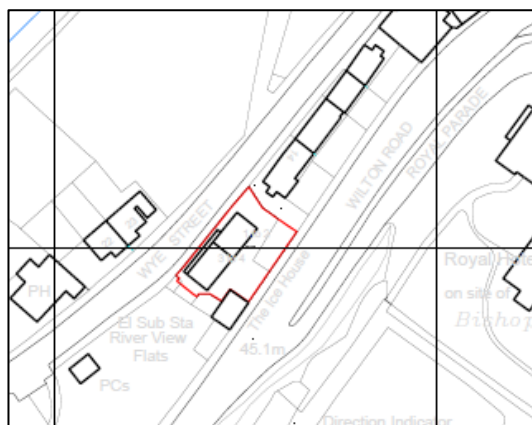




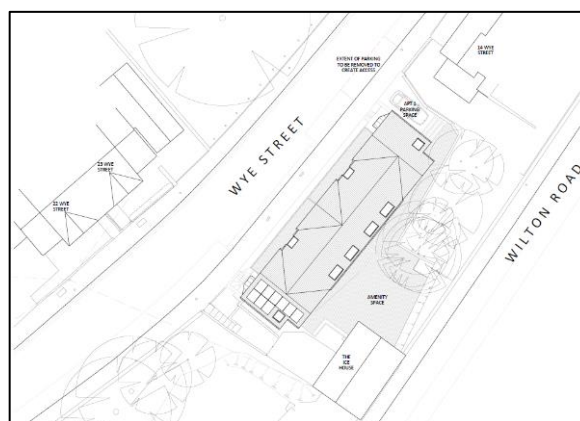
Grid Ref: 359647,224101

Local Member: Councillor Louis Stark

1.1 Riverview flats is a detached mostly brick 3 storey building located to the south of Ross on Wye town centre on Wye Street. The existing site is a block of four flats (2 bedroom properties) with garages located underneath and is linear in its appearance. The flats are formed over the first and second storeys of the building with off road car parking for 4 cars located within the ground floor. The unoccupied building dates from the 1970's and is currently in disrepair having been vacant around 2016. The site is currently bounded with temporary fencing and the building appears run-down with smashed windows. The flats have various external stairs, decks and access routes. The existing building is orientated south west to north east and has a raised level area to the rear and with a very steep bank up to Wilton Road.



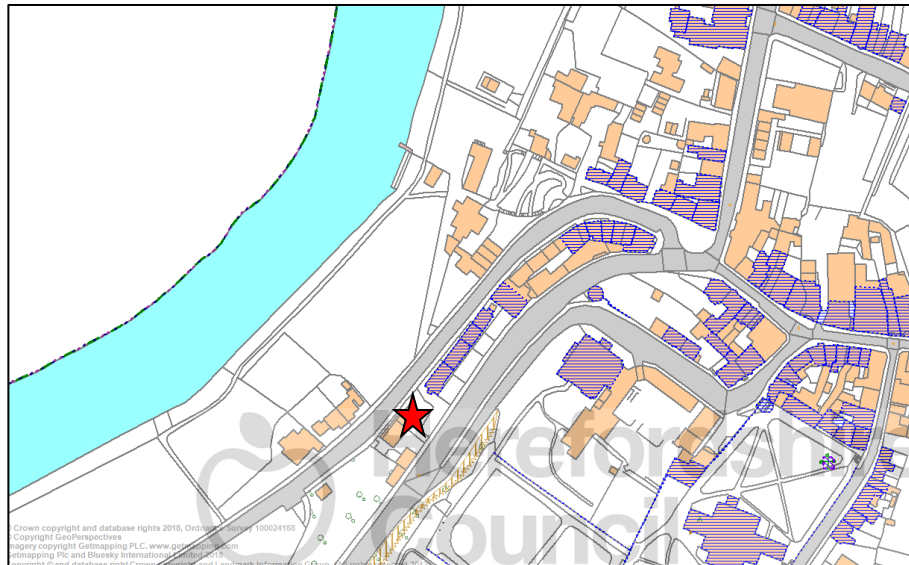
Site location Plan



Proposed Block Plan

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

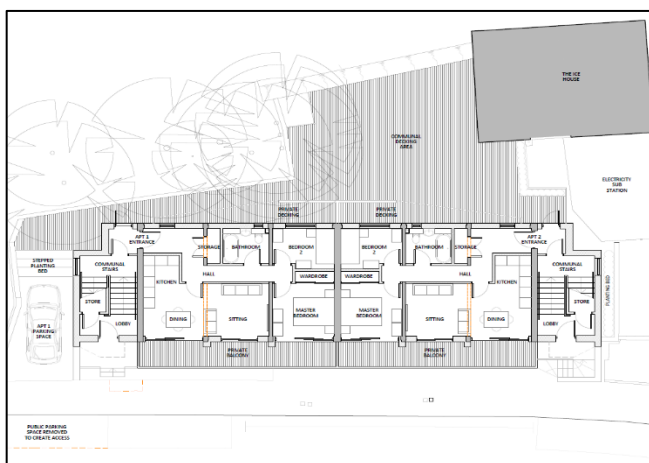
- 1.2 The site is located in the Ross on Wye conservation area and adjoining numerous listed buildings that are outlined in blue on the map inserted below (application site demarked by the red star).



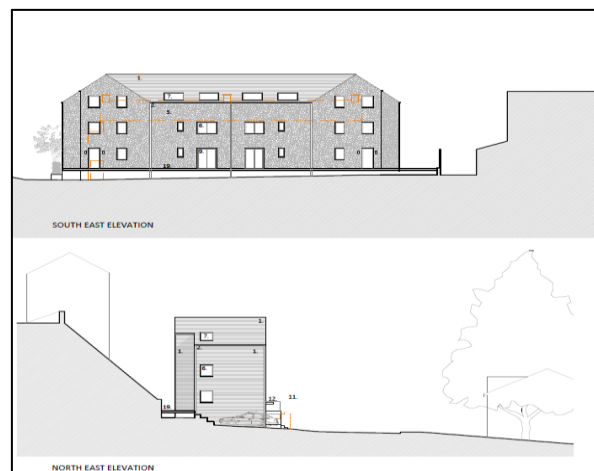
- 1.3 Lying to the immediate north-east of the site is a row of houses (Nos 11-14 Wye Street) and the Masonic Hall which are Grade II Listed. In addition, the Riverside Inn and No's 22 & 23 Wye Street, situated opposite Riverside Flats, are considered non-designated heritage assets given their age, and architectural/historical merit.
- 1.4 The site also lies within the Wye Valley Area of Outstanding Natural Beauty. The site or certainly this part of Ross is highly prominent and visible from the A40 (and west) and forms the setting of the town most people will be familiar with. Properties along the same side of Riverview flats are predominantly 3 storey with a two storey property located opposite along with a vacant public house to the northern side of Wye Street. The site is located on a prominent view with the school, tower and Royal Hotel (Grade II Listed) and Ice House key landmarks which are visible within the street scene.
- 1.5 The site lies predominantly within Flood Zone 1, however the south western corner of the site next to Wye Street does clip the corner of Flood Zone 2. Foul sewerage will be managed via connection to the mains sewer.
- 1.6 The application seeks planning permission to add another storey to the building to form 6 no 2 bedroom apartments over 3 storeys as well as additions to the front and sides. The four car parking spaces at ground floor are to be retained and with the addition of an additional car parking spaces located to the north eastern part of the application site.
- 1.7 Within the supporting documentation submitted it is stated that the existing building has a floor area of 234sqm Gross Internal Floor Area (GIFA) (322sqm when including the open garage area). The proposed new development has a GIFA of 444sqm (including new stair cores) or 551sqm including the gated garage area and bin/cycle stores. The level area to the rear of the site is retained to be a 'communal amenity space'. As well as this it is indicated a narrow strip will be allocated to the first floor apartments which they can access from the bedrooms and will be defined by a low level timber fence. Existing and proposed plans are inserted below.

- 1.11 The proposed second and third floor would each contain 2x2 bedroom flats with a kitchen/dining area, sitting area and bathroom. Windows proposed on the front and rear elevation. Access via communal stair.

The proposed materials are render (colour to be confirmed), stone cladding, grey aluminium windows and a slate roof.



Proposed first floor layout



proposed rear elevation and side elevation



Images taken from Planning, Design and Heritage statement

- 1.12 The car parking arrangement of the proposed dwellings are described in more detail in section 6.62.
- 1.13 The following supporting documentation has been deposited with the application, during consideration of this application by officers:

- Flood Risk Assessment
- Planning Design Heritage and Access Statement
- Application form

2. Policies

- 2.1 The Herefordshire Local Plan Core Strategy policies that are considered to be relevant are listed below.

