning condition.</u></p>	✓ (with note)
<b>Infiltration systems</b>		
For infiltration to ground, detailed calculations of proposed soakaway and attenuation sizing demonstrating sufficient space within the site to ensure no increased flood risk up to the 1 in 100 year event and allowing for climate change effects	The report does contain calculations for the infiltration features. The correct rainfall parameters have been assigned however no plans showing that the soakaways and infiltration basin can be accommodated within the development boundary have been submitted. We note that the location of the proposed infiltration basin is located outside the proposed development boundary although understood to be on land owned by the applicant. <b>Prior to the Council granting planning permission we recommend that Council clarifies that this approach is acceptable.</b>	✗
<b>Pollution</b>		
Confirmation of the proposed methods of treating surface water runoff to ensure no risk of pollution is introduced to groundwater or watercourses both locally and downstream of the site, especially from proposed parking and vehicular areas	The strategy proposes a swale, gullies, infiltration basin and ring soakaways to drain the development. This is acceptable in principle for a development of this size, however as discussed above the applicant is required to demonstrate that the base of any infiltration structure is located a minimum of 1m above groundwater levels as this will also assist in managing pollution risks to underlying groundwater resources.	✓ (with note)

Exceedance		
Description and drawing demonstrating the management of surface water runoff during events that may exceed the capacity of the drainage system, including temporary exceedance of gullies, up to the 1 in 100 annual probability event with climate change (including assessment of where water is likely to emerge) and noting that surface water should be retained within the site boundary and not pose risk to the development	There is limited information regarding where water will be safely conveyed and stored during events that exceed the capacity of the system. <u>Given the size of this site this is not considered to pose a significant risk or constraint, however information regarding exceedance routes and storage areas will need to be provided for approval prior to construction as part of a suitably worded planning condition.</u>	✓ (with note)
Access, adoption and maintenance		
If access or works to third party land is required, details of these works and agreement in principle with necessary landowners/consenting authorities to cross third party land and/or make a connection to the proposed watercourse/sewer	The report states that the land to the east of the site is owned by the client and therefore crossing third party land is not deemed to be required.	✓

Information required	Reviewer comments	✓ ✗
Confirmation of agreement in principle of proposed adoption and maintenance arrangements for the surface water drainage system	The report states that the infiltration basin will be a shared asset for the development and jointly owned and maintained by the various households.  As outlined in our SuDS Handbook, all shared assets need to be jointly owned by the respective homeowners. The land on which the infiltration pond is sited will need to be listed on Land Registry records as jointly owned by all of the home owners. A management company will need to be appointed to manage the surface water drainage network and complete maintenance work on the infiltration basin. If the pipework crosses land that is not transferred to the homeowners then a wayleave agreement will be needed to facilitate future maintenance.	✗
Demonstration that appropriate access is available to maintain SuDS features (including pumping stations)	It is unclear how access to the infiltration basin will be provided, noting that this is in the field adjacent to the proposed development site. <b>Prior to the Council granting planning permission, we recommend that the applicant clarifies how suitable arrangements for the future maintenance of all drainage features will be provided.</b>	✗

### Foul Water Management Strategy

A foul water management strategy should be submitted that includes the following information:

✓ Information provided is considered sufficient

✗ Information provided is not considered sufficient and further information will be required

Information required	Reviewers comments	✓ x
Description and illustration of the proposed foul water drainage system including location of manholes, external pipework, package treatment plants, drainage fields, pumping stations and discharge locations	The applicant has not provided a detailed strategy for the site however correspondence with Welsh Water confirms that there is a foul water network approximately 107m west of the site that would be suitable to receive foul water discharge. The applicant also discusses opportunities for infiltration of foul water within the field to the east of the site, stating that infiltration testing demonstrates a suitable Vp. <b>We recommend that discharge to the Welsh Water network is promoted in favour of infiltration to ground.</b> <u>The information is acceptable for planning, although a detailed drainage strategy and supporting calculations will be required to support the discharge of conditions.</u>	✓ (with note)
<b>Discharge to sewerage network</b>		
Demonstration that the suitability and capacity of the public sewerage system has been explored in consultation with the relevant authority, and that a viable connection can be made	DCWW has confirmed that there is sufficient capacity in the public sewage system. <b>We recommend that discharge to the Welsh Water network is promoted in favour of infiltration to ground.</b>	✓
<b>Access, adoption and maintenance</b>		

Information required	Reviewers comments	✓ x
If access or works to third party land is required, details of these works and agreement in principal with necessary landowners/consenting authorities to cross third party land and/or make a connection to the proposed watercourse/sewer	It is understood that access to third party land will not be required.	✓
Confirmation of agreement in principle of proposed adoption and maintenance arrangements for the foul water drainage system	Confirmation of adoption by Welsh Water has been agreed, assuming that this method of disposal is promoted in favour of infiltration to ground.	✓
Demonstration that appropriate access is available to maintain drainage features (including pumping stations)	Access to drainage features is deemed likely to be available if discharge to the Welsh Water network is promoted. If infiltration to ground is instead taken forward, the applicant must demonstrate how maintenance access will be achieved.	✓

### Overall Comment

Whilst we agree with the proposed surface water drainage strategy in principle, we recommend that the following information is submitted prior to the Council granting planning permission:

- Confirmation of the location of the proposed infiltration basin and confirmation that the infiltration tests were completed at the exact location and depth of the proposed basin, or alternative provision of further tests at the exact location and depth of the proposed infiltration basin.
- Infiltration testing undertaken in accordance with BRE365 at the location and depth of the proposed soakaways serving the access road, and confirmation that the base of the soakaway will be a minimum of 1m above groundwater levels.
- Confirmation of likely invert levels of the proposed swale and infiltration basin to demonstrate that a viable gravity connection can be made without pushing the invert level of the swale and pond down to an impractical level.



- Clarifies of how suitable access arrangements for the future maintenance of all drainage features will be provided.

We also highlight that the location of the proposed infiltration basin is located outside the proposed development boundary although understood to be on land owned by the applicant. Prior to the Council granting planning permission we recommend that Council clarifies that this approach is acceptable.

Should the Council be minded to grant planning permission, we recommend that the Applicant submits the information requested above along with the following information within any subsequent application to discharge conditions:

- Detailed plans and section drawings of the proposed surface water infiltration features including basins, swales, pipework connections etc.
- BRE365 testing is undertaken at the location and depth of all infiltration features.
- Calculations for the final design to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event and will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event. FEH2013 rainfall data is expected.
- Calculations for the final design that demonstrates there will be no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH2013 rainfall data is expected.
- Details of exceedance flow routes and storage areas within the proposed site.
- Proposals for adoption and maintenance access for all SuDS features with particular regard to the proposed infiltration basin.
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features and connection to the Welsh Water network, if applicable.
- If a connection to a public foul sewer is not considered feasible, the applicant will be required to complete a Foul Drainage Assessment (FDA) Form and submit this as part of any forthcoming planning application. The FDA Form can be found on the GOV.UK website at this link:  
<https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>.
- If infiltration to ground is proposed for the foul drainage, infiltration rates at the location(s) and proposed depth(s) of any proposed drainage fields, undertaken in accordance with BS6297 and Building Regulations Part H.
- Detailed plans and section drawings of any proposed foul water drainage field, along with maintenance access for all foul drainage features.
- Details of adoption and maintenance arrangements for all parts of the foul drainage system.
- Operational and maintenance manual for all proposed foul drainage features that are to be adopted and maintained by a third party management company.

#### 4.13.2 Land Drainage – further information

This response is in regard to flood risk and land drainage aspects, with information obtained from the following sources:

- Surface Water Management Plan (April 2020/L0129)
- Design and Access Statement (DB/6919)

Previous comments were made in February 2020 recommending that the applicant undertake further infiltration tests at the location and depth of the proposed soakaway serving the access road, and confirmation that the base of the soakaway will be a minimum of 1m above groundwater levels.

We highlight that any planning application should be submitted in accordance with the Herefordshire SuDS Handbook and the Herefordshire Council Planning Applications Flood Risk & Drainage Checklist available on the Council's website:

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/66/about\\_planning\\_services/11](https://www.herefordshire.gov.uk/info/200142/planning_services/66/about_planning_services/11)

Our previous response in February 2020 recommended confirmation that the tests were undertaken at the location and depth of the proposed soakaways, whilst also confirming that the proposed soakaways are at least 1m above the groundwater levels.

The applicant has undertaken further trial pits TP8 and TP9 on the 4<sup>th</sup> March 2020 in the adjacent field to confirm depth of groundwater and infiltration rates. The location of the trial pits were not taken at the location of the proposed soakaways, however ground conditions are assumed to be similar and OS Mapping / mapped contours indicates the ground levels to be similar to that of the proposed soakaway location. TP8 was dug to a depth of 2.5m bgl and showed infiltration rates ranging from  $1.89 \times 10^{-5}$  m/s to  $1.69 \times 10^{-5}$  m/s, therefore confirming good permeability within the soil below the soakaways. TP9 was dug to a depth of 3.5m bgl and encountered no groundwater, therefore indicating that the soakaways will remain 1m above groundwater. We therefore approve of the applicant's information and can confirm that the soakaways proposed on site are deemed to be suitable for the surface water design.

#### Overall Comment

We believe that the applicant has provided suitable information to demonstrating a feasible surface water drainage design for the site.

Should the Council be minded to grant planning permission, we recommend that the Applicant submit the following information within any subsequent application to discharge conditions:

- Detailed plans and section drawings of the proposed surface water infiltration features including basins, swales, pipework connections etc.
- BRE365 testing is undertaken at the location and depth of all infiltration features.
- Calculations for the final design to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event and will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event. FEH2013 rainfall data is expected.
- Calculations for the final design that demonstrates the drainage system will provide sufficient attenuation for up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH2013 rainfall data is expected.
- Details of exceedance flow routes and storage areas within the proposed site.
- Proposals for adoption and maintenance access for all SuDS features with particular regard to the proposed infiltration basin.
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features and connection to the Welsh Water network, if applicable.
- If a connection to a public foul sewer is not considered feasible, the applicant will be required to complete a Foul Drainage Assessment (FDA) Form and submit this as part of any forthcoming planning application.  
The FDA Form can be found on the GOV.UK website at this link:  
<https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>.
- If infiltration to ground is proposed for the foul drainage, infiltration rates at the location(s) and proposed depth(s) of any proposed drainage fields, undertaken in accordance with BS6297 and Building Regulations Part H.
- Detailed plans and section drawings of any proposed foul water drainage field, along with maintenance access for all foul drainage features.
- Details of adoption and maintenance arrangements for all parts of the foul drainage system.

