

# AGENDA

## Planning Committee

Date: **Wednesday 14 March 2012**

---

Time: **10.00 am**

---

Place: **The Council Chamber, Brockington, 35 Hafod Road,  
Hereford**

---

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Ricky Clarke, Democratic Services Officer**

Tel: 01432 261885

Email: [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk)

---

If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Planning Committee

## Membership

<b>Chairman</b>	<b>Councillor PGH Cutter</b>
<b>Vice-Chairman</b>	<b>Councillor BA Durkin</b>
	<b>Councillor PA Andrews</b>
	<b>Councillor AN Bridges</b>
	<b>Councillor PJ Edwards</b>
	<b>Councillor DW Greenow</b>
	<b>Councillor KS Guthrie</b>
	<b>Councillor J Hardwick</b>
	<b>Councillor AJ Hempton-Smith</b>
	<b>Councillor JW Hope MBE</b>
	<b>Councillor RC Hunt</b>
	<b>Councillor Brig P Jones CBE</b>
	<b>Councillor JG Lester</b>
	<b>Councillor MD Lloyd-Hayes</b>
	<b>Councillor G Lucas</b>
	<b>Councillor RI Matthews</b>
	<b>Councillor FM Norman</b>
	<b>Councillor GR Swinford</b>
	<b>Councillor PJ Watts</b>

## GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

### What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

### What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

### What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

### What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

## AGENDA

		Pages
1.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2.	<b>NAMED SUBSTITUTES (IF ANY)</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	<b>MINUTES</b> To approve and sign the Minutes of the meeting held on 22 February 2012.	1 - 24
5.	<b>CHAIRMAN'S ANNOUNCEMENTS</b> To receive any announcements from the Chairman.	
6.	<b>APPEALS</b> To be noted.	25 - 28
7.	<b>S111970/F - THE MILL RACE PUB, WALFORD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5QS</b> Proposed extension to existing pub with 10 bed accommodation and 2 staff dwellings.	29 - 36
8.	<b>S113131/F &amp; S113132/C - VICTORIA HOUSE, 149-153 EIGN STREET, HEREFORD, HR4 0AN</b> Erection of retirement living housing for the elderly, (Category 11 type accommodation, communal facilities, landscaping and car parking).	37 - 48
9.	<b>N113460/F &amp; N113461/L - 43 BROAD STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8DD</b> Change of use from 3 bedroom house in to two number two bedroom flats and internal alterations to second floor flat.	49 - 56
10.	<b>S102272/F - LAND AT TANYARD LANE, ROSS ON WYE, HEREFORDSHIRE, HR9 7BH</b> Variation of condition 20 of planning permission DCSE2008/0095/F regarding roundabout junction delivery.	57 - 64
11.	<b>DATE OF NEXT MEETING</b> Date of next site inspection - 3 April 2012  Date of next meeting - 4 April 2012	





## **The Public's Rights to Information and Attendance at Meetings**

### **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

### **Public Transport Links**

- Public transport access can be gained to Brockington via the service runs approximately every 20 minutes from the City bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

## HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

### FIRE AND EMERGENCY EVACUATION PROCEDURE

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit.

You should then proceed to Assembly Point **A** which is located in the circular car park at the front of the building. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.



Where possible this agenda is printed on paper made from 100% Post-Consumer waste. De-inked without bleaching and free from optical brightening agents (OBA). Awarded the Nordic Swan for low emissions during production and the Blue Angel environmental label

HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Planning Committee held at The Shirehall, St Peter's Square, Hereford on Wednesday 22 February 2012 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)

**Councillors:** PA Andrews, AM Atkinson, AN Bridges, PJ Edwards, DW Greenow, KS Guthrie, AJ Hempton-Smith, JW Hope MBE, RC Hunt, JA Hyde, Brig P Jones CBE, JG Lester, MD Lloyd-Hayes, PJ McCaull, FM Norman, GA Powell, GR Swinford and PJ Watts

**In attendance:** Councillors H Bramer and EPJ Harvey

**134. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors BA Durkin, J Hardwick, G Lucas and RI Matthews.

**135. NAMED SUBSTITUTES (IF ANY)**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors AM Atkinson, PJ McCaull, JA Hyde and GA Powell attended the meeting as substitute members for Councillors BA Durkin, J Hardwick, G Lucas and RI Matthews.

**136. DECLARATIONS OF INTEREST**

The Committee sought advice as to whether the possession of a storecard would require them to declare a personal interest in respect of agenda item 7. The Locum Lawyer – Planning and Regulatory went through the tests for Personal Interests, and advised that although it was for each individual member to decide if they had a personal or prejudicial interest in respect of each agenda item, her advice was that the possession of a storecard would not result in any interest being needed to be declared.

The following declarations of interest were made:

7. N113052/F - LAND AT GALEBREAKER HOUSE, LEADON WAY, LEDBURY, HEREFORDSHIRE, HR8 2SS.

Councillor EPJ Harvey, Personal, The Councillor collected data for a food facts study in 2010.

8. S113380/F - HILLCREST, GORSLEY, ROSS ON WYE, HR9 7SW.

Councillor AM Atkinson, Personal, The Councillor is a member of Gorsley Baptist Church.

8. S113380/F - HILLCREST, GORSLEY, ROSS ON WYE, HR9 7SW.

Councillor DW Greenow, Personal, The Councillor is a member of Gorsley Baptist Church.