Herefordshire Local Plan – Core Strategy (CS):

- | | | |
|-----|---|--|
| SS1 | - | Presumption in Favour of Sustainable Development |
| SS2 | - | Delivering New Homes |
| SS3 | - | Releasing Land For Residential Development |

| | | |
|-----|---|--|
| SS4 | - | Movement and Transportation |
| SS6 | - | Environmental Quality and Local Distinctiveness |
| MT1 | - | Traffic Management, Highway Safety and Promoting Active Travel |
| LD1 | - | Landscape and Townscape |
| LD2 | - | Biodiversity and Geodiversity |
| LD3 | - | Green Infrastructure |
| RW1 | - | Development in Ross on Wye |
| SD1 | - | Sustainable Design and Energy Efficiency |
| SD3 | - | Sustainable Water Management and Water Resources |
| SD4 | - | Waste Water Treatment and River Water Quality |

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework 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 Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made and on 9th 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.

These policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

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

2.2 Ross on Wye Neighbourhood Plan (NDP) (at referendum stage) (The policies in the NDP can be afforded significant weight.)

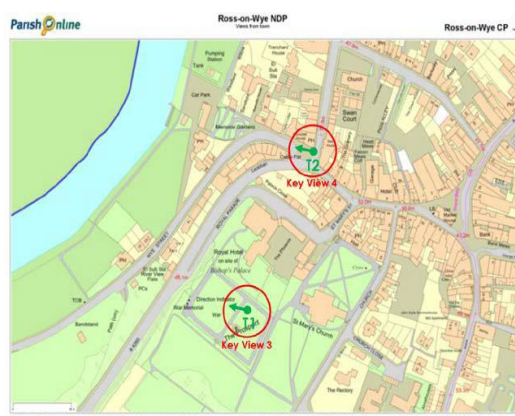
The Ross-on-Wye Neighbourhood Development Plan was sent for examination on 14 October 2019. The examiner's report was received on 30 January 2020. The referendum for voters within the Ross-on-Wye parish area will be held on a date to be confirmed (likely May 2021)

Policy EN1: Ross Design Policy

Ross Design Policy states: The design of all new development within the town, while being clearly of its time, should demonstrate its relationship and applicability to its site, setting and context in terms of scale, materials, form, details, layout, public realm and historic character. This is of particular importance within the Conservation Area and Town Centre.

Policy EN7: Key Views Policy

Ross Key views policy states Development proposals likely to affect the Key Views shown on Figure 10 of the NDP (see below) should assess the effect of the proposals on the view(s) and demonstrate how any adverse impacts have been addressed.



<https://www.herefordshire.gov.uk/directory-record/3101/ross-on-wye-neighbourhood-development-plan>

2.3 National Planning Policy Framework (NPPF):

| | | |
|------------|---|--|
| Chapter 2 | - | Achieving sustainable development |
| Chapter 4 | - | Decision making |
| Chapter 5 | - | Delivering a sufficient supply of homes |
| Chapter 6 | - | Building a strong, competitive economy |
| Chapter 8 | - | Promoting healthy and safe communities |
| Chapter 9 | - | Promoting sustainable transport |
| Chapter 11 | - | Making effective use of land |
| Chapter 12 | - | Achieving well designed places |
| Chapter 14 | - | Meeting the challenge of climate change, flooding and coastal change |
| Chapter 15 | - | Conserving and enhancing the natural environment |

The NPPF, together with all relevant documents and revision, are viewable at the following link:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

2.4 Wye Valley AONB Management Plan

The Wye Valley AONB Management Plan is a material consideration and the following policies are particularly applicable –

WV-D2 – Encourage and support high standards of design, materials, energy efficiency, drainage and landscaping in all developments, including Permitted Development, to ensure greater sustainability and that they complement and enhance the local landscape character and distinctiveness including scale and setting and minimise the impact on the natural environment. [see also WV-L3, WV-D4, WV-U1, WV-U3, WV-T2, WV-S4 and WV-P5]

WV-D3 – Resist inappropriate development which will create a persistent and dominant feature out of keeping with the landscape of the AONB and/or if it damages Special Qualities in the AONB, including through high levels of noise and/or light pollution or any SAC, SPA or Ramsar site or other sites designated as environmentally important. [see also WV-L3, WV-F3, WV-U1, WV-U3, WV-T2 and WV-S4]

2.5 National Planning Practice Guidance (NPPG) categories have been revised and updated to make it accessible and should be read in conjunction with the NPPF. NPPG can be accessed at the following link:

<https://www.gov.uk/government/collections/planning-practice-guidance>

3. **Planning History**

3.1 The following applications are considered to be relevant to the current proposals:

- **192547/O** – Withdrawn: Proposed demolition of existing block of flats and rebuild with modern multi residential apartment block. 17/9/2019
- **183381/F** – Withdrawn: Proposed alterations and extension to four existing flats 27/6/2019
- **151650** – Approved with conditions: Proposed conversion of four existing (two bedroom) flats to form two (three bedroom) houses with new bedroom house with garage. 30/7/2015

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water comments

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

We have reviewed the information submitted as part of this application and note that the existing building is to be redeveloped with extensions proposed and that the intention is to drain foul water to the mains sewer but it is not clear where surface water currently drains and how it will be captured as part of the new proposal.

We have had the opportunity to comment on previous applications at this address and drew attention to the close proximity of the building to a public rising main. We have conducted an asset location survey and the position of the sewer as shown on the attached public sewer record has been confirmed and verified. We therefore request that a further plan is submitted with the position of the public rising main annotated and the required protection zone of 3 meters either side of the centre line of the sewer is clearly marked with no new operational development proposed in the easement.

Notwithstanding the above and in light of further information required 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

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.

The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991. Any alterations to existing premises resulting in the creation of additional premises or merging of existing premises must also be constructed so that each is separately connected to the Company's water main and can be separately metered. Please contact our new connections team on 0800 917 2652 for further information on water & sewerage connections

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.

4.2 **Historic England**

The proposed development is located in part of the Ross on Wye Conservation Area that is the focus of classic views across the flood meadows of the River Wye of the town and its Grade I listed church. The design of the existing building does not positively contribute to the conservation area or the setting of the church and its redevelopment therefore offers the opportunities recognised in Sections 12 and 16 of the NPPF to enhance significance and contribute to place-making.

In considering a previous application (19/2547) Historic England regarded the principle of redevelopment as acceptable, but was concerned that the scale, form, design and appearance of the proposal resulted in harm to the significance of the conservation area and the Grade I church. The current application proposes a smaller building of four rather than six storeys adopts a gabled form and is of a mass that responds much more positively to the conservation area and to historic buildings nearby. The building is seen in both near and distant views in the context of mature trees and the cliff behind, the palette of recessive and typically natural materials responds well to this.

We consider that the current application addresses the concerns we raised previously and therefore have no objection to it. The quality of the building will depend much upon the details of weatherings, junctions between different materials, choice of materials in terms of quality and colour. We therefore urge you to control these by condition.

Recommendation

Historic England has no objection to the application on heritage grounds. We consider that the application meets the requirements of the NPPF, in particular paragraph numbers 192, 193, 200. In determining this application you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas and section 38(6) of the Planning and Compulsory

Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course

4.3 **Principal Building Conservation Officer:**

Whilst there is no heritage objection to the conversion/adaption of Riverview Flats, or their sympathetic replacement, it is considered that the proposed scheme, by virtue of its uncharacteristic scale, architectural form, and materiality, would fail to satisfy the requirements of Sections 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; namely, to preserve the setting of listed buildings, and preserve or enhance the character and appearance of conservation areas.

The degree of harm determined in this instance would be classed as *less than substantial*, but this should be afforded **great weight** by decision makers within the planning balance (Para. 193, National Planning Policy Framework).

In *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council & Ors [2014]*, Lord Justice Sullivan determined that under section 66(1) of the Act there was an overarching statutory duty for decision makers to give '***considerable importance and weight***' to a finding of harm to the setting of a listed building when undertaking the balancing exercise; and that a finding of *less than substantial* harm does not equate to a *less than substantial* planning objection.

Legislation & Policy:

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66(1) –

In determining planning applications which affect listed buildings Local Planning Authorities are required to pay '**special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.**'

Section 72(1) –

In determining planning applications within Conservation Areas Local Authorities have a statutory obligation ensure the following, '**special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area**'

National Planning Policy Framework

Paragraph 140 –

Permission should be refused for development of poor design that fails to take the opportunities available for **improving the character and quality of an area** and the way it functions.

Paragraph 189 –

For planning applications which affect heritage assets applicants are required to **describe the significance of any heritage assets affected, including any contribution made by their setting**, and, determine **the potential impact of the proposal on their significance, or any ability to experience that significance.**

Paragraph 192 –

In determining applications, local planning authorities should take account of: the desirability of **new development making a positive contribution to local character and distinctiveness**.

Paragraph 193 –

When considering the impact of a proposed development on the significance of a designated heritage asset, ***great weight* should be given to the asset's conservation** (and the more important the asset, the greater the weight should be). This is **irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance**.

Paragraph 194 –

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require **clear and convincing justification**.

Paragraph 196 –

Where a development proposal will lead to ***less than substantial harm*** to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 197 –

Where a development proposal will affect the significance of a non-designated a **balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset**.