- Operational and maintenance manual for all proposed foul drainage features that are to be adopted and maintained by a third party management company.

## **5. Representations**

The submission has been amended and the representations received in relation to both are reported below.

### **5.1 Parish Council**

Madley Parish Council considered planning application 192672 when they met on the 9th September 2019. Councillors listened carefully to representations made by residents at the meeting especially around issues such as the Madley NDP, impact on listed buildings, ecological considerations and the design and appearance of the proposed dwellings.

With regards to the NDP the Parish Council concluded that, as it was currently in draft having just completed the Regulation 14 consultation, it could be not considered material to the scrutiny of the planning application.

There was discussion on the ecological issues where residents strongly disputed the findings of the report commissioned by the developers. The Parish Council did not consider they could arbitrate on this issue and recommended that further independent work should be undertaken.

With regards to the design and appearance of the proposed dwellings Councillors were of the view that the “look and feel” would be consistent with the preferences expressed by residents as part of the NDP process. The range and type of the proposed dwellings was also discussed and Councillors acknowledged there is a good mix of housing with a particular focus on two- and three-bedroom properties. Again, this is consistent with the preferences expressed by the residents in the context of the NDP.

The Parish Council acknowledged that the proposed development would be in close proximity to listed buildings in the village and this should be afforded further attention by the planning authority.

On balance, the Parish Council were minded to support the planning application subject to the following conditions. Firstly, further work should be undertaken to examine the ecological impact of the proposed development. Other conditions include the relocation of the 30 mph signs to a position further from the entrance to the development plus a clear commitment to providing roundels on the B4352 adjacent to the 30 mph signs. Further, the Parish Council would insist that the village gates be relocated along with the 30mph signs and that this relocation not be at any expense to Madley Parish Council.

Finally, the Parish Council would urge the developers to interact closely with residents should the planning application be approved by the LPA.

#### **5.1.1 Parish Council (17.8.2020)**

Madley Parish Councillors have had the opportunity to consider planning re-consultation 192672 and remain content to support the proposals set out in the updated documentation.

#### **5.1.2 Parish Council (15.12.2020)**

Madley Parish Council have considered Planning Re-Consultation 192672 and have no further comments to add to those submitted on the 10th September 2019.

### **5.2 Representations have been received both objecting to and supporting the application. Of these there have been 13 objectors (some objectors made more than one representation) and 3 were in support (some supporters made more than one representation). In summary these raised the following points:**

## Objection

### Emerging draft Madley Neighbourhood Development Plan

- Application site was not put forward in the 'call for sites' for the Madley NDP (April 2017), so has bypassed the NDP site selection process
- Preferred site, to the west of the village (west of Archenfield), was unanimously supported by the Parish Council and is included in the dMNDP for 22 dwellings
- Preferred site is owned by the Duchy of Cornwall and Prince's Trust and they were involved in a two day community event/workshop, resulting in the Madley Housing Manual
- Preferred site is adjacent to existing built areas, can gain access via Forty Farm Road to the B4352 and is in the 30mph limit
- dMNDP would meet housing growth required (89 dwellings required, delivery of 94 proposed)
- the site lies outside of the settlement boundary in the dMNDP, so is in the countryside and should not be considered for development until 2031
- to ignore the dMNDP is a waste of taxpayers money and time
- justifiable to refuse permission on the grounds of prematurity

## Access

- proposed access is onto a potentially hazardous section of road due to speeds at its busiest point
- proposed access is outside of the 30mph limit
- vehicles accelerate out of the village towards the Comet Inn/Stoney Street
- potential to increase the number of road traffic accidents
- walking along the road is terrifying
- most cars do not adhere to the speed limit
- long term strategy regarding traffic flow through the village needed, following 'pause and review' of bypass and increase in usage in recent years
- proposed relocation of village gates, speed restrictions and relocating bus stop without consultation with local residents
- danger from speeding traffic to pedestrians crossing the road, at the crossroads, to join the proposed new footpath
- moving the speed limit will not have any impact through the village and with extra pedestrians this is an accident waiting to happen
- purpose of footpath to the northwest boundary of the site is unknown, as it does not link to the PRow to the west. There is no right of access and one will not be permitted. The plans should be amended accordingly

## Heritage Assets

- Town House and adjacent brick built barn are Grade II listed, proposed development would be harmful to their unique location and heritage as they would be surrounded by development and not visible from the road
- Harmful Impact on listed buildings from views from the east (Town House and attached outbuilding, barn to the north of Town House, Vicarage and Church – all Grade II listed, except the latter which is Grade I)
- Listed buildings should retain their significant status and be preserved for future generations
- Development would be harmful to Madley's historic ambience and devalue its most impressive dwelling (Town House)
- Proposal would undermine our historic environment and be an act of cultural vandalism
- Modern housing development is not in keeping with their aesthetics, character or historical status
- Proposal is contrary to the NPPF, CS and dMNDP with regards protection of heritage assets
- Historic Buildings Officer's comments refer to Listed Building in the singular – there are 3 listed buildings (Town House and barn and 5 Town House Court) directly affected and 4 others nearby (3 & 4 Town House Court, Vicarage and Church) – comments should be re-evaluated
- Imagery use is incorrect, pre-dated the work undertaken in 2012 to the original farm buildings (now 6 dwellings – 3 listed and 3 not)

- A paper study does not provide a true assessment
- Heritage Impact Assessment omits Grade II listed barn at Town House

#### Wildlife

- Greenfield site is a haven for a range of wildlife
- Wild meadow and hedgerows and trees should be protected
- Great Crested Newts (GCN) (medium sized breeding population) in pond adjacent to the site (at Town House) – this was missed in the applicant's Ecology Report
- Application site provides adjacent grassed area for GCNs to traverse to other ponds
- GCN rely on the site in non-breeding season
- Development is likely to negatively affect a protected species, so a comprehensive survey is required by a qualified and licenced ecologist at the appropriate time of year
- Under NPPF para 175 if significant harm to biodiversity would result and cannot be avoided through locating on an alternative site with less harmful impacts, adequately mitigates or lastly compensated for then permission should be refused. The Archenfield site provides a less harmful alternative
- Catastrophic effect on protected species – GCN, barn owls and bats (three species) and bumble bees and insects
- Contrary to CS policy LD2
- Ecology Surveys are insufficient (one daylight visit at the wrong time of year) and give misleading information
- Owners of Town House provided their own Ecology Report highlighting anomalies, inaccuracies and inconsistencies in the applicant's submission including:
  - that their report should not be used to support/inform a planning application because it is not an appropriate level of survey for that purpose
  - a licence was required from Natural England and would not be granted without a full GCN survey including a population class assessment (12 visits)
  - failure to originally identify all nearby ponds
  - requirement to fence and trap GCNs outside of the site under licence not required if they have been removed
  - confirmation that no work will be carried out that disturbs potential newt hibernation (November to March), but then stated excavations will be done in the hibernation period

#### The report advises that:

- a full impact assessment for GCNs is required, population may be 'large'
- no obvious receptor site for any captured GCN – Natural England will not accept a licence application without that information
- development would remove only good habitat for GCN in the immediate vicinity and this could cause loss of the population (most GCN remain within 50-100m of their breeding pond)
- regardless of population size a single hibernaculum as compensation is completely inadequate, due to size and inability to perform the same function. Natural England do not usually consider gardens as adequate replacement habitat for GCN
- submitted method statement, as written, does not provide enough information to allow the LA to determine if the mitigation hierarchy has been followed
- nothing in CS policy or the NPPF that preclude a grant of planning permission with conditions, however it has not been established if significant harm can be avoided or that favourable conservation status can be maintained
- submitted Method Statement does not represent a comprehensive evaluation, nor does it recognise that there a survey and associated impact assessment will be needed. There is inadequate mitigation/compensation for the likely impact and it does not demonstrate that Favourable Conservation Status can be maintained
- a Method Statement should provide sufficient certainty to allow the application to be determined and enable a licence application to Natural England

## Landscape

- Development will ruin the view of the village from the east
- Large number of dwellings/housing estate extending into the eastern rural setting of the village
- Harmful to the setting of the village
- Replacement of trees/hedgerow along frontage with modern housing would be diabolical

## Other

- Contrary to Design and Access Statement the Parish Council passed no comment on the applicant's presentation to them (18.5.2019).
- No more houses are required, as the dMNDP allocates enough to meet the target
- dMNDP is a document to be referred to in decision making
- unnecessary loss of unimproved grassland, shrubs and trees
- quality of life is more important than fulfilling targets and grasping money
- children look to us to guard their future, as custodians of the planet for future generations
- site address on application form and documents is misleading – the land does not belong or relate to the Town House and the application is not made by the owners
- land is not arable as stated, it has been grazed and used as an orchard for some years
- permission can be refused on the grounds that information was insufficient to accurately describe the nature and anticipated impacts
- planning process relies on people acting in good faith, with an expectation that the submitted information is true and accurate – LPA are entitled to request amended or rectified submissions
- submission of inaccurate and misleading information means that the application cannot be objectively considered
- school is already oversubscribed

## Support

### Emerging draft Madley Neighbourhood Development Plan

- the dMNDP is not a 'done deal' – results of serious analysis is required
- the dMNDP does require additional development through windfall sites
- landowners of the proposed dMNDP site have shown no interest in applying for permission – obvious defects making approval unlikely
- understand that the Duchy has received severe censure for such ventures outside the perceived ethos of the organisation
- housing proposals to meet village's requirements are too restrictive and the arbitrary boundary around the 'built area' reinforced the impending problems
- Faraday House site (181921) is a long way beyond the target for the reserved matters (August 2019) implying major problems with site access and surface water
- Some 59 dwellings (2/3rds) of Madley's commitments to 2031 cannot be considered anything more than 'possibles'
- dMNDP aspirations should be about providing local housing needs as soon as possible

## Access

- Wholly beneficial application – central to the village, walking distance of facilities
- Proximity to facilities reduces the need for car use

## Heritage Assets

- Town House and Town House Court are not visible from the B4352 at Woodyatts Lane access, and views of the church are limited.