Paragraph 200 –

Local planning authorities should look for opportunities for **new development within Conservation Areas..., and within the setting of heritage assets, to enhance or better reveal their significance**. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Herefordshire Core Strategy

Policy LD1 –

Development proposals should:

demonstrate that **character of the landscape and townscape has positively influenced the design, scale, nature and site selection**, protection and **enhancement of the setting of settlements and designated areas**;

Policy LD4 –

Development proposals affecting heritage assets and the wider historic environment should:

Protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and **sympathetic design, in particular emphasising the original form and function** where possible’.

Where opportunities exist, **contribute to the character and local distinctiveness of the townscape** or wider environment, **especially within conservation areas**;

Heritage Background:

Riverside Flats are situated within the Ross-on-Wye Conservation Area (1970 & 1976) and adjacent to No.'s 11-14 Wye Street, and the Masonic Hall (British & Foreign School), all of which are Grade II listed buildings.

In addition, the Riverside Inn and No's 22 & 23 Wye Street, situated opposite Riverside Flats, are considered non-designated heritage assets given their age, and architectural/historical merit.

The significance of these heritage assets relates primarily to their architectural form, character and material construction, which represents prevailing 18th-19th century market town fashions, and characteristics which enable understanding of their purpose and function, and define their status within the wider domestic/commercial/civic hierarchy of the area.

Their setting encompasses the surrounding riverside landscape and the immediate development landscape which neighbours and bounds them; it is one which has remained largely unaltered over intervening centuries, with the Riverside Flats development being the single most substantive change.

It is this degree of historic uniformity and continuity which enables their significance to be experienced and appreciated; and, although *of its time* in many ways, the key characteristics of the Riverside Flats development sufficiently referenced the domestic form of adjacent assets, which helped maintained their setting.

This sector of the conservation area has development origins dating back to the 17th century, but its most significant period of expansion came in the 18th century with the growth of Wilton as a river port, and the advent of the picturesque movement - and with it, tourism - which it is acknowledged began with the publication of William Gilpin's '*Observations of the River Wye...*', in 1800.

The later introduction of Wilton Road, in 1833, provided a greater degree of access to Ross from the north-west, and provided new opportunities for views out over the properties on Wye Street and out across the river.

A floodplain topography characterises the land which bounds the river between Wilton, Ross and Greytrees and this has ensured the area has remained largely undeveloped, thereby providing much opportunity for public access and recreational activities.

It is this flat, open, and largely accessible landscape which Wye Street forms a backdrop to, and the street's architectural character is a prominent feature for those experiencing the riverside both now, and as it has been experienced continuously since the 19th century.



Heritage Statement:

Contrary to the requirements of Paragraph 189 of the NPPF, the submitted heritage statement has not described the significance of the surrounding heritage assets, nor established the extent of their setting, or how it contributes to their significance being experienced; it has also failed to identify the potential impact the proposals will have on significance.

As a result, the scheme has not benefitted from the baseline understanding necessary to determine, objectively, what is achievable in development terms if legislative and policy requirements are to be satisfied, and has failed to identify any harm.

Historic England advise

'A Statement of Heritage Significance is not an advocacy document, seeking to justify a scheme which has already been designed; it is more an objective analysis of significance, an opportunity to describe what matters and why, in terms of heritage significance.'
(Advice Note 12, 2019).

Refurbishment of Existing Flats:

Whilst the deteriorated state of the building and wider site is an obvious concern within the area, it is a situation which appears to have arisen, and rapidly worsened, since 2017 when the building was previously occupied; the site has been in single ownership over this period and the loss of occupancy has no doubt influenced its current state.

No evidence has been provided to support the assertion that refurbishment of the existing building in its current form is economically unviable; the building appears to be structurally sound, so a largely cosmetic adaption should be achievable.

Given the laudable aspiration for sustainable development, demonstrating viability, or lack of it, is an important point as the high financial and embodied energy costs associated with any demolition of the existing structure will impact significantly on what degree of sustainability can ultimately be realised.

Existing & Proposed Development:

One of Wye Street's primary visual characteristics is its roofscape arrangement, which descends westwards along its southern side; this distinctive treatment, largely governed by the prevailing topography, defines views in both directions along the street, and contrasts with the less densely developed character of its northern side.

With the exception of the Masonic Hall - a landmark building which presents *gable-on* to the street – the majority of roofs present *eaves-on* to the street, and elevations provide the appearance of contiguous frontages with little physical punctuation; verticality is expressed below eaves level, in a traditional manner, largely by way of diminution of aperture sizes across floors. Some buildings make use of dormer windows at roof level, but these are later adaptations rather than components of original design, and their scale and execution is very much subservient in nature.

Overall, these characteristics create positive uniformity which contributes to the setting of the heritage assets and significance of the conservation area in this sector.

The existing Riverside development conformed to this pattern in most of these aspects (ridge height, roof type/orientation, uniformity), and, as a result, presented a form which positively referenced its immediate architectural surroundings, albeit in a manner contemporary with its time; this marked it out as architecture which was largely *typical* of the wider streetscape, rather than *unique* to it as intended landmark buildings such as the Masonic Hall, or the Royal Hotel, at Royal Parade.

In this instance, the scale and explicitly expressed vertical rhythm proposed for the replacement structure would have more in common with those *unique* landmark structures than it would with the principles of the *typical* residential vernacular it would sit amongst, thereby dominating the south-western end of the streetscape, competing with, and detracting from, the surrounding heritage assets.

Furthermore, no clear and convincing justification has been presented for this approach (Para. 194, NPPF), and the design proposed could easily be translocated to an entirely different context, which suggests it doesn't sufficiently respond to the specific characteristics of this location.

The appropriateness of the original approach – in terms of minimal bulk, lightness of presence and wider cohesion – is illustrated in the image submitted within the D&A statement, where it is evident the Riverside Flats development does not dominate its setting in any overt way, and that by satisfying the basic characteristics previously outlined the building was able to express its modernity in other material ways.



Proposed Materials:

As with the form of the existing building its material make up (brickwork) is historically representative and imbues a degree of quality which has deteriorated little despite the more general, run-down, condition of the building.

Whilst render is a treatment which is present within the street its use is representative of the *polite* 18th-19th century architectural aspirations of the buildings from that period, particularly along its northern side and at its eastern end; however, sandstone is the predominant material at the western end (south side).

The specification of render in a contemporary design context is a generic approach which provides little character and can be challenging to maintain in the longer term, particularly where multiple ownership is a factor.

As the western gable defines the start of the development boundary on the southern side of the street (bandstand and public toilets accepted) its physical/material appearance is an important consideration.

4.4 Principal Natural Environment Officer (Landscape) comments:

The site setting was visited 25th August, viewed from the street and the riverside path. There is no objection to the proposal in terms of landscape character or visual amenity. It is a degraded site and the proposal will improve this as a positive contribution to the urban section of the Wye Valley Area of Outstanding Natural Beauty.

In terms of the landscape scheme, retention of the existing vegetated bank is welcome, for its green infrastructure and visual amenity value. If the application is to be approved, then details of the proposed hard and soft landscape scheme should be provided. This should particularly take account of:

- How the narrow strips of plants and steeped planters will be constructed with suitable soil conditions and plants that will tolerate the microclimate.
- Ensuring the amenity decking area to the rear is usable, not slippery (considering damp, leaf drop and shading) and how the private areas will be delineated.

This is required to protect and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

4.5 Tree Officer comments

Fundamentally I do not object to the planned demolition and erection of apartments. The design indicates that despite some tree removals on the eastern embankment there are minimal arboreal constraints.

I do however have a requirement for a tree retention/removal & tree protection plan to be submitted as a condition along with a landscaping plan. My one observation regarding green infrastructure is:

New soft landscaping should consist of native species and also take into account the constrained nature of the site and consist of trees that are adapted to limited light and space.
Conditions CK3 – a) b) c)

4.6 **Principal Natural Environment Officer (Ecology) comments:**

Habitat Regs. Assessment-River Wye SAC

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 initial Habitat Regulations Screening Assessment identifies foul water and surface water as ‘likely significant adverse effects’. The applicant has indicated in their application that foul water will discharge to mains sewer. No information has been provided regarding surface water drainage management.

Welsh Water have confirmed in their letter dated 8th September 2020, that connection to mains sewer is achievable at this location. Details of how surface water run-off will be managed to ensure no increased discharge from site will occur and how potential pollution/contamination from vehicles, roadway and drives will be managed on site, incorporating SuDs where appropriate in accordance with Herefordshire Core Strategy Policy SD3.

Once this information has been supplied, a relevant condition can be included, and the Habitat Regs. Appropriate Assessment can be carried out to confirm a conclusion of ‘NO Likely Significant Effect’ on the River Wye SAC.

Bat presence/absence survey

A previous survey carried out in 2015 found a minor lesser horseshoe bat roost (day roost) was present within the building. Since that time, the building has remained in an increasingly dilapidated state, with opportunities for bats to access internal area at many locations.