## Wildlife

- Same concerns about the impact on wildlife and trees etc. expressed by the objectors in relation to this site equally apply to the Archenfield Road site
- If a single night survey shows the presence of a large number of GCN how can they be described as an endangered species?

- Other ponds are presumably equally overstocked with GCNs
- Presence of GCNs off site can surely not be a serious impediment to approval of the proposed development
- Objections relating to impact on owls come from residents of adjacent barn conversions – one of the greatest threats to barn owls

#### Landscape

- Development needed to the centre and east of the village to avoid sprawl to the west
- Uses poor quality agricultural land
- Suitable planting along the frontage will be part of the reserved matters

#### Other

- Small developments gradually enhance Madley rather than overloading infrastructure (as is happening in Clehonger and Kingstone against local wishes)
- Thriving village will benefit from a range of housing options
- If refused an appeal could follow, resulting in more cost to tax-payers
- Objections are short term attempts to defy permission for development meeting the approval, subject to appropriate conditions, of professional bodies and Madley Parish Council.
- Application should be considered on its merits, with limited reference to arbitrary boundaries
- Confusion over time period for comments

5.3 Following submission of the Great Crested Newt Survey and Report 2 further representations were received. In summary these make the following additional points:

- Ecology Report notes that there will be a '*notional reduction of habitat suitability of the part of the site which will become domestic gardens*' meaning there is likely to be a loss of the newt population
- Newts would have to cross an unpaved track (in frequent use as the main access for farm machinery etc. to the fields – day and night during harvesting) and a large concrete area to reach the proposed hibernacula – these are dispersal barriers
- Survey effort is acceptable and conclusions reasonable (despite some lack of certainty on methods used in survey)
- Receptor site is separated from the pond by development, which may make movement harder – as gardens are proposed nearest to the pond it should not preclude GCN movement
- Would expect a new pond as compensation on the receptor site – Ecology Report states that it is unlikely to be unsuccessful, but it is unclear why
- Receptor site is currently under arable cultivation, which is not suitable habitat for GCN. Section E3.2 refer to grassland management, but is arable there is not grassland to manage
- Grassland and scrub should be created prior to GCN translocation
- Siting development on the arable field would be preferable in GCN impact terms
- Proposed GCN compensation land has less ecological and heritage asset impacts
- Better sites identified for housing growth
- Reduced density should be considered – with development to the eastern side and a belt of the greenfield site left for wildlife to the west, to include the hibernacula – better for ecology and the setting of heritage assets
- Confirm that No.5 Town House Court is a curtilage listed building, which is afforded the same protection as listed buildings

5.4 Following submission of the Great Crested Newt Mitigation Proposals a further objection from the neighbours and an additional general comment have been received. In summary these make the following additional points:

#### Objection:

- Applicant's ecologist did not identify the breeding pond on our land initially
- Council's Ecologist's comments (6.8.2020 sic) recommend amendments to the proposed mitigation and advises that it needs to be considered if it satisfies the three tests (for Licence applications) – Council Ecologist is not entirely confident that the third test would be met



- Applicant's ecologist only considers the third test – we consider all three tests relate to ecology, contrary to their assertion
- No beneficial consequences of primary importance of the environment are achieved
- There are 'satisfactory alternatives' – the dMNDP allocated site
- The site is outside of the settlement boundary defined in the dMNDP, which has been confirmed by the Examiner
- Settlement boundary was set to ensure no further development, thereby safeguarding Madley until at least 2031
- If planning permission is granted it will be '*detrimental to the maintenance of the populations of the species concerned*' and result in considerable harm if not total loss of the GCN
- Mitigation remains unacceptable – GCN would have to traverse gardens and either cross a concrete area or farm track and make a 90 degree turn alongside the farm buildings to reach safety
- Agree with the Council's Ecologist comments (6.8.2020 sic) – GCN are unlikely to make this
- Applicant's Ecologist asserts that the receptor site is only separated from the development site by a narrow, unmetalled and heavily vegetated farm track, which is used very little
- Proposed pond to the north of the receptor and compensation site and a 5m displaced field boundary to enlarge the dispersal route are not a satisfactory solution for the GCN population
- Long term protection (20 years – as per the Council's Ecologist's comments) of the habitat enhancement for the receptor site is vital
- Council's Ecologist agreed with Swift Ecology's comments (acting for the neighbour) regarding the receptor site – isolation from the breeding pond, by concrete road and yard
- The intervening track is well used, to the best of our knowledge by farm vehicles
- Proposals would not protect the GCN

General Comment:

- dMNDP has not yet reached final approval by electorate and should not be pre-empted by this application
- Madley PC, acting in the interests of the wider population of Madly, have twice expressed support of this application, which in many ways has great merit for sensible village development
- whether the site is outside of the settlement boundary depends on the outcome of the referendum
- land to the west of the village cannot be considered as a 'satisfactory alternative' until it has been rigorously tested by the submission and grant of planning permission
- owner of the allocated site (Duchy of Cornwall) has shown no indication of pursuing an application
- expect there to be a large community of newts at the pond and watercourse near to the allocation site

5.5 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=192672&search=192672](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192672&search=192672)

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

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

## 6. Officer's Appraisal

### *Policy context and Principle of Development*

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:  
*"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework (NPPF) requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The CS was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the CS was made on 9 November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.
- 6.3 The site falls within the Madley Neighbourhood Area, where following a draft Regulation 16 Neighbourhood Development Plan (dMNDP) submission and subsequent consultation (18 December 2019 to 12 February 2020) it was sent for examination (25 February 2020). The Examiner's Report was received on 3 September 2020. The Report confirms that it not necessary to recommend any modifications, a fact which the Examiner notes is unusual, even in the context of examining over 100 NDPs.
- 6.4 The dMNDP is a material planning consideration, but does not yet form part of the Development Plan. This is because it has not been the subject of a successful referendum. Consequently, the weight that can be afforded to it, as an 'emerging' plan, is to be determined by applying the criteria set out in paragraph 48 of the NPPF. This states as follows:

*Local planning authorities may give weight to relevant policies in emerging plans according to:*

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)*

- 6.5 Taking the criteria set out in paragraph 48 of the NPPF in turn:
- a) the Examiner's Report has been received and the dMNDP awaits referendum
  - b) following the Examiner's Report there are no longer any outstanding objections (from the applicant to the exclusion of the site from the settlement boundary or to the proposed 'allocated site,' or from other parties).
  - c) the Examiner has confirmed that the dMNDP meets the basic conditions and is in general conformity the NPPF.

As a result, at this time, the policies in the dMNDP can be afforded significant weight. This is because there has been an independent assessment (examination and report), which concludes that no modifications are required to the dMNDP, such that there are no unresolved objections left remaining (including from the applicant's agent with regards this specific site and the allocated site), and it has been found to meet all the basic conditions and other matters that the Examiner is obliged to examine.

- 6.6 The applicant's objections to both the regulation 14 and 16 drafts of the dMNDP are noted. The Consultation Statement (dated October 2019) includes the responses to the regulation 14 representations and is published with the regulation 16 submission. The Steering Group's response at that time was *'This site has not hitherto featured in the NDP process and is currently the subject of a planning application (P192672/F, proposed residential development of 10 dwellings) which the Parish Council has conditionally supported. If approved, these units will contribute to the NDP's windfall allowance.'* No change is proposed to the settlement boundary.

The Examiner has not required modification of the settlement boundary to accommodate the application site. The Parish Council's latest consultation response (17 August 2020) was that they remained content to support the proposal.

- 6.7 To confirm, as per the statutory requirement, the starting point is the Development Plan, which in this case is currently the CS. The dMNDP is an important material consideration that should be afforded significant weight. Typically, after receipt of an Examiner's Report with no modifications required the dMNDP would progress straight to referendum, however due to legal restrictions resulting from the current pandemic, the date of the referendum will be confirmed in the future. It is not until there has been a positive referendum vote (50% plus 1, with no minimum turnout required, therefore requiring a majority vote of those voting) that the dMNDP would be apportioned full weight and once the LPA confirms its adoption it becomes a 'made' plan and part of the Development Plan.
- 6.8 At the present time Regulations linked to the Coronavirus Act 2020 mean that no elections or referendums can take place until 6 May 2021. This includes neighbourhood planning referendums. Government advice states that these provisions will be kept under review and may be amended or revoked in response to changing circumstances. The Coronavirus (COVID-19): planning update (13.5.2020) confirms that updated planning guidance (7 April 2020) set out that neighbourhood plans awaiting referendums can be given significant weight in decision-making.
- 6.9 The NPPF is also a significant material consideration. It sets out national guidance and policy on, amongst other things, the Government's objective to significantly boost the supply of homes, whilst also setting out the considerations for the impacts arising from development.
- 6.10 The starting point for assessing the application is the Development Plan, in this case the CS. The CS underpins the importance of maintaining a supply of housing land with Policy SS1 echoing the positive presumption, SS2 setting out the spatial strategy insofar as housing delivery is concerned and SS3 setting out the measures that might be promoted where housing completions are below the required level.
- 6.11 With regards housing delivery in the rural areas outside of Hereford and the market towns, the CS promotes sustainable growth. Policy RA1 of the CS identifies that Herefordshire Rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. These new dwellings will be broadly distributed across the seven Housing Market Areas (HMAs) and are to maintain and strengthen locally sustainable communities. Madley lies within the Hereford HMA and is listed as being one of the '*settlements which will be the main focus of proportionate housing development*' (figure 4.14). This seeks an 18% minimum growth target over the plan period across the HMA, which for Madley equates to a minimum of 89 dwellings between 2011 and 2031.
- 6.12 CS policy RA2 sets out the criteria for considering applications for housing growth in figure 4.14 and 4.15 settlements and states:-

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

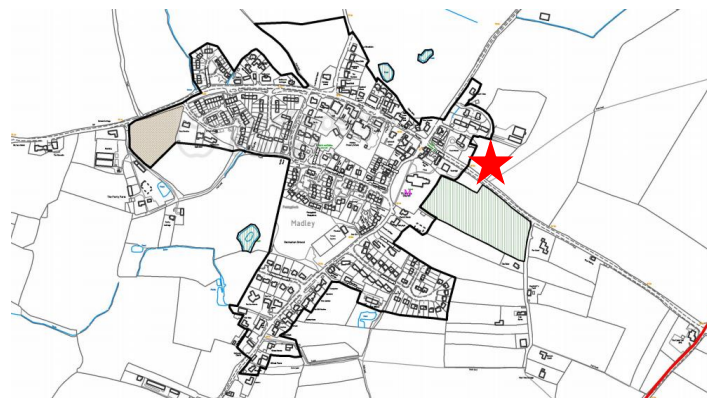
*Housing proposals will be permitted where the following criteria are met:*

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

- they result in development that contributes to or is essential to the social well-being of the settlement concerned;*
2. *Their locations make best and full use of suitable brownfield sites wherever possible;*
  3. *They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and*
  4. *They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlement, reflecting local demand.*

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

- 6.13 Both the policy and pre-amble specify the need for the site to be located within or adjacent to the main built up area. Where appropriate, settlement boundaries (or a reasonable alternative) for those settlements listed in Policy RA2 will be defined in either NDPs or the Rural Areas Sites Allocation DPD. The application site lies adjacent to the Town House and its curtilage buildings. The Vicarage is situated on the opposite side of the road to the Town House and is the most easterly lying dwelling in the village. Presently these buildings demark the eastern fringe of the village, albeit that the Town House is largely obscured from public view on the B4352 by existing vegetation. Accordingly it is considered that the application site is adjacent to the main built up area.
- 6.14 The dMNDP identifies a settlement boundary for Madley village and the application site lies outside, but abuts it (figure 1 below - the site is demarked by the red star on the extract of the dCNDP reg 16 settlement boundary plan). dMNDP policy MH3 states that proposal for housing within the settlement boundary will be supported and policy MH5 that in the countryside proposals should accord with CS policy RA3 and subject to two further criteria, specifically that they: 1) are sited and designed to protect local landscape character and the dark skies; and 2) are sited on poorer quality agricultural land in preference to land of higher quality.



Extract of Madley village policies map (Regulation 16 dMNDP)

★ = application site

- 6.15 In contextual terms the site is adjacent to the main built up area and therefore meets the qualifying requirement of the Development Plan – CS policy, RA2. At the present time, although the dMNDP defines a settlement boundary, it has not been ‘made’ and consequently it does not form part of the development plan. It can, however be given significant weight and the site’s location outside of the dMNDP settlement boundary represents an obvious policy conflict in respect of the principle of development. At this time the starting point is CS policy RA2 and the site’s location complies with the requirement to be either ‘in or adjacent’ to a main built up part of the settlement (as shown above at figure 1).

- 6.16 Turning to the detailed requirements of CS policy RA2, which should be read in conjunction with LD1 and SD1, it is considered that the design and layout of the scheme reflects its edge of settlement location and it has clearly been positively influenced by its context. Essentially, it has been divided into two distinct approaches, to ensure that it assimilates into its context. Firstly, the roadside dwellings (plots 1 and 2) would face the highways and are single plot deep, which harmonises with the typical wayside pattern of development along the main road at the edge of the village. Secondly, there is a courtyard layout of buildings proportioned and designed to broadly reflect the simple rectilinear form of agrarian buildings and harmonise with the converted buildings to the northwest and existing agricultural buildings to the northeast. It is considered that the layout, scale and appearance of the proposed dwellings would positively contribute to the setting of the village. The removal of the roadside vegetation would represent a marked change in appearance, but the Tree Officer has advised that none of the trees are of sufficient quality to justify their retention and that over time carefully considered hedgerow and tree planting would positively contribute to the appearance of the area. This would ensure that the scheme as a whole integrates appropriately with its surroundings and would also provide an opportunity for biodiversity enhancement, in accordance with CS policies LD1 and LD2.
- 6.17 It is accepted that the site does not make use of a brownfield site (CS policy RA2 ii), however, given that the allocated site in the dMNDP does not either, suggests that none are available or suitable for residential redevelopment.
- 6.18 In terms of housing mix, the proposal would result in 30% 2 bed units, 50% 3 bed units and 20% 4+ bed units, providing a mix of detached, semi-detached and terraced properties. This largely accords with the open market needs housing mix, set out in the GL Hearn Report (which formed part of the evidence based to the CS and is referred to in the pre-text to dMNDP policy MH4 – Type and size of housing), of 5% 1 bed units, 22.9% 2 bed units, 54.5% 3 bed units and 17.5% 4+ bed units. As the proposal is for 10 dwellings, it does not cross the threshold set out in CS policy H1 requiring affordable housing to be provided on site. The density is relatively low, at just over 18 dwellings per hectare, where the target net density is 30-50 across the county, and this could be considered to represent inefficient use of land resulting in a lack of requirement for affordable dwellings. However, CS policy SS2 advises that *'Residential density will be determined by local character and good quality design'* and recognises that the target net density may be less in sensitive areas. Taking into account the edge of settlement location and the site's relationship with the adjacent countryside and heritage assets, it is considered that the scheme has been appropriately informed by its location and constraints such that the density is acceptable.
- 6.19 Alongside the CS policy requirements (LD1 and SD1) to ensure that proposed developments are positively influenced by the character of the landscape/townscape and respect surrounding development policy SD1 states that developments should also incorporate physical sustainability measures. These can include the orientation of buildings, the provision of water conservation measures, storage for bicycles and waste including provision for recycling, and enabling renewable energy and energy conservation on infrastructure; and where possible, on-site renewable energy generation. It also states that schemes should ensure designs can be easily adapted and accommodate new technologies to meet changing needs throughout the lifetime of the development; and utilise sustainable construction methods which minimise the use of non-renewable resources and maximise the use of recycled and sustainably sourced materials. dMNDP policy ME2 requires developments to achieve a high quality of sustainable design, which at criterion 2) states that this includes *'incorporating sustainability measures to include building orientation and design, energy and water conservation, sustainable construction methods and materials, the generation of renewable energy, and provision for the recycling of waste, cycle storage, communications and broadband technologies. All new housing should achieve the highest standards of energy conservation, being ideally carbon neutral whilst as a minimum complying with Building Regulations'*. The NPPF confirms the meaning of the environmental objective of sustainable development, which is *'to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy'*.

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

- 6.20 Climate change compliance and Biodiversity and Ecology compliance checklists have been submitted. The first of these confirms that the scheme has considered and addressed building orientation (all dwellings have a partial southerly aspect), thermal massing, thermally efficient materials and energy efficient heating systems (to comply with Building Regulations). Solar, biomass, air source heat pumps and battery storage are listed as measures that might be included in the scheme at detailed design stage by the eventual developer. However, it is noted that none are explicitly included in the submitted plans and documents. Provision is made within the scheme for recycling/waste storage/composting, cycle storage and the checklist confirms that vehicle charging is achievable.
- 6.21 Overall the measures to address climate change are modest and suggest that the developer may incorporate additional provisions. Nevertheless, as they would meet Building Regulations, they comply with the minimum required by dMNDP policy ME2. It is considered key that the orientation of buildings has been positively influenced by the existing pattern of development, the site's edge of settlement location and the scheme's appropriate layout in recognition of these important considerations and that this limits opportunities for optimal solar gain. With regards charging of plug-in and other ultra-low emission vehicles this can be a conditional requirement if permission is granted. Similarly, water efficiency can be subject to a condition.
- 6.22 With regards the scheme's biodiversity and ecology compliance these matters are appraised later in this report.
- 6.23 In terms of the principle of development the scheme for 10 dwellings is considered to accord with CS policy RA2. Furthermore, turning to the layout, scale and appearance proposed it is reflective of its context, provides for an appropriate mix of house types thus positively contributing to the creation of balanced and inclusive communities, and addressed climate change policy requirements. It is therefore considered to accord with the related aspects of CS policies LD1, SD1 and H3. The conflict, in principle, with dMNDP policy MH3 is noted and this can be given significant weight.

**Effect on the safe operation of the highway network and accessibility to sustainable modes of transport.**

- 6.24 CS Policy MT1 requires that development proposals should incorporate a number of principle requirements covering movement and transportation. These include demonstration that the local highway network can absorb the traffic impacts of development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. The second criterion refers to the promotion of integrated transport connections, including access to services by means other than private motorised transport, whilst the third requires that active travel behaviour is encouraged. The policy rounds off as follows:-

*"Where traffic management measures are introduced they should be designed in a way which respect the character of the surrounding area including its landscape character..."*

- 6.25 The CS policy is consistent with the NPPF, which requires safe and suitable access for all users and the promotion of sustainable transport modes given the type of development and its location (paragraph 108), whilst recognising at paragraph 103 that '*opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.*' The NPPF clarifies 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.*'

- 6.26 The application has been accompanied by specific speed survey data and a Transport Statement. The proposed vehicular access, directly onto the B4352, would just be into the existing 60mph speed limit, with a 30mph limit to the east, which then reduces to a 20mph limit in the village core. The proposal includes the relocation of the 30mph limit, which would be subject to a Traffic Regulation Order, and associated resiting of the village gate features. It is noted that anecdotally some objectors consider that the proposed access would be unsafe due to speeding traffic. The Team Leader Area Engineer is satisfied that it has been demonstrated that the proposed vehicular access would have the requisite visibility splays in both directions for the speed limit and recorded speeds. The Waste Management Officer has also confirmed that the internal tracked movements demonstrate that waste/recycling collection vehicles could enter and leave the site in a forward gear. The proposal would therefore provide safe access for vehicular use in accordance with CS policy MT1 and the NPPF's requirements. A scheme for 10 dwellings would not represent a materially significant increase in traffic on the B4352, given its current use, and the Team Leader Area Engineer has not raised any concerns with regards the network's capacity. Therefore it would not result in a residual cumulative impact that could be quantified as severe.
- 6.27 In terms of pedestrian access and connectivity the scheme incorporates a footway on the northeast side of the B4352 from the site's proposed vehicular access to the village cross roads. This would facilitate walking from the proposed dwellings to the village's facilities. The bus stop, shop, fish bar and take-away, school, church and public house (The Red Lion Inn) are all within 285 metres of the site's entrance. The clear ability for future residents to make active travel choices accords with the CS, dMNDP and NPPF. The proposed footway can be achieved within highway land and controlled by condition and as part of any section 278 works, ensuring completion prior to first occupation of the dwellings. The proposed footway would also have a limited benefit to existing residents, because it would provide safer pedestrian access to the Public Right of Way to the southeast of the site, enabling improved connectivity to the Public Right of Way network to the north of the village for recreational walks. This addresses one of the five essential qualities of place identified in the dMNDP (paragraph 5.11), for pedestrian routes to provide opportunities for social interaction, exercise and engagement with nature.
- 6.28 The scheme also includes widening of the existing narrow footway adjacent to 2, The Cross, on the southern corner of the crossroads. This would be a benefit to existing and future residents of the village, because it would make this junction safer to cross.
- 6.29 The proposal includes policy compliant off road parking and secure and covered storage for cycles, through either suitably sized garages or dedicated cycle stores for those units without garaging. As confirmed in the climate change compliance checklist electric vehicle charging points can be provided. This can be conditioned if planning permission is granted, to accord with CS policy SD1 and paragraph 110e) of the NPPF.
- 6.30 To conclude on this issue, it is considered that the proposal would be served by a safe access for all, would not have a harmful impact on the network's capacity and provides good connectivity to the village amenities. It therefore accords with CS, dMNDP and NPPF requirements.