As the original bat survey is now out of date (bat survey data is typically valid for 12 months, an updated bat survey is needed as bats are highly mobile and opportunistic species. Given the proximity to the River Wye and trees forming a habitat corridor ideal for bat foraging (within 100m to the north-west), and Wilton Bluff SSSI/Caroline Symonds gardens to the south and the known local presence of significant bat roosting, foraging and commuting, the presence of bats cannot be ruled out.

All bats and their roosts, whether bats are present or not are protected. Given the potential presence of bat species this LPA has a legal Duty of Care to ensure they are considered as part of the planning process. As a minimum a **Presence or Absence preliminary bat survey** (and considering nesting birds), should be carried out and supplied for consideration before this application can be determined. This survey should comply with Bat Conservation Trust Survey Guidelines: 2016 and should be carried out by a competent and Licensed Ecologist/Batworker.

If any evidence of bats or likely roosting features is found then further **Optimal Period surveys** (mid May to August inclusive) will be required to properly determine use, species involved and the required mitigation and compensation (this may involve revised plans being submitted) that will need to be included and supplied before this application can be determined and planning consent given by this LPA. The LPA must give planning consent before the required European Protected Species Licence (Bat mitigation) can be applied for to Natural England. (NERC Act, NPPF, Wildlife & Countryside Act, Habitat Regulations and Core Strategy LD1-3).

Biodiversity net gain

In line with NPPF Guidance, NERC Act and Core Strategy LD2 all developments should show how they are going to enhance the local biodiversity potential. Notwithstanding any legally required bat mitigation features that may be required I would suggest the final ecology report includes detailed plans for proposed biodiversity enhancement including features such as bat boxes/tubes/tiles/bricks, bird boxes, hedgehog homes and insect habitat boxes. Heavy duty, long-lasting boxes such as those by Schwegler or Greenwood Ecohabitats are recommended.

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

Condition Eco 06 – Prove Biodiversity Enhancement (Net Gain)

Prior to first occupation} evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least TWO bird nesting boxes for a site appropriate range of bird species TWO Bat roosting features; ONE Hedgehog home; ONE Insect hotel; should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

To ensure Biodiversity 'Net Gain' and species 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.

Bats & lighting

Given the location of the property close to the wooded River Wye corridor, and the presence of numerous bat species in the local area, including Annex II listed Lesser Horseshoe bats, no disturbance of bat flight lines to and from any identified roosting would be acceptable, nor would loss of any foraging or commuting potential. The following lighting condition should apply to any approved permission.

Condition-Eco 09: Protected Species, Dark Skies and Intrinsically dark landscapes (external lighting)

- a) At no time shall any external lighting except in relation to safe use of the approved building be installed or operated in association with the approved development; and no permanently illuminated external lighting shall be operated at any time, without the written approval of this local planning authority.
- b) No external lighting should illuminate any biodiversity enhancement, boundary feature, or adjacent habitats.
- c) All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals and Bat Conservation Trust.

Reason: 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).

4.7 Transportation Manager comments

Whilst there are no highway objections to the principle of the redevelopment of the currently unoccupied site the reduction in parking, provision has been thoroughly considered in the comment below. The current provision is one space per dwelling in the garages under the existing dwellings. This proposal seeks to increase the number of apartments to six and create one additional space, resulting in five spaces. This will clearly leave one apartment with no parking provision.

The design and access statement sets out that the site is in a sustainable location, closely located to the amenities of Ross on Wye and from this point, active travel options are likely to be desirable for local residents. The proximity of the car park located circa 300m from the site would allow parking of vehicles should they be required by the residents. Taking into account the existing situation, the proximity of amenities and the alternative parking options it is considered that this is acceptable for the site.

There are however, technical issues that will require resolution relating to the formation of the new parking space to the side of the building. This appears to show the parking bays removed to accommodate the access. This creates a contradictory situation with the current traffic regulation order that is in force on Wye Street. It is currently permitted under the provision of the TRO to park along the channel of Wye Street on its southern side. By introducing a dropped kerb, it is then not permitted to park across the dropped kerb. The Advice from the Traffic Regulation Team at BBLP is that the correct resolution for this is to revoke the current TRO and re-make it to end the parking bay each side of the access, as has happened elsewhere in the street. This conflict in with the legal order is considered to be contrary to policy MT1 of the core strategy.

In order for the Local Highway Authority to return a response of no objection to the development this will need to be considered by the applicant and an appropriate mitigation put forward.

In considering the cycle storage, which is clearly a vital pillar of the access strategy to support the reduced car parking provision, it is unclear how the storage operates for the two apartments serviced by the 'cycle store'. This facility appears small and may result in a difficult to access facility for the two apartments that are not being provided with garages. Further detail on the acceptability of this facility will be required; however, the LHA is content for this clarification to be subject to condition CB2.

The proposal is unacceptable, due to the conflict of the proposed access and the current traffic regulation order, but can be made acceptable by reviewing those provisions and advancing appropriate mitigation."

All applicants are reminded that attaining planning consent does not constitute permission to work in the highway. Any applicant wishing to carry out works in the highway should see the various guidance on Herefordshire Council's website:

www.herefordshire.gov.uk/directory_record/1992/street_works_licence

<https://www.herefordshire.gov.uk/info/200196/roads/707/highways>

4.8 Public Rights of Way officer comments:

No objection

4.9 Environmental Health Service Manager (Contaminated Land):

No comments to make.

5. Representations

5.1 Ross on Wye Town Council Comments

Members of the Planning Committee have no objections to this application. However, they have made the following comments:

- the accuracy of the planning application drawings needs to be verified by the Planning Officer.
- additional residential parking should be considered.
- the need for the re-configuration of on-street parking in order to create and maintain disabled access to the toilet block.
- the need for the use of traditional materials when building - particularly at the front of the site.
- the need for a plan for the protection and retention of existing trees on the site.
- the need, if appropriate, for a bat survey on the site.

- 5.2 To date a total of **14 representations** have been received to the application. The 9 comments within the objecting representations are summarised below:

Summary of comments:

- Desirable to replace the 'eyesore' of these derelict flats, object strongly to anything higher than the original build. Inappropriate development
- Design out of character with historic Wye Street
- Add further problems to the parking. Parking already at a premium.
- Loss of car parking 3 spaces
- Unacceptable impact on the street scene and river area
- High rise building out of keeping with its location in AONB
- Effect on conservation area
- Improvement on previously withdrawn scheme but still one storey too high
- Encroaching on privacy, light and massing would destroy character of street
- Mass dominates
- Loss of views ice house, habitable rooms will be over looked, right hand stairwell in front of ice house not acceptable
- Physiological impact on family living in ice house less light and privacy
- Not in keeping with surrounding buildings
- Encourage refurbishment but be unsightly obstructive and unnecessary to create large block of flats in an AONB by increasing their height
- Located in food plain
- Over development
- Height makes the building intrusive, obstructing views from both ends of the street. Key entrance to the town
- Sensitivity in the development is paramount
- Additional height will make the building overbearing and for neighbouring properties
- Need to enhance the beauty of the area. Sympathetic development is essential
- Building left to deteriorate over so many years.
- Timber cladding deteriorates quickly
- Ecological consideration. Presence of lesser horseshow bats. Full surveys are required and impact assessed.

The 5 comments within the supporting representations are summarised below:

- Well thought out plan which will enhance the current street scene
- Long last positive action was being taken after so many years to rectify this carbuncle on our beautiful riverside and entrance into town
- Enhance beautiful town and area
- Currents flats are an eyesore and give an appalling view of Ross on Wye
- Proposal can only improve immensely our image.
- Concerns about buildings opposite being derelict

- 5.3 A petition of support has been submitted by the applicant and has the following information alongside 20 names and addresses:

We have concerns regarding the flats that are empty in Wye Street and have been causing major issues over the last few years. We have had lots of problems with youths getting into the buildings and people sleeping in the grounds and taken drugs and alcohol. The police have been involved many times and the local residents are having to police the building to prevent fires and further vandalism. This has been a major health and safety Issue and it's only a matter of time when someone will get seriously injured. As a community we are working hard to build the local businesses in the area and to create jobs for the locals. Ross-On-Wye depends on tourists visiting the area and bringing revenue to local shops, restaurants and guest houses. The people visiting

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

are constantly making comments about the rundown building and how it makes the area look degrading. As residents in Wye Street we have worked hard to develop our businesses and would very much appreciate any further development in the area that would enhance the local businesses. We have already seen the plans and we are aware of who the local developer is and we have been told this work will be commencing in January. Could you please confirm that this development is going to take place in January as we are very nervous this is not going to happen? If this development does not happen this could have further impact on our local businesses. As you are very much aware this is a hot spot for tourists and we need to encourage tourists not to push them away into other areas

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202391

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

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

6. Officer's Appraisal

Policy context

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

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

- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). It is also noted that the site falls within the Ross-On-Wye Neighbourhood Area, where the Plan is at referendum stage. At this time the policies in the NDP can be afforded significant weight as set out in paragraph 48 of the National Planning Policy Framework 2019, which itself is a significant material consideration.

- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework require 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 Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was made on 9th 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.

- 6.4 With regards to heritage matters, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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."*

- 6.5 Similarly, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states “with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.
- 6.6 The legal framework for AONBs in England and Wales is provided by the Countryside and Rights of Way Act (CRoW) 2000 which reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty, and sets out responsibilities for their management. In particular relevance to the proposal are the following sections –
- Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty;
 - Section 84 confirms the powers of local authorities to take appropriate action to conserve and enhance the natural beauty of AONB and
 - Section 85 places a duty on all public bodies and statutory undertakers to ‘have regard’ to the ‘purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.
- 6.7 The NPPF is a significant material consideration and has ‘sustainable development’ central to planning’s remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people’s quality of life.
- 6.8 Policy SS1 of the Herefordshire Local Plan – Core Strategy (CS) sets out that proposals will be considered in the context of the ‘presumption in favour of sustainable development’ which is at the heart of national guidance contained within the NPPF. This policy states:

‘When considering development proposals Herefordshire Council will take a positive approach that reflects the presumption in favour of sustainable development contained within national policy. It will always work proactively to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the social, economic and environmental conditions in Herefordshire.

Planning applications that accord with the policies in this Core Strategy (and, where relevant, with policies in other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or the relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking account whether:

- a) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in national policy taken as a whole; or*
- b) Specific elements of national policy indicate that development should be restricted.*

Assessment

- 6.9 The most pertinent matters to consider in determining the application are the effect on the character and appearance of the area which is designated as a conservation area and within the Area of Outstanding Natural Beauty, impact on heritage assets, proposed massing, scale and design and impact on neighbouring residential amenity, highway and ecology matters

Heritage

- 6.10 The application site is located within the setting of a number of listed buildings and is within the Ross Conservation Area and also opposite a number of non-designated heritage assets, therefore the consideration of any impact to these heritage assets is important to the overall acceptability of the proposal. The legislative and policy context for considering these matters is set out below.

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- 6.11 When considering the impact on the heritage assets the Local Planning Authority has a number of statutory duties in this regard. These statutory duties are set out under the Planning (Listed Buildings and Conservation Areas) Act 1990 ('LBCA Act' henceforth); Section 16 (2) requires that in considering whether to grant listed building consent for any works and Section 66 (1) also requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall 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 relation to any building or other land in a conservation area, Section 72 requires a general duty for any of the planning functions under the Planning Acts that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.
- 6.12 These duties are manifested through the policies of the development plan and the guidance of the National Planning Policy Framework. The historic environment is an important aspect of the framework at Chapter 16; paragraph 184 lays out that whilst there are a range of heritage assets, they are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 6.13 In relation to the determination of applications, the framework (at paragraph 189) includes an expectation that applicants should describe the significance of any heritage asset affected, including any contribution made by its setting, with this level of detail being proportionate to its setting but no more than is sufficient to understanding the impacts of a proposal on significance. Following on, paragraph 190 of the framework indicates that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, seeking to avoid or minimise any conflict between the conservation of an asset and a proposal. Further, local planning authorities, ought to take into account the desirability of sustaining and enhancing the significance of a heritage asset, the positive contribution that conserved assets can make to communities and the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.14 However the framework is clear at paragraph 191, where there is evidence of deliberate neglect or damage to a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
- 6.15 In this respect, the advice set out at paragraph 193 of the Framework is relevant, insofar as it requires that great weight be given to the conservation of a designated heritage asset. The more important the asset, the greater the weight should be. Paragraph 194 goes on to advise that any harm to, or loss of, the significance of designated heritage assets should require clear and convincing justification.
- 6.16 The framework sets out two tests for cases where harm is identified, that being the test for substantial harm under paragraph 195 and the less than substantial harm test under paragraph 196. In interpreting the framework the High Court held in the Bradford case that there are only three levels of harm (as identified in the framework), 'substantial harm, less than substantial harm and no harm'. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm; it follows that if there is minimal harm it must fall to be considered within the category of less than substantial harm and the appropriate test undertaken.
- 6.17 At paragraph 195, it states that where substantial harm is identified local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. For cases of less than substantial harm to the significance of a designated heritage asset (under paragraph 196), this harm should be weighed against the public benefits of the proposal including, where

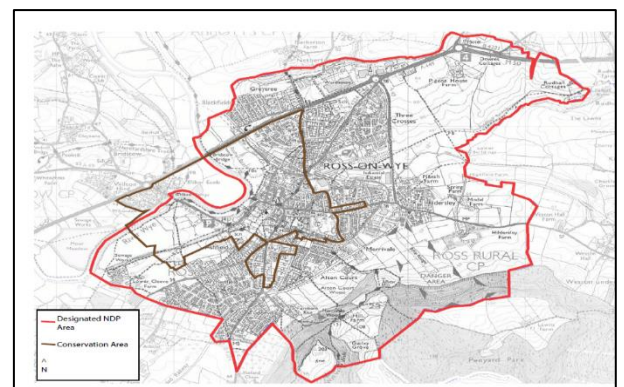
appropriate, securing its optimum viable use. Providing the desirability of preserving has been given considerable weight, and the balance tipped appropriately in favour of preservation, the assessment of the weight to the actual harm to significance (or special interest) in the overall balances is a matter for the decision maker.

- 6.18 Paragraph 200 sets out that Local Planning Authorities should look for opportunities for new development within Conservation Areas and within the setting of listed buildings to enhance or better reveal their significance; proposals that preserve those elements of the setting that make a positive contribution to the asset should be treated favourably. At paragraph 201 the framework notes that not all elements of a conservation area necessarily contribute to its significance.
- 6.19 The policies of the development plan relevant to development within a Conservation Area and heritage assets are Core Strategy policies LD4 and LD1 which broadly require that proposals contribute to the character and local distinctiveness of the townscape and wider environment; especially within Conservation Areas. From the emerging Ross Neighbourhood Plan, Policy EN1 states that all new development should be of good design and make a positive contribution to the character of Ross. Development should have regard to the Ross-on-Wye Character Assessment Portfolio (2017) and respond to its surroundings in terms of scale, materials, form, details and layout.
- 6.20 Policy SD1 of the Core Strategy requires that development proposals take into account the local context and site characteristics. Moreover, new building should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area. Policy SS6 states that development proposals should be shaped through an integrated approach to planning a range of environmental components from the outset, including the historic environment and heritage assets. Moreover, Policy LD4 states that development proposals affecting heritage assets and the wider historic environment should protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and design.
- 6.21 The emerging Ross NDP does not have a specific conservation area/heritage policy but NDP Policy EN1 as advised earlier in the report states that all new development should be of good design and make a positive contribution to the character of Ross. Development should have regard to the Ross-on-Wye Character Assessment Portfolio (2017) and respond to its surroundings in terms of scale, materials, form, details, layout, public realm and historic character.
- 6.22 The application is accompanied with a heritage statement as part of the documents submitted, however, this is not considered to adequately describe the significance of the surrounding heritage assets, nor establish the extent of their setting, or how it contributes to their significance being experienced; it has also failed to identify the potential impact the proposals will have on significance. As a result, the scheme has not benefitted from the baseline understanding necessary to determine, objectively, what is achievable in development terms if legislative and policy requirements are to be satisfied, and has failed to identify any harm contrary to the requirements of Paragraph 189 of the NPPF.
- 6.23 As the application site is within a conservation area, the Local Planning Authority must ensure special attention is paid to the desirability of preserving or enhancing the character or appearance of the conservation area, when it is determining this application, as per Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 6.24 Significant case law exists in relation to the assessment of the significance and the harm and the conservation area and this has been taken into account by officers in making their assessment and coming to their recommendation

- 6.25 As noted by the Building Conservation Officer in their consultation response, this part of the conservation area has development origins dating back to the 17th century, but its most significant period of expansion came in the 18th century with the growth of Wilton as a river port, and the advent of the picturesque movement - and with it, tourism - which it is acknowledged began with the publication of William Gilpin's *'Observations of the River Wye...'*, in 1800.
- 6.26 The later introduction of Wilton Road, in 1833, provided a greater degree of access to Ross from the north-west, and provided new opportunities for views out over the properties on Wye Street and out across the river. A floodplain topography characterises the land which bounds the river between Wilton, Ross and Greytrees and this has ensured the area has remained largely undeveloped, thereby providing much opportunity for public access and recreational activities.
- 6.27 It is this flat, open, and largely accessible landscape which Wye Street forms a backdrop to, and the street's architectural character is a prominent feature for those experiencing the riverside both now, and as it has been experienced continuously since the 19th century.
- 6.28 A view to or from a Heritage Asset does not necessarily mean a site is within that asset's setting, this will depend upon whether that view contributes to the significance of that asset, be that whether it may be (non-) designated. The fundamental principle is whether or not a development affects the significance of a heritage asset, including aspects of its setting which contribute to significance.
- 6.29 A number of heritage assets are in the vicinity of site, including:
- The site is located within the Ross-on-Wye Conservation Area (1970 & 1976)
 - adjacent to No.'s 11-14 Wye Street, Grade II listed.
 - Masonic Hall (British & Foreign School), Grade II listed.