### **The impact on heritage assets**

- 6.31 It is a statutory duty under section 66 the Planning (Listed Buildings and Conservation Areas) Act 1990, for the decision maker to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In practice this means that when undertaking a planning balance the weight afforded to preserving the building, its setting or features of special architectural or historic interest is greater than that given to the other considerations, because they do not have a similar statutory duty requiring special attention to be given to them. In addition CS policy LD4 requires developments to protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance. When assessing the impact of a development on the significance of a designated heritage asset the NPPF (paragraph 193) confirms that great weight should be given



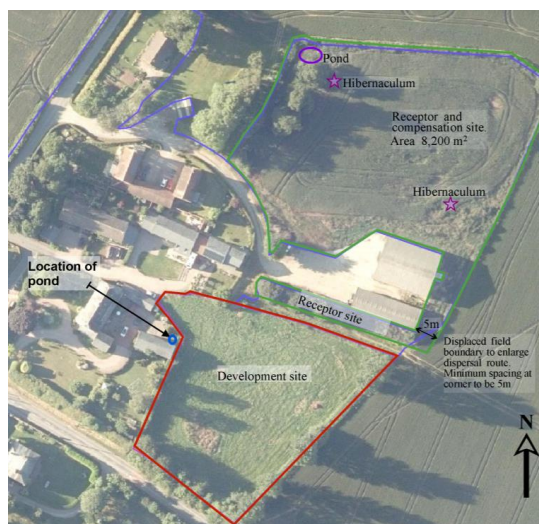
to the asset's conservation, irrespective of the degree of harm identified. If harm is identified depending on its severity, either substantial/total loss of significance or less than substantial, paragraphs 195 and 196 set out the criteria for assessment.

- 6.32 Immediately to the west of the site, lies a designated heritage asset, namely Town House and its attached outbuilding, which are collectively Grade II listed. To the north of Town House there are residential barn conversions and a new build. Of these the western building is Grade II listed and the range to the east can in part (the conversion element, not the new build) be considered to be curtilage listed, having previously fallen within the curtilage of Town House prior to conversion and separate ownership. On the opposite side of the B4352 there is the Grade II listed Vicarage, with the Grade I listed church beyond to the southwest. These provide the above ground heritage context of the site.
- 6.33 A Heritage Statement has been submitted with the application, and has since been updated. There is some discrepancy with regards the numbering/names of the converted barns, however the buildings are identified.
- 6.34 The proposed development would be viewed in the context of the listed buildings set out in paragraph 6.32 and as a result would have a degree of impact on their setting. In assessing the impact it is necessary to appraise the relationship between the site and the heritage asset(s) and not just the distance between them. That said in order for harm to setting to be evidenced, it is necessary for more than the development to simply be visible from the asset. The Glossary (Annex 2) of the NPPF confirms that the setting comprises '*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*'
- 6.35 Strong objections have been received from local residents, stating that the proposal would have a harmful impact on the setting of the specified nearby listed buildings. The reasons given are that by virtue of the siting and modern design of the proposed development it would erode their edge of settlement location and diminish their status of key historic buildings in the village. A supporter of the application has noted the limited views of these assets from the eastern approach into the village.
- 6.36 The Principal Building Conservation Officer has assessed the proposal and concludes that by virtue of the nature and siting of heritage assets and the detail of the proposal the setting of Town House would not be adversely affected by the proposals. The nearby listed barn conversion, vicarage and church are listed in the consultation response, however no concerns are raised with regards the impact on their setting. In policy terminology this means that their setting would be conserved and therefore complies with both the statutory duty and CS policy LD4. In the absence of harm there is no need to weigh this consideration in the planning balance.
- 6.37 Turning to below ground heritage assets, the Archaeologist has noted the site's close proximity to the core medieval form of the village, and thus having a degree of sensitivity. It is advised that although some below ground remains of moderate local interest could be present, which would require recording as mitigation, in line with paragraph 199 of the NPPF, a suitably worded archaeological condition would be appropriate to secure this.
- 6.38 To conclude, no harm to designated heritage assets has been identified and the scheme is considered to accord with CS policy LD4 and the NPPF.



## Ecology/protected species/HRA AA

- 6.39 CS policies SS6 and LD2 state that development proposals should conserve, restore and enhance those environmental assets that contribute towards the county's distinctiveness, including biodiversity. Of particular relevance to this application LD2 states that development that is likely to harm sites and species of European Importance will not be permitted. Similarly the NPPF states that decisions should contribute to and enhance the natural and local environment by, amongst other things minimising impacts and achieving net biodiversity gain. It further states that when determining planning applications, local planning authorities should apply certain, specified principles, which include that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Policy M1 of the dMNDP states that development proposals which contribute to the sustainable development of the Madley Neighbourhood Area will be supported and lists 5 objectives, that are to be sought and balanced, to making this assessment. In considering the ecology impacts of the proposal the second criteria is most relevant. This states *'taking all opportunities to conserve and enhance the distinctive natural and historic environment, with development avoiding undue loss of visual amenity or impacts on landscape character and biodiversity'*. dMNDP policy ME1 states that developments should protect, conserve and where possible enhance the natural environment in accordance with CS policies SD3, SD4, LD1, LD2 and LD3, by, amongst other criteria, avoiding likely harm to the River Wye Special Area of Conservation and to species of European importance, promoting the conservation, restoration and enhancement of other sites and features of landscape value and biodiversity interest in accordance with their status and maintaining, restoring and where possible enhancing the contribution of habitats to the coherence and connectivity of the Herefordshire Ecological Network. It is also included in dMNDP policy ME2 – Building Design, that developments should retain and incorporate features of biodiversity value.
- 6.40 The application site is a greenfield site. Some objectors raise concerns about the loss of agricultural land, hedgerows and suitable habitats for protected species and wildlife in general. More specifically some objections have been made about the adverse impact on Great Crested Newts (GCN) that use a garden pond, immediately to the west of the site, for breeding. The application was submitted with an Ecological Appraisal, consisting of an extended Phase 1 habitat survey, desk study and field survey. Following specific objections about the impact of the site's development on GCNs further surveys have been carried out. Subsequently a GCN Method Statement, GCN Survey and Report and Mitigation Proposal have been provided. GCN are a European protected species (EPS).
- 6.41 The proposal would retain the existing hedgerows and trees to the eastern boundary, with new replacement hedgerow and tree planting along the southern (roadside) boundary. The Tree Officer has advised on the low quality of these trees and the Ecologist does not object to their removal and replacement. The recommendations of the Ecological Appraisal include provision for bat and bird boxes and it is further noted that supplementary planting will take place and care given to boundary treatments to facilitate the movement of small mammals.
- 6.42 Following the identification, through surveys, of a medium sized population of GCN's breeding at the neighbouring site mitigation measures have been proposed. An 8,200m<sup>2</sup> receptor and compensation site is proposed to the north of the proposed site for 10 dwellings, beyond existing farm buildings and an associated yard, which would include two hibernaculum and a pond. To the southeast of the agricultural buildings the plan is annotated to show a displaced field boundary, marked by new fencing to protect it from cultivation, to provide a 5 metre enlarged dispersal route for the GCN.



Extract of Figure 1:  
Proposed receptor and  
compensation site  
(Augmented Mitigation  
Proposal – 27.11.2020)

- 6.43 Natural England provides ‘standing advice’ on GCN, to avoid consultations with them. It confirms that where proposals are likely to affect a protected species planning permission can be granted. This is subject to appropriate surveys and level of information being provided, avoidance and mitigation and compensation measures being acceptable and being incorporated into the scheme and secured. It advises that if these are achieved it is likely that Natural England would grant a protected species licence (if needed) and all wider planning considerations would be met.
- 6.44 Protected species licensing requirements are in addition (if needed) to the requirements for planning permission. They are subject to separate processes and specific policy and legal tests and a distinct consent regime from planning. The standing advice confirms that before granting planning permission the decision-taker must be satisfied that if a licence is needed it is likely to be granted by Natural England or Defra. The three tests that Natural England must apply are set out in the Habitats and Species Regulations 2010. The standing advice summarises these as:
- the activity is for a certain purpose, for example it’s in the public interest to build a new residential development
  - there’s no satisfactory alternative that will cause less harm to the species
  - the development does not harm the long term conservation status of the species
- 6.45 The applicant’s agent has advanced their view that the first test is met due to the current housing land supply deficit in the County and that Natural England’s Guidance Note acknowledges that this can constitute an imperative reason of overriding public interest. In the same vein the applicant asserts that although the dMNDP allocated housing site could be considered to provide a ‘satisfactory alternative’ given the lack of a planning application for that site and moreover that the CS growth targets are a minimum and the Council has an ever increasing housing deficit that this test could be passed. Finally the applicant, through the Augmented Mitigation Proposals, are confident that the proposed development would not result in any harm to the long term conservation status of the GCN.
- 6.46 Having reviewed the applicant’s responses to the first two tests, and Natural England’s Guidance Note, it is considered that these could reasonably be accepted by Natural England as satisfying the licence tests. With regards the third test the Ecologist has advised that subject to appropriate conditions to secure the receptor site with its proposed compensation and its long term future maintenance the third test would be satisfied, and planning policy requirements met. This is because the receptor site includes wide boundary field margins with trees and long grass and proposed habitat enhancements (a receptor pond and no. 2 amphibian hibernacula), that, subject to maintaining habitat connectivity with the known breeding site, is acceptable for the terrestrial habitat loss that would result from the development of the application site. As the Ecologist has no objections, subject to conditions, it is therefore considered that in respect of both GCN

mitigation and compensation, and biodiversity enhancement, the proposal accords with planning policy requirements. The Ecologist's recommended conditions have been modified to ensure they meet the six tests.