Non-designated heritage assets (located opposite)

- The Riverside Inn
- No's 22 & 23 Wye Street,



Proximity of listed buildings marked by black dots (as detailed with Planning, design and access statement) and conservation area and NDP boundary map.

- 6.30 At the core of the significance of Ross on Wye Conservation Area is its landscape & topography and the dramatic sequence of views which this allows and their association with the birth of modern tourism and the picturesque movement. Ross on Wye makes the claim as the birthplace of modern tourism, this dates from 1745 when Dr John Edgerton started to take his friends for trips down the River Wye, showing off the drama of the scenery and historic buildings. Later in the C18, Gilpin made a tour of the Wye, publishing an account of it, which became the starting point of the Picturesque movement which considered drama, sequences of views and ruination to be fashionable and important aspects of the landscape.

- 6.31 The road forms part of a sequential series of views leading to Ross Prospect, a key viewing point within the Conservation Area. It is characterized by c19 3 storey housing with stone walls & sash windows stepping up the hill with views to the North of a green space towards the Wye.
- 6.32 The housing to the North East is separately listed at Grade II. The British Foreign School of 1837 is unusual for its height and date, the education acts in the UK came into force in the 1870's. The view to the building from the south is important, as its height is a key part of its architectural and historic importance, demonstrating the aspirations and intent of the original builders.
- 6.33 Above the site to the East lies the Ross Prospect and Royal Hotel with key views to and from the West and Wilton, the historic gateway to the town, which are intrinsic to the character of the Conservation Area. The past and current visual connection of the site with the river, as is an important part of the character of the site. In terms of impact upon heritage assets, the key test is the degree of harm to the assets' significance.
- 6.34 The existing Riverside development presents a form which positively references its immediate architectural surroundings, albeit in a manner contemporary with its time; this marked it out as architecture which was largely typical of the wider streetscape, rather than *unique* to it as intended landmark buildings such as the Masonic Hall, or the Royal Hotel, at Royal Parade. Officers consider the proposal in respect to its scale and explicitly expressed vertical rhythm would be dominating within the south-western end of the streetscape, competing with, and detracting from, the surrounding heritage assets.
- 6.35 The Council's Building Conservation Officer's consultation response, to which officers have afforded significant weight, raises an objection. Albeit, it is noted this reply does advise there is no heritage objection to the conversion/adaption of Riverview Flats, or their sympathetic replacement, it is considered that the proposed scheme, by virtue of its uncharacteristic scale, architectural form, and materiality, would fail to satisfy the requirements of Sections 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; namely, to preserve the setting of listed buildings, and preserve or enhance the character and appearance of conservation areas.
- 6.36 Officers consider the scheme does not accord with Policies LD4, LD1 and SS6 of the CS, which is consistent with Section 16 of the NPPF, in conserving designated heritage assets and the wider historic environment, and Policy EN1 of the emerging Ross NDP.
- 6.37 The Council has exercised its right in regard to sections 66 and 72 of '*the Act*', in that members give heed to heritage. Bringing the assessment of heritage together, both individually and cumulatively, the proposal is considered not to preserve the setting of listed buildings, nor preserve or enhance the character and appearance of conservation areas and would affect and raise harm to non-designated heritage assets or their setting. Officers consider there is therefore a need to undertake the public interest test prescribed at paragraph 196 of the NPPF, as less than substantial harm has been identified.

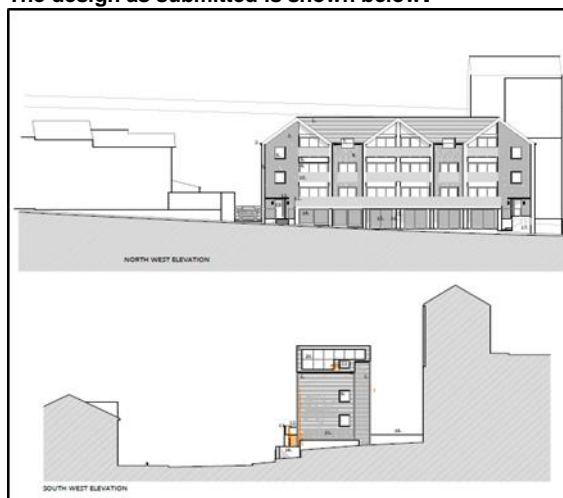
Design / Appearance

- 6.38 In regards to the design of proposal, the Local Planning Authority has a statutory duty under Section 39 of the Planning and Compulsory Purchase Act 2004 to have regard to the desirability of achieving good design.
- 6.39 When considering the design and landscape impact of a proposed development, Policy SD1 of the Core Strategy is significant as it requires development proposals to create safe, sustainable, well integrated environments for all members of the community. In so doing, all proposals should take into account the local context and site characteristics. Moreover, new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and

materials and respecting scale, height, proportions and massing of surrounding development. Where appropriate, proposals should also make a positive contribution to the architectural diversity and character of the area, including through innovative design. They should also safeguard the residential amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing.

- 6.40 Policy LD1 requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design, scale, nature and site selection of the development, as well as the protection and enhancement of the setting of settlements and designated areas. Development proposals should conserve and enhance the natural, historic and scenic beauty of important landscapes and features (specifically designated assets) through the protection of the area's character and by enabling appropriate uses, design and management. New landscape schemes along with their management should ensure development integrates appropriately into its surroundings and maintains tree cover. In wider terms, policy SS6 sets out that development proposals should conserve and enhance environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity, heritage assets, and especially those with specific environmental designations. All proposals should be shaped through an integrated approach to planning to ensure environmental quality and local distinctiveness.
- 6.41 With regards to landscape impacts, policy LD1 applies, which seeks to conserve and where possible, enhance the rural landscape and AONBs. I am also aware that 'great weight' should be afforded to conserving and enhancing the landscape and scenic beauty of AONBs as identified at paragraph 172 of the NPPF, which is also epitomised at Policy SS6 of the CS. There is no denying that the proposal for a residential development on this site will alter its character. The proposed scheme would change the character and appearance of the site, however, it is noted the landscape officer has not objected on landscape grounds.
- 6.42 It is clear that Core Strategy Policy LD1 requires proposals to demonstrate that the character of the landscape has positively influenced the design, scale, nature and site selection of the development and it also requires that development proposals should conserve and enhance AONBs through the protection of the area's character and the Wye Valley AONB Management Plan Policy. WV-D2 requires a high standard of design to complement the local landscape character and distinctiveness. The existing site does act as a gateway site and can be considered to be sensitive and in a prominent location, it is one which is a gateway to an historic market town located within an Area of Outstanding Natural Beauty.

The design as submitted is shown below:



- 6.43 It is acknowledged that the scheme under consideration has been reduced from the previously withdrawn scheme and has revised elements of the proposal in light of the pre-application advice received. While it is considered that some form of three storey development could be

accommodated on the site, there is concern from officers regarding the massing of the proposed building in particular the front gables and roof height. The current design results in the building appearing somewhat overbearing and out of place with the open character of the northern side of the street. While it is recognized that some efforts have been made to step the first and second floors inward, this is limited and the design still appears incongruous and awkward within the streetscene. The ground level would still sit directly on the boundary of the site and is an intrusive addition to the street forming a hard line which cuts off views to the park and narrows the street.

Photographs of Wye Street street scene below:

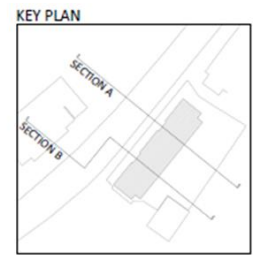
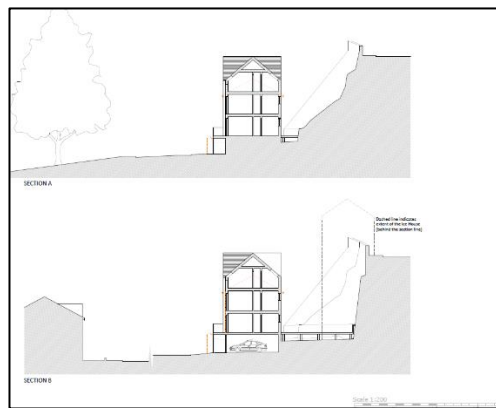


- 6.44 The comments from the landscape officer are noted. They have raised no objection to the proposal in terms of landscape character or visual amenity as in their opinion due to it being a degraded site the proposal will improve this as a positive contribution to the urban section of the Wye Valley Area of Outstanding Natural Beauty. This response is likely even with an amended scheme that addresses the issues addressed above.
- 6.45 It is acknowledged that the applicants have worked with the Local Planning Authority to try and find a solution based upon consideration of key local vernacular and materials. Furthermore it is clear from discussions that when looking for a suitable proposal in such a sensitive location with responses to contexts the number of units and the additional floor was considered to be critical for the development in respect to the viability issue. No viability report has been provided in this instance.
- 6.46 Paragraph 130 of the NPPF says that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. It is appreciated that due to the current disrepair of the building, that it would be easy to say the proposal is a better option than letting the building fall into further disrepair. However, the application has, as it stands, not seized the opportunities to satisfactorily mitigate the harm that this development would have on the character and appearance of the location or to create an appropriate sense of place. The proposed extensions and alterations to the building would have a detrimental impact on the character or appearance of the area and is not compatible with the character of the area in terms of scale, form and materials. It is apparent that one of Wye Street's primary visual characteristics is its roofscape arrangement, which descends westwards along its southern side; this distinctive treatment, largely governed by the prevailing topography, defines views in both directions along the street, and contrasts with the less densely developed character of its northern side.