- 6.47 At this stage the Local Planning Authority only needs to consider if it is likely that Natural England will grant the licence. On the basis of the information provided and having due regard to Natural England's Guidance Note and Protected species decision checklist, Officers are satisfied that there is a reasonable likelihood that they will grant the licence. Nevertheless, it will be Natural England's decision whether to issue a licence or not.
- 6.48 The site lies in the SSSI impact zone. CS policy LD3 states that *'Development that would be liable to harm Sites of Special Scientific Interest or nationally protected species will only be permitted if the conservation status of their habitat or important physical features can be protected by conditions or other material considerations are sufficient to outweigh nature conservation considerations'*. Furthermore, policies SD3 and SD4 state that development proposals should not lead to deterioration of EU Water Framework Directive water body status, or adversely affect water quality, either directly through unacceptable pollution of surface water or groundwater, or indirectly through overloading of Wastewater Treatment Works and should fully mitigate their adverse effects of wastewater discharges into rivers. More specifically SD4 confirms that:
- *in the case of development which might lead to nutrient levels exceeding the limits for the target conservation objectives within a SAC river, planning permission will only be granted where it can be demonstrated that there will be no adverse effect on the integrity of the SAC in view of the site's conservation objectives; and*
  - *where the nutrient levels set for conservation objectives are already exceeded, new development should not compromise the ability to reduce levels to those which are defined as favourable for the site.*
- 6.49 dMNDP policy ME14 stipulates that development proposals should protect, conserve and where possible enhance the natural environment of Madley Neighbourhood Area in accordance with the principles in CS (SD3, SD4, LD1, LD2 and LD3) by: 1). *avoiding likely harm to the River Wye Special Area of Conservation and to species of European importance; and, 2). avoiding likely harm to the River Wye and Cage Brook Valley Sites of Special Scientific Interest, unless the benefits of the proposed development clearly outweigh the likely impacts on the conservation status of the Site concerned and on the national network of protected Sites.* The NPPF, at para 175b) states that *'development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest'*. Para 177 confirms that *'The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.'*
- 6.50 The initial Habitat Regulations Screening Assessment identified surface water and foul water as 'likely significant adverse effects'. The application confirms that surface water will outfall to SuDs and foul water will discharge to the mains sewer. The Council's Land Drainage Engineer has no objection to this strategy, subject to conditions in respect of technical drainage details. The HRA AA concludes that provided these drainage arrangements are conditioned, so that development must accord with its requirements, there would be no adverse effects on the integrity of the Special Area of Conservation. Natural England have confirmed that they concur that the proposed development would not have significant adverse impacts on designated sites and has no objection

to it. The development therefore accords with CS, dMNDP and NPPF requirements, together with legislative requirements.

### **Drainage**

- 6.51 The site is located in Flood Zone 1; the lowest risk of flooding. CS policy SD3 and the NPPF sequentially steer new development to sites in FZ1. As the site does not exceed 1 hectare there is not requirement for a Flood Risk Assessment. At present, as an agricultural field, the land drains naturally.
- 6.52 CS policy SD4 sets out a sequential preference for foul drainage, with a mains connection being the first option followed by a PTP to soakaways. The scheme proposes a mains connection and Welsh Water do not object. Surface water disposal would be to soakaways, which in principle accords with the preference for SuDS. Following infiltration testing the Land Drainage Engineer has confirmed that suitable information has been submitted to demonstrate that a feasible surface water drainage design for the site is achievable. Matters of technical detail can be controlled by condition, together with a compliance condition to prevent surface water and/or land drainage connecting with the public sewerage network as required by Welsh Water.

### **Living conditions**

- 6.53 CS policy SD1 requires development to safeguard residential amenity for existing and proposed residents. dMNDP policy ME2 states that developments should avoid creating unacceptable impacts on residential amenity and new housing schemes should be sited and designed to avoid adverse impacts on the amenity of the future occupants from the operation of existing uses (such as agricultural and business operations). The NPPF requires development to provide safe and healthy living conditions (paragraph 117) and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users (paragraph 127f).
- 6.54 By virtue of the distance separation between the proposed dwellings and the existing neighbouring properties there would be no unacceptable direct overlooking as a result of the proposal. It is appreciated that the outlook from neighbouring properties would change from undeveloped land to dwellings and their associated gardens and parking areas, however the existing and proposed landscaping would facilitate a suitable degree of privacy for existing and future occupiers. The siting of modern agricultural buildings to the north of the site is noted, however these are not used for livestock and are separated by an intervening track and vegetation. It is considered that the scheme accords with policy requirements with regards protecting and providing acceptable residential amenity.

### **S106 and Affordable Housing**

- 6.55 Policy H1 of the CS sets the threshold for the delivery of affordable housing at sites of more than 10 dwellings. The proposal is for 10. As such, it does not breach this threshold and there is no policy requirement for affordable housing provision. With regards financial contributions, the Housing Delivery Test Action Plan 2019' (HDTAP) is a material planning consideration. It sets out key actions to improve housing delivery, one of which is not to seek tariff based contributions on developments of 10 dwellings or less. It is recognised that this matter will be reconsidered as part of the CS review, but it clarifies that at the present time they are not required for this scheme.

### **Conclusion and planning balance**

- 6.56 In accordance with the statutory requirement determination must be made in accordance with the Development Plan, unless material considerations indicate otherwise. The NPPF affirms at paragraph 12 that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

- 6.57 NPPF paragraph 38 confirms that *'Decision-makers at every level should seek to approve applications for sustainable development where possible.'*
- 6.58 Presently, the Development Plan comprises the CS. As set out in the foregoing appraisal the development proposed accords with the CS. This is because the site lies adjacent to the main built up part of the settlement and the proposal accords with the remainder of CS policy RA2 requirements, would provide safe access as required by MT1 and would not have a harmful impact on the setting of heritage assets, landscape and ecology. Acceptable foul and surface water drainage has been demonstrated to be achievable, as has good connectivity to the village's amenities. On the basis of the Development Plan alone, planning permission should be granted.
- 6.59 Next it is necessary to turn to the material considerations, to ascertain if these indicate if a decision should be made other than in accordance with the Development Plan (as set out in Section 38 (6) of the Planning and Compulsory Purchase Act 2004 – see paragraph 6.1). The dMNDP is an important material consideration as set out earlier in this report. At this juncture it can be afforded significant weight. In the absence of a pandemic it is likely that it would have proceeded to referendum, however that final stage is now stalled until restrictions are lifted, so the outcome is not known.
- 6.60 As identified earlier there is fundamental conflict with dMNDP policy MH3, because the site lies outside of the defined settlement boundary and it would not accord with dMNDP policy MH5 or CS policy RA3, which provide specific exceptions for allowing development in the countryside. The dMNDP Examiner's Report reviews policy MH3 and the settlement boundary for Madley provided in the plan and considers it to be drawn logically and in line with HC's Guidance Note 20 "Guide to settlement boundaries". In addition, the Examiner has carefully considered those sites subject of representations (which includes the application site) and whether they should be included or not within the settlement boundary and has made no recommendation that the settlement boundary should be extended. Whilst the Examiner recognised that the NPPG indicates that the allocation of 'reserve sites', to help address emerging evidence of housing need, can minimise potential conflicts and help to ensure policies in neighbourhood plans are not overridden by new local plans, she concluded that there was no obligation for neighbourhood plans to do so and accordingly did not make such a recommendation in respect of the dMNDP. The minimum proportionate growth target (18%) is for 89 new dwellings. The housing growth to be provided through the dMNDP was noted to equate to 94 dwellings in the 20 year plan period, achieved through existing completions, site allocation and reasonable windfall allowance. The Examiner's view was that this would constitute *'slightly more than the minimum proportional growth target'*.
- 6.61 When affording weight to the conflict of the development with the dMNDP Officers are conscious of the provisions of paragraph 14 of the NPPF. This states that *'In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:*
- a) *the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;*
  - b) *the neighbourhood plan contains policies and allocations to meet its identified housing requirement;*
  - c) *the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and*
  - d) *the local planning authority's housing delivery was at least 45% of that required over the previous three years.'*

- 6.62 The NPPF, at paragraph 30, confirms that it is only once a neighbourhood plan has been brought into force, that the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict (unless they are superseded by strategic or non-strategic policies that are adopted subsequently). In this case the neighbourhood plan has not yet been brought into force. This will only occur when there has been a successful referendum and the plan is 'made'. Furthermore, Annex 2: Glossary of the NPPF also clarifies this point, in providing the definition of a Development Plan. Here it states that Neighbourhood Plans can comprise part of the Development Plan where they '*...have been approved at referendum*'... '*unless the local planning authority decides that the neighbourhood plan should not be made.*'
- 6.63 In light of the above it is clear that paragraph 14 of the NPPF does not apply to the consideration of this application at this juncture, as criterion a) is not satisfied. As a result, conflict with the dMNDP cannot be taken to be '*likely to significantly and demonstrably outweigh the benefits*' of the scheme, however it remains an important material consideration that can be given significant weight in decision taking.
- 6.64 It is expected that there will be some disappointment locally that the conflict with the dMNDP still cannot be given full weight, as it is the platform for them to shape their surroundings. That said, the criteria of paragraph 48 and not paragraph 14 of the NPPF must be applied. The dMNDP provides for slightly more than the minimum growth target required (18% = 89 dwellings), equating to 94 dwellings (5 dwellings extra) and this would result in 19% growth. If permission were granted for the 10 dwellings proposed this would either result in 104 new dwellings (21% growth), or the 10 dwellings could be considered to be part of the windfall allowance (as the Parish Council have suggested in the dMNDP response to objections), that the dMNDP sets at 16 dwellings, thereby within the dMNDP planned growth. It is acknowledged that the level of housing provided for within the dMNDP modestly exceeds the growth target for the area, however it is important to note that both the CS and the dMNDP refer to minimum growth targets rather than setting an upper limit.
- 6.65 The Parish Council has conditionally supported the application and advised in response to the objection to the dMNDP that if the application is granted the number of units would contribute to the NDP's windfall allowance. Local representations of both objections and support have been received to this application, with the majority being against.
- 6.66 The other key material consideration is the NPPF. As the application is for the supply of housing, specifically ten dwellings, the current implications of the Local Planning Authority not being able to demonstrate a 5 year housing land supply, plus requisite buffer, as set out in the NPPF (footnote 7), must be considered. The current published position is a 3.69 year supply.