- 6.47 As highlighted within the Buildings Conservation Officer's comments, with the exception of the Masonic Hall, which presents gable-on to the street the majority of roofs present eaves-on to the street, and elevations provide the appearance of contiguous frontages with little physical punctuation; verticality is expressed below eaves level, in a traditional manner, largely by way of diminution of aperture sizes across floors. Some buildings make use of dormer windows at roof level, but these are later adaptations rather than components of original design, and their scale and execution is very much subservient in nature. These characteristics do create a positive uniformity which contributes to the setting of the heritage assets and significance of the conservation area in this area. Again as stated within the previous section and by the Historic Buildings officer comments, the proposed alterations, the scale and the vertical rhythm proposed would dominate the end of the streetscape and as confirmed by the HBO would clearly dominate the south-western end of the streetscape as well as competing with, and detracting from, the surrounding heritage assets.
- 6.48 The proposal would dominate its setting in an explicit way as the street character and the existing riverside residential building seem less overbearing. The proposed development would alter the character of the street and the exterior design of the building with its front gables in stark contrast to most of the other buildings in the area. The general appearance will dominate the streetscape and detracts from the peaceful setting of the streetscape. The proposal would also create additional massing which would be overbearing and out of character with the adjacent buildings.
- 6.49 It is noted that the Town Council have raised concerns in regards to the proposed materials and it is acknowledged that the use of materials is an important consideration. The existing building is current brick and yellow render and it is noted that render is present within the street. Its use is representative of the polite 18th-19th century architectural aspirations of the buildings from that period, particularly along its northern side and at its eastern end and sandstone is the predominant material at the western end (south side). The use of render and its colour and amount in a contemporary design can be challenging in a sensitive location. The proposed building due to its massing, design and scale would visually dominate the site, streetscape and harm key views both in terms of its appearance and height.
- 6.50 A reduction in scale and height of the building was explored during discussions with the applicant and their architects but a reduction in height and mass would result in a reduction in room numbers and the scheme's viability would be compromised. As such, a decision, based on the submitted scheme was progressed.
- 6.51 The proposal is contrary to Herefordshire Core Strategy policies SS6, RW1, LD1 and SD1, the emerging Design policies of the Ross on Wye NDP and Design aims and objectives of the NPPF.

Residential Amenity

- 6.52 NPPF paragraph 180 states decisions should ensure development is appropriate for its location, accounting for likely effects (including cumulative) of pollution on health, living conditions and the natural environment, as well as potential sensitivity of the site or the wider area to impacts that could arise from development. In doing so they should mitigate and reduce these to a minimum and avoid noise giving rise to significant adverse impacts on health and quality of life. Policy SD1 of the CS makes clear that development should safeguard levels of residential amenity.



Proposed sections A & B

Riverview flats with The Ice House located to the rear.

- 6.53 CS policy SD1 requires development to safeguard residential amenity for existing and proposed residents. The NPPF goes a little further, requiring safe and healthy living conditions (para 117) and creation of 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 (para 127f). Objections have been received from residents and in particular from 'The Ice House', with regards the adverse impact of the proposal on their amenity due to privacy concerns into their 3 habitual rooms which will be overlooked as well as overlooking into their outdoor space. They have also raised concerns in respect to the location of the proposed right hand stairwell. It is clear that development of the site would significantly alter the appearance of the site due to the increase in height and bulk and the outlook for these properties. The Ice House is located behind the flats (south) as seen on the above photograph and section and contains main aspect windows to their rear elevation and private outdoor amenity space. The proposal is contrary to Herefordshire Core Strategy policies SS6, RW1, LD1 and SD1, the emerging Design policies of the Ross on Wye NDP and Design aims and objectives of the NPPF.

Ecology and trees

- 6.54 Policies LD2 and LD3 of the Core Strategy are applicable in relation to ecology and the impact on trees. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure. The proposal does necessitate the removal of a number of trees on the eastern embankment, however, as confirmed by the Tree Officer there are minimal arboreal constraints. The Tree Officer has also recommended conditions in respect to existing tree retention and protection if the application was recommended for approval and recommends any proposed planting consist of native species and also take into account the constrained nature of the site and consist of trees that are adapted to limited light and space which could be duly conditioned.
- 6.55 The Planning Ecologists have identified that 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 therefore subject to a formal Habitat Regulations Assessment (HRA) process by this local planning authority (LPA) as the competent body in consultation with Natural England. Under the Conservation of Habitats and Species Regulations 2017, Herefordshire Council has a legal duty to screen the development and ensure that it would have no likely significant adverse effect upon the integrity of the designated site.
- 6.56 The proposal has been assessed by the Council's Ecologist and a Habitats Regulations Assessment – Screening and Appropriate Assessment has been undertaken as a report. This initial Habitat Regulations Screening Assessment identifies foul water and surface water as 'likely significant adverse effects'. The applicant has indicated in their application that foul water will discharge to mains sewer. However, no information has been provided regarding surface water drainage management. It is also acknowledged that Welsh Water have confirmed that connection

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

to mains sewer is achievable at this location. It is noted that subject to the submission of this information colleagues will be able to undertake an Appropriate Assessment and this can be carried out to confirm a conclusion of 'NO Likely Significant Effect' on the River Wye SAC.

- 6.57 Notwithstanding the above, an assessment has also been provided in respect of other ecological considerations associated with the application. The Ecology Officer confirms that a previous survey carried out in 2015 found a minor lesser horseshoe bat roost (day roost) was present within the building. It is not disputed that the current building is now in an increasingly dilapidated state, with opportunities for bats to access internal area at many locations. Ecology colleagues have confirmed the original bat survey is out of date and an updated survey is required especially as the presence of bats cannot be ruled out within the building.
- 6.58 The ecology officer has highlighted due to the potential presence of bat species the Local Planning Authority has a legal Duty of Care to ensure they are considered as part of the planning process. The advice given is that the minimum of a Presence or Absence preliminary bat survey (and considering nesting birds), should be carried out and supplied for consideration before this application can be determined. It is acknowledged that this has not been supplied by the applicant, however, officers can confirm the applicant has confirmed they are willing to produce reports as requested. Officers are aware this further information is dependent on being undertaken at the right time of year. Therefore in this aspect, the proposal is not considered to accord with Policies LD2 and SD4 of the Core Strategy. On the matter of biodiversity, this could be satisfactorily dealt with by a suitably worded condition as suggested by the Ecology Officer.

Access and Highway Safety

- 6.59 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.' (NPPF para. 109).
- 6.60 In respect of sustainability it is noted the site is sustainably located. As can be seen from the consultation responses from the Council's Transportation Manager, revisions have been sought in order to assess the highways impacts as a result of the additional dwellings in this location. While the concerns raised by local residents and the Parish are acknowledged, the revisions which demonstrate that a safe access can be achieved means that it is not found to amount to a 'severe' cumulative impact. The proposed development does not present an unacceptable impact on highway safety and does not result in detrimental impacts in regards to capacity.
- 6.61 The applicant has actively engaged with the Local Highway Authority to seek clarification and overcome concerns. A solution has been put forward to omit the parking space located at the side of the flats and use the area for improved bin storage and amenity space. This was considered to be a way forward and the Local Highway Authority would potentially support 2 car free units, taking into account the alternative options in the area. Alternatively if the 5th parking space at the side of the building was to remain then the applicant would actively have to seek an undertaking to re-make the Traffic Regulation Order for the road, which would probably be off-site works. Car parking spaces have been provided and albeit final details have not been agreed to the satisfaction of the Transportation Manager, it is considered within this location the parking provision would be acceptable. The proposal is therefore considered to adhere to CS SS4 and MT1 and subject to conditions would have the support of the Local Highways Authority. As directed by the NPPF, and corroborated by the lack of objection from the Transportation Manager, refusal on highways grounds is not found to be justified. With this in mind, the proposal is found to meet the aims of policy MT1 of the Core Strategy.

Climate Change

- 6.62 CS policy SS7 seeks to address climate change and at a strategic level this includes designing developments to reduce carbon emissions and sets out key considerations, which include ensuring design approaches are resilient to climate change impacts, and demonstrating water efficiency measures to reduce demand on water resources, amongst other things. Policy SD1 – Sustainable design and energy efficiency, also sets out what developments should utilise physical sustainability measures, such as orientation of buildings, water conservation measures, storage for bicycles, recycling and waste, and sustainable construction methods amongst other things. Elements specifically relating to addressing and mitigating climate change in line with Core Strategy policy SS7 could be secured by condition. However, within the supporting information the flats are proposing the following has been advised with the aim of achieving a low carbon output:

‘a huge amount of energy is already embodied in a building before occupation. This is relevant in policy terms because policy can support the replacement of buildings (which is unsustainable as one is demolishing a building just to replace it with a new one). There is a valid case to be made here for promoting the reuse of this building and resisting the demolition and replacement of it, as a matter of principle. This is typified by a vast proportion of carbon usage often being emitted in replacement buildings before they are occupied, usually during construction, and given that demolition of a building often results in the huge loss of the embodied carbon in building materials, plus generation of waste, the retention of the building is welcomed. In turn, this reduces loss of energy and is considered an acceptable choice of resources through utilising an existing building’

- 6.63 It is noted that the proposal does not provide any solar array, but within the supporting information it states that the site and building are not ideally located for solar gain. The adjacent Ice House and the steep bank cast shadows across the site. However, there is potential for an array of photovoltaic panels to be added to the roof of the south-west facing elevation.
- 6.64 Notwithstanding the above, the proposal provides recycling, waste and cycle storage. Due to the existing parameters and constraints of the building in the context of surrounding, aspects such as solar photovoltaic panels will not be feasible due to heritage constraints, although thermal improvements to the energy efficiency of the building by replacement windows provides a small, modest benefit to addressing climate change. In this guise, the proposal is considered to accord with Policies SS4, SS6, SS7 & SD1 of the CS which is consistent with the NPPF and its sections on addressing climate change.

Other Considerations

- 6.65 In respect of waste arrangements, the applicant has confirmed the ‘refuse and recycling’ storage area is to be erected to the front of the premises.
- 6.66 It is evident that the existing building is in a state of disrepair and is a concern to local residents, and has deteriorated within the last few years and is currently vacant. As highlighted by the Historic Buildings officer, no supporting evidence has been submitted to support the claim that refurbishment of the existing building in its current form is economically unviable.

S106

- 6.67 The proposed residential development is considered to be below the threshold at which Herefordshire Council seeks developer contributions by way of a Section 106 agreement of the Town & Country Planning Act 1990 (as amended), therefore it has not been appropriate to seek contributions for this development.

Party Wall Act

- 6.68 Concerns have been raised due to the close proximity of the build to the Ice House and consideration should be given to the party wall. Anything governed by other legislation cannot be a material planning consideration and for example damage to neighbouring properties is deemed to be dealt with under party wall legislation (or the common law of damage in the case of premises which are too far away to be covered by party wall legislation).

Summary and planning balance

- 6.69 The main points of contention in this case relate to the environmental role. In this respect the site's proximity to nearby listed buildings and non-designated heritage assets and the statutory duty *"to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"* are noted and taken account of in the planning balance. In addition the impacts upon the setting of the identified conservation area are also key.
- 6.70 Historic England have not raised an objection to the proposed development and in their opinion regard the principle of redevelopment as acceptable and have no objection. The Council's own Building Conservation Officer has raised their own concerns about scale and height and the impacts of this development on nearby listed buildings as well as the impacts upon the setting of the Conservation Area.
- 6.71 The proposed development will result in harm. This harm is considered to be less than substantial harm to the significance of the asset. Therefore the correct approach to decision-making is to weigh this harm against the public benefits arising from the scheme in an unweighted balancing exercise. It is not necessary for the harm to significance to demonstrably and significantly outweigh benefits for refusal to ensue.
- 6.72 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Core Strategy constitutes a spatial strategy and policies designed to achieve sustainable development under the three objectives; social, economic and environmental. The NPPF, a material consideration, also seeks sustainable development through the economic, social and environmental objectives for planning. To enable a conclusion to be reached on whether the application proposals are in accordance with the development plan and to take account of material considerations, I now consider the conflicts with the development plan alongside the benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn.
- 6.73 In support of the development is the provision of an additional 2 new residential units in a location that has good access to a range of services and facilities. In seeking to bring forward housing development in an accessible location, the proposal accords with the general thrust of the development plan to some extent. There would be some social and economic benefits in boosting housing supply and associated with employment during the construction phase. Cumulatively, these benefits are modest and I afford them moderate weight.
- 6.74 However, in terms of its more detailed effects, the proposal would result in material harm to the character and appearance of the Ross Conservation Area, which, even though less than substantial, still attracts considerable importance and weight against the proposal. It would also be in conflict with the development plan on the basis of the harm to character and appearance and living conditions, which also weighs heavily against the scheme in the overall planning balance.
- 6.75 Planning's social role incorporates providing and the creation of a high quality built environment. The proposal is considered of a design that is not influenced by its location and does not maintain

or enhance the setting, which is an important key location within an historic market town within an AONB. Local distinctiveness is neither maintained nor enhanced. As such the social objective is considered to not be satisfied and weight is attributed to this harm.

- 6.76 The environment objective requires consideration of how the development contributes to protecting and enhancing the 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 climate change (low carbon economy). The repair of a building which is currently in disrepair is welcomed, however the proposal would neither maintain nor enhance the gateway location to the historic market town through its layout and built forms As such the environmental objective is considered to not be satisfied and weight is attributed to this harm.
- 6.77 On balance, the harms arising from the development significantly outweigh the modest benefits and the sum of the public benefits would not be sufficient to outweigh the less than substantial harm to the Conservation Area and setting of nearby heritage assets.
- 6.78 To conclude it is considered that the proposal would represent an incongruous overbearing addition to the host property and street and the surrounding conservation area and as such the proposed development is considered to be unacceptable with regard to its impact on the character of the street and surrounding conservation area. It is also considered that the proposed development would have an adverse amenity impact for adjoining occupiers.
- 6.79 Whilst it is acknowledged that in due course a positive HRA AA may be achieved and an update ecology survey can be submitted as this cannot be established at this point in time this matter is also therefore included as a reason for refusal.
- 6.80 As such, the potential benefits that could be delivered by the scheme have also been considered above, however, officers are of the opinion that these do not outweigh the harm that can be attributed to the proposal. It is accordingly recommended that planning permission be refused for the reasons set out below.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The proposal with its uncharacteristic scale, architectural form, and materiality and by virtue of the site's location within the Ross Conservation Area has a detrimental impact upon nearby heritage assets, the character of the streetscape and the setting of the Conservation Area and fails to maintain or enhance the character and appearance of the locality, one that forms a gateway and location to the historic market town of Ross on Wye and is located within the Wye Valley Area of Outstanding Natural Beauty. As such the which would be contrary to Policies LD4, LD1, RW1 and SD1 of the Herefordshire Local Plan Core Strategy and the guidance found in Chapters 12 and 16 of the National Planning Policy Framework 2019. The adverse impacts identified in this regard would significantly and demonstrably outweigh the modest social and economic benefits of the scheme, and the proposal would hence not be representative of sustainable development.**
- 2. The proposal would result in less than substantial harm to the setting of No.s 11-14 Wye Street and the Masonic Hall which are Grade II listed buildings which is not outweighed by the public benefits of the proposal. The proposal neither conserves nor enhances the setting of the heritage asset and impacts on the public's ability to experience the heritage asset from vantage points. The proposal fails to accord with paragraph 196 of the National Planning Policy Framework, Policies LD4 & SS6 of the Herefordshire Local Plan: Core Strategy and policy EN1 of the emerging Ross Neighbourhood Development Plan.**

3. The proposed extensions by reason of their height, scale and bulk and relationship with adjoining buildings would have an adverse impact on the amenity of adjoining occupiers as a result of a loss of outlook, increased sense of enclosure and a loss of light/overshadowing and as such the proposal fails to accord with Policies LD1 & SS6 of the Herefordshire Local Plan: Core Strategy and policy EN1 of the emerging Ross Neighbourhood Development Plan and the NPPF.
4. The proposed extensions due to their design, massing and scale would constitute an unsympathetic and over dominant addition to the existing streetscene and as such the proposal fails to accord with paragraph 196 of the National Planning Policy Framework, Policies LD1,LD4 & SS6 of the Herefordshire Local Plan: Core Strategy and policy EN1 of the emerging Ross Neighbourhood Development Plan.
5. The application is lacking sufficient details for the proposed surface water drainage strategy for the flats and as such it is not possible to evaluate the potential adverse effects on the local environment or the River Wye Special Area of Conservation and has not undergone the Appropriate Assessment required by the Habitat Regulations Assessment given the sites location within the catchment of the River Wye Special Area of Conservation and as such conflicts with the Conservation of Species and Habitats Regulations 2017 and Policy LD2 of the Herefordshire Local Plan Core Strategy, the Natural Environment and Rural Communities (NERC) Act 2006 and the guidance set out at Paragraphs 174-177 of the National Planning Policy Framework.
6. In the absence of an up-to-date detailed ecological survey as requested including any identified optimum period survey requirements, the Local Planning Authority is unable to assess the potential impact upon protected species, in particular bat species. The proposal is therefore contrary to policy LD2 of the Herefordshire Local Plan – Core Strategy, paragraph 99 of circular 06/2005 and the relevant aims and objectives of the National Planning Policy Framework 2019.

Informative:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