Paragraph 11 of the NPPF states that '*Plans and decisions should apply a presumption in favour of sustainable development*' and '*For decision-taking this means:*'

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
  - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
  - ii *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*



- 6.67 As set out above the proposed development is considered to accord with the CS, which is the Development Plan in this case and at this time. The CS review was required to be completed before 15 October 2020. The decision to review the CS was made by Council on 9 November 2020. On this basis the CS is not demonstrated to be 'up to date'. Nevertheless, the policies within it promote sustainable housing growth and the application proposal would help to achieve that, such that they remain consistent with the NPPF and can be afforded significant weight.
- 6.68 This is an application for housing, so the policies most important for determination of the application relate to housing. As per paragraph 11d, footnote 7, of the NPPF they must be considered as out of date by reason of the current housing land supply deficit. This does not mean that they attract no weight, but rather reduced weight that is determined by the decision maker. There is a requirement, over the plan period (2011-2031) to provide a minimum of 89 new dwellings (18% of 492). The dMNDP seeks to accommodate 94 dwellings, which equates to 19% growth.
- 6.69 Across the entire Hereford HMA there is a residual figure of 60 dwellings left from the minimum target of 1,870 dwellings for a plan period ending in 2031. These figures demonstrate that outside of Hereford and the market towns the CS housing policies are achieving housing growth in excess of the minimum target in the first ten year period of the plan period. This accords with the NPPF commitment to significantly boost the supply of housing.
- 6.70 Firstly, paragraph 11di states that permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusal. Footnote 6 provides clarity on what those protected areas or assets can be. None of these apply to the application site, as no harm has been found to either heritage assets or protected species, subject to conditions.
- 6.71 Secondly, as 11di does not apply, there is no NPPF direction to refuse planning permission, so it is necessary to apply the commonly referred to 'tilted' planning balance set out in paragraph 11d)ii. The tilted planning balance, is commonly assessed under the three overarching objectives of the planning system, namely the economic, social and environmental objectives. The proposal would positively contribute to the supply of housing at a time when at the county level the supply is not meeting targets and this would bring forward economic and social benefits. At paragraph 68 of the NPPF it is recognised that small and medium sized sites (no larger than one hectare) can make '*an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.*' There would be economic benefits during the construction phase to suppliers and trades and after occupation through increased expenditure of disposable incomes. The payment of the New Homes Bonus is also another benefit to take into account. There may be some social benefits as a result from increased residents in the village and support for local facilities (shop, two public houses, fish and chip shop/takeaway, primary school, church, The Stables Café - community meeting place in church grounds, village hall etc.). The future residents of the proposed dwellings would have good access to these facilities, with the scheme including a new footway to the village crossroads and improvements for pedestrian crossing. These benefits of the scheme for 10 dwellings should be given moderate weight.
- 6.72 In terms of identified harm, there would be degree of localised visual harm resulting from the creation of the access and construction of the dwellings. The removal of the roadside vegetation would have an initial discernible visual impact, however as advised by the Council's Tree Officer none of the trees are worthy of retention and in time the new planting will provide an improvement. As a result the harm is not permanent, will reduce over time to a point where the planting would be of enhanced visual appearance.
- 6.73 The principle of the proposed development accords with the CS (the Development Plan), but it is in conflict with an emerging plan (dMNDP) that can be afforded significant weight. At the County level there is a housing land supply deficit (3.69 years), but at the HMA level there has been a

significant boost to housing supply in just under the first half of the plan period. At the village level completions/commitments comprise 56 dwellings, the allocated site 'around' 22 dwellings and finally the windfall figure is set at 16 dwellings. The dMNDP policy MH1 notes that windfalls will be provided both within the settlement and outside where they comply with CS policy RA3. The site would not meet either of these windfall options, but the Parish Council have previously commented that if permission is granted for 10 dwellings on the application site it would count towards this windfall allowance. Nevertheless, even if taken as additional growth to the dMNDP allocations and windfall allowance it is considered that the number of dwellings proposed (resulting in 21% growth compared to 18%) would not be a substantial increase to the minimum growth target.

- 6.74 Given the scale of the proposal it would not undermine the plan-making process. While the conflict with policy MH3 of the dMNDP attracts significant weight, this does not outweigh the scheme's compliance with the adopted development plan policy.
- 6.75 Overall, in light of these specific considerations, it is opined that this level of conflict with dMNDP, even given the emerging plan's significant weight in decision taking, is of itself insufficient to constitute an adverse impact that would significantly and demonstrably outweigh the benefits of granting permission in this case. The other adverse impact, of initial localised landscape impact, is only of moderate weight. Taking into account the supremacy of the CS (Development Plan) and the application's compliance with it, the number of dwellings proposed and its good connectivity to the village and highway works to improve the footways at the crossroads, compared to the disbenefits of not according with the emerging plan in principle, and the other identified, modest adverse impact it is considered that even when considered in combination they would not both significantly and demonstrably outweigh the benefits of granting permission. On this basis the NPPF presumption to grant permission for sustainable development is engaged and it is recommended that planning permission should be granted.

## **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. Time limit for commencement (full permission)**
- 2. C06 - Development in accordance with the approved plans:**

**6919-1-01F – Amended Location and Block Plans**  
**6919-1-11D – Amended Proposed Site Layout**  
**6919-1-13C – Amended Site Layout in Village Context**  
**6919-1-17 – Plot 1 – Plans and Elevations**  
**6919-1-25 – Plot 1 – Single Garage - Plans and Elevations**  
**6919-1-15 – Plot 2 – Plans and Elevations**  
**6919-1-14 - Plot 2 Double Garage - Plans and Elevations**  
**6919-1-18 – Plot 3 – Plans and Elevations**  
**6919-1-21 – Plot 4 – Plans and Elevations**  
**6919-1-20 – Plot 5 – Plans and Elevations**  
**6919-1-24 – Plot 6 – Plans and Elevations**  
**6919-1-19 – Plot 7 – Plans and Elevations**  
**6919-1-16 – Plot 8 – Plans and Elevations**  
**6919-1-22 – Plot 9 – Plans and Elevations**  
**6919-1-23 – Plot 10 – Plans and Elevations**  
**6919-1-26 – Cycle Store – Plans and Elevations**

**21259-01 Rev D – Proposed Footway and Highway Improvements**

### **Pre-commencements**

3. **Before any work, or site clearance begins a Great Crested Newt Mitigation Strategy (GCNMS) and Long-Term Management Plan, shall be supplied to the local planning authority for written approval, together with details of legal arrangements for long-term management. The approved GCNMS shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.**

**Reason: To ensure that all species are protected and habitats enhanced in accordance with policies LD1-3 of the Herefordshire Local Plan – Core Strategy and the requirements of the National Planning Policy Framework, and having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017) and NERC Act (2006).**

4. **Hedgerow protection during construction**

**Before any work commences and, equipment or materials moved on to site, appropriate hedgerow protection areas, (based on guidance in BS5837:2012) shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.**

**Reason: To ensure that all species are protected and habitats enhanced in accordance with Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework, and having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and NERC 2006.**

5. **Prior to commencement of any site clearance, preparation or development a fully detailed and specified Ecological Working Method Statement (EWMS) including details of appointed Ecological Clerk of Works shall be provided to the planning authority. The EWMS should consider all relevant species but in particular consideration for Great crested newts. The approved EWMS shall be implemented in full unless otherwise agreed in writing by the planning authority.**

**Reason: To ensure that all species and habitats are protected and conserved in accordance with Herefordshire Core Strategy (2015) policies SS6 and LD1-3 and the requirements of the National Planning Policy Framework and having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), (2018), NERC Act (2006), and Dark Skies initiative (DEFRA-NPPF 2013/18).**

6. **Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 90 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.**

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

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

- A method for ensuring mud is not deposited onto the Public Highway
- Construction traffic access location
- Parking for site operatives
- Construction Traffic Management Plan

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 and the National Planning Policy Framework.

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

- Surface finishes
- Drainage details
- Future maintenance arrangements

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

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

9. The construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.

Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

10. Other than site clearance no further development shall commence until a detailed plan, showing the levels of the existing site, the proposed slab levels of the approved dwellings and garages and a datum point outside of the site, shall be submitted to and be approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the absence of sufficient detailed information, the clarification of slab levels is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to define the permission and ensure that the development is of a scale and height appropriate to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

11. C13 – Samples of External Materials

12. The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority, and shall allow him/her to observe the excavations and record items of interest and finds. A minimum of 5 days' written notice of the commencement date of any works shall be given in writing to the County Archaeology Service.

Reason: To allow the potential archaeological interest of the site to be investigated and recorded and to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

13. Before any works in relation to the materials specified below begins, details of the following construction materials and design shall be submitted to and approved in writing by the Local Planning Authority:

- a) Rooflights (dimensions, materials and cross section of roof slope)
- b) Treatment of gables and cappings;
- c) Treatment of verges and barge boards
- d) Rainwater goods

And as shown on drawings to a scale of 1:20 or 1:10 where necessary.

The works shall be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policies LD1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

14. No works in relation to any of the features specified below shall commence until a sample panel of all new facing brickwork is provided on site at a minimum size of 1m x 1m and showing the proposed –

Brick types, sizes, colour, texture face-bond; brick bond and type; pointing mortar mix, joint thickness and finish profile.

Confirmation of the materials and methods shall be approved in writing with the Local Planning Authority and carried out accordingly. The approved sample panels shall be retained on site until the work is completed.

Reason: To ensure that the masonry and detailing harmonise with the surroundings so as to ensure that the development complies with the requirements of Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

15. No joinery works shall commence until details of all external windows and doors and any other external joinery have been submitted to and approved in writing by the Local Planning Authority. These shall include:

Full size or 1:2 details and sections, and 1:20 elevations of each joinery item cross referenced to the details and indexed on elevations on the approved drawings.

Method & type of glazing.

Windows and doors material(s)

Colour Scheme/Surface Finish

The development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the fenestration harmonises with the surroundings and the design concept of the approved scheme, so as to ensure that the development complies with the requirements of Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 16. CK3 - Landscape Scheme
- 17. CK4 – Landscape Implementation
- 18. CK5 – Landscape Maintenance Plan

**Prior to occupation**

- 19. Prior to the first occupation of the development hereby permitted full details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The details shall include:
  - a) Detailed plans and section drawings of the proposed surface water infiltration features including basins, swales, pipework connections etc.
  - b) BRE365 testing is undertaken at the location and depth of all infiltration features.
  - c) Calculations for the final design to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event and will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event. FEH2013 rainfall data is expected.
  - d) Calculations for the final design that demonstrates the drainage system will provide sufficient attenuation for up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH2013 rainfall data is expected.
  - e) Details of exceedance flow routes and storage areas within the proposed site.
  - f) Proposals for adoption and maintenance access for all SuDS features with particular regard to the proposed infiltration basin.
  - g) A detailed foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features and connection to the Welsh Water network, if applicable.
  - h) If a connection to a public foul sewer is not considered feasible, the applicant will be required to complete a Foul Drainage Assessment (FDA) Form and submit this as part of any forthcoming planning application. The FDA Form can be found on the GOV.UK website at this link:  
<https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>.
  - i) If infiltration to ground is proposed for the foul drainage, infiltration rates at the location(s) and proposed depth(s) of any proposed drainage fields, undertaken in accordance with BS6297 and Building Regulations Part H.
  - j) Detailed plans and section drawings of any proposed foul water drainage field, along with maintenance access for all foul drainage features.
  - k) Details of adoption and maintenance arrangements for all parts of the foul drainage system.
  - l) Operational and maintenance manual for all proposed foul drainage features that are to be adopted and maintained by a third party management company.

**The approved scheme shall be implemented before the first occupation of any of the dwellings hereby permitted.**

**Reason:** In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.



20. **Boundary treatment details shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. Where necessary (to accord with the approved GCNMS) they should comprise native hedgerow planting, in order to maintain terrestrial habitat connectivity for great crested newts. If any additional fence panels are used, there must be a gap below fence panels through which a newt could potentially pass. The boundary treatment shall be completed prior to occupation (or otherwise in accordance with a timetable that has first been submitted to and agreed in writing with the local planning authority).**

**Reason:** In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and that all species are protected and habitats enhanced, so as to accord with Herefordshire Local Plan - Core Strategy policies LD1-3 and SD1 and the National Planning Policy Framework, and having regard to the requirements of the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017) and NERC Act (2006).

21. **Development shall not begin in relation to any of the specified highways works until details of the following works have been submitted to and approved by the local planning authority in writing following the completion of the technical approval process by the local highway authority.**

1. **Provisions of footway and crossing points as shown on drawing 21259-01 Rev D – Proposed Footway and Highway Improvements**
2. **Extension of existing speed limit and relocation of gateway features.**

**The development shall not be occupied until the scheme has been constructed in accordance with the approved details.**

**Reason:** To ensure the safe and free flow of traffic on the highway and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy Plan and the National Planning Policy Framework.

22. **Prior to the first occupation of the dwelling to which it relates covered and secure cycle parking facilities shall be provided in accordance with drawings 6919-1-26 and 6919-1-11D, or an alternative scheme the details of which shall have first been submitted to and approved in writing by Local Planning Authority. Thereafter these facilities shall be maintained.**

**Reason:** To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform with the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

23. **Prior to the first occupation of the dwelling to which it relates a scheme to enable the charging of plug in and other ultra-low emission vehicles (e.g. provision of electric sockets) to serve the occupants shall be submitted to and approved in writing by the local planning authority. The approved details shall be provided prior to the first occupation of the dwelling to which it relates.**

**Reason:** To address the requirements in relation to climate change as set out in policies SS7 and SD1 of the Herefordshire Local Plan - Core Strategy and the guidance contained within the National Planning Policy Framework.

24. **CE6 – Water Efficiency**

## **Compliance**

25. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

**Reason:** To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, so as to comply with Policy SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

26. All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through a SuDs system within the development boundary; unless otherwise agreed in writing by the Local Planning Authority.

**In order to comply with Policy SD4 of the Herefordshire Local Plan – Core Strategy and the requirements of the National Planning Policy Framework, Conservation of Habitats and Species Regulations and NERC Act (2006).**

27. **Condition Eco 09 – Protected Species, Dark Skies and Intrinsically dark landscapes (external lighting)**
- I. At no time shall any external lighting (except in relation to safe use of the property; and consisting of low lumens, warm LED ‘down’ lighting units on time limited PIR sensors) be installed or operated on the site without the written approval of this local planning authority.
  - II. No external lighting should illuminate any boundary feature, adjacent habitat or area around the biodiversity enhancement features.

**Reason:** To ensure that all species and Dark Skies are protected in accordance with Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the requirements of National Planning Policy Framework and having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), (2019), NERC Act (2006), and the Dark Skies initiative (DEFRA-NPPF 2013/19).

## **INFORMATIVES:**

- 1. IP2 – Application Approved Following Revisions
- 2. I11 – Mud on highway
- 3. I09 – Private apparatus within the highway
- 4. I45 – Works within the highway
- 5. I08 – Section 278 Agreement
- 6. I07 – Section 38 Agreement & Drainage details
- 7. I05 – No drainage to discharge to highway
- 8. I49 – Design of street lighting for Section 278
- 9. I47 – Drainage other than via highway system
- 10. I35 – Highways Design Guide and Specification

11. If you have any queries regarding the archaeological interest of the site or the requirements of the conditions relating to archaeological work, please contact HARC, Fir Tree Lane, Rotherwas, Hereford HR2 6LA (Tel: 01432 260470).

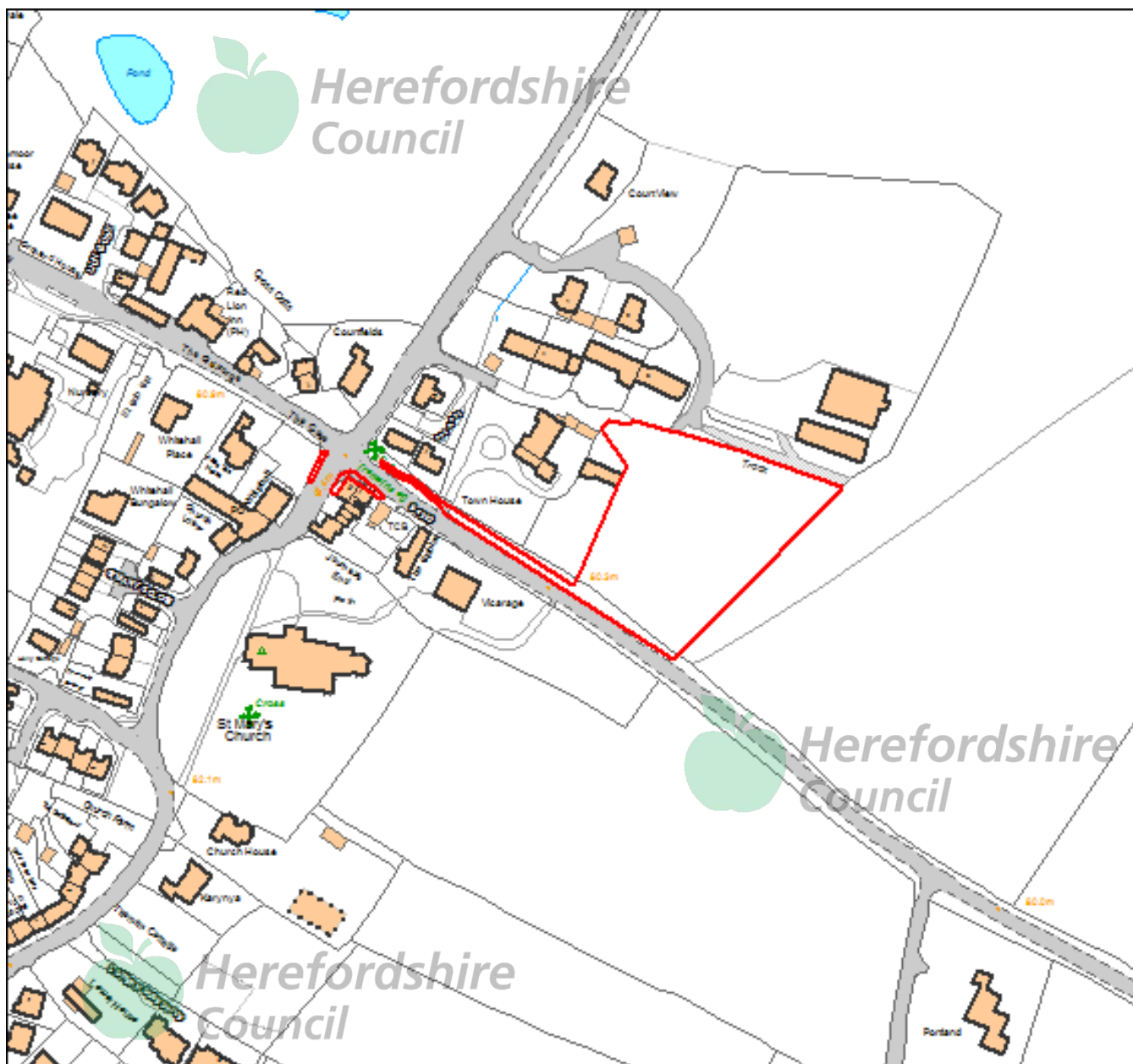
Decision: .....

Notes: .....

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### **Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 192672

**SITE ADDRESS :** LAND ADJACENT TOWN HOUSE B4532, MADLEY, HEREFORDSHIRE

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