10. S113513/CD - WATERFIELD ROAD, HEREFORD, HR2 7EL.

Councillor PJ Edwards, Personal, The Councillor is a member of the Country Park Management Steering Group.

**137. MINUTES**

**RESOLVED: That the Minutes of the meeting held on 1 February 2012 be approved as a correct record and signed by the Chairman.**

**138. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman welcomed Councillor AJ Hempton-Smith as a Member of the Committee, noting that he had replaced Councillor JLV Kenyon. He also thanked Councillor Kenyon for his involvement and input into the Planning Committee.

**139. APPEALS**

The Planning Committee noted the report.

**140. N113052/F - LAND AT GALEBREAKER HOUSE, LEADON WAY, LEDBURY, HEREFORDSHIRE, HR8 2SS**

The Principal Planning Officer gave a detailed presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet. During the presentation he covered a number of issues, including:

- the history of the market town;
- the impact the proposed store would have on the vitality and viability of the town centre;
- the impact the proposed store would have on the heritage assets of Ledbury;
- issues in respect of transportation and sustainability;
- the loss of employment land as a result of the application.

Members were advised of an amendment to the second reason for refusal detailed within the Officer's recommendation of refusal of the application.

In accordance with the criteria for public speaking, Mr Conway, representing Ledbury Town Council, and Mr Hadley and Mrs Crowe, spoke in objection to the application and Mr Adenmosun, Mr Ashton and Mrs White, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor PJ Watts, one of the local ward members, commented on a number of issues, including:

- The application was a result of two businesses, one national and one local, working together to create jobs in Ledbury.
- Ledbury had the fastest population growth of any town in Herefordshire.
- Local residents needed an alternative to the local shopping structure currently available.
- The sequential testing had highlighted the unacceptable nature of the alternative sites.
- The lawnsite site was currently the location for the fire station, the youth centre and the swimming pool, these would all need to be relocated.
- The lawnsite site would also result in a negative impact on the town centre due to its impact on Bye Street.
- There were also concerns regarding the other proposed site from the sequential test as Tesco's would have to shut down for 2 years during the redevelopment.

- There was sufficient employment land in Ledbury without the inclusion of the proposed application site. The loss of the employment land was countered by the increased employment as a result of the store.
- There was no risk of flooding on the site.
- There was some indication of slow worms on the site although they had not been sighted during the Ecological Survey.
- The site had good vehicular access.

Councillor EPJ Harvey, the other local ward member, also commented on a number of issues, including:

- The application had been debated at length through social media networks as well as views being expressed through more traditional means of petitions and letters.
- Ledbury was a small market town with a number of independent retailers in the town centre.
- Local residents expected to travel further afield for their additional shopping requirements.
- The application needed to comply with planning policies and it clearly failed in a number of areas.
- The proposed development was too large and was located in the wrong place.
- The application was no different to the Tesco's application which was recently recommended for refusal and subsequently withdrawn by the applicant.
- The granting of the application would result in Ledbury's retail provisions for the next 20 years being fulfilled in one development.
- No town in the Country has survived similar developments unharmed.
- The quoted figures included people travelling to Ledbury from Hereford, this would not happen due to the adequate provision of supermarkets in Hereford.
- In 2011 the Planning Inspector dismissed an appeal for a fast food kiosk on the homebase car park as he considered it would have a harmful effect on the viability and vitality of the town centre.
- The proposed application could also threaten a number of heritage buildings in the town centre.

The Committee had concerns in respect of the reference to the existing Tesco supermarket site suggested in the sequential test and referred to in the Principal Planning Officer's presentation. It was felt that there could be an accusation of bias as the site was owned by a rival supermarket and therefore could be viewed as giving them an unfair advantage. The case officer reminded the committee that the Tesco site had been identified in the applicant's own sequential test and had not therefore been put forward by the Council. The Committee also felt that the two sites suggested in the sequential test were not without their own limitations and concerns.

The Committee noted that there had been a substantial amount of correspondence from the Ledbury residents and business owners, both in support and objection to the application. Members advised that they had read all of the emails and letters that had been sent to them even if they had been unable to reply to them all individually.

Members discussed the possible increase in jobs as a result of the proposed development. It was noted that not all of the jobs created through the application would go to local people as a number of people would be employed from outside of the local



area. The discussion also included the possible increase in jobs from the relocation and expansion of Galebreakers, this was also welcomed.

In response to a question regarding the size of the proposed store, the Principal Planning Officer advised that it was smaller than the Sainsbury's store in Hereford and of a similar scale to the Tesco Belmont store.

Members discussed the impact an out of town supermarket had on the town of Leominster when approved some years ago. Leominster town centre had benefitted from £11m of European Union funding which had helped to revitalise the town centre, it was noted that this funding would not be available to Ledbury in the current economic climate and that any impact on the town centre could have serious long term repercussions.

As the debate continued some Members were of the opinion that the proposed location of the new site would not harm the viability and vitality of the town centre. Some Members were of the opinion that it would however enhance the shopping experience for all of the residents of Ledbury. Other Members of the Committee had a differing view and voiced their Concerns in respect of the impact the proposed application would have on the town centre and in particular the small independent retailers of Ledbury. Members continued to debate whether the benefits of the scheme outweighed the potential harm on the vitality and viability of the town centre.

The committee were of the opinion that the local residents and independent retailers as well as the applicant needed a decision and that a deferral of the application would not be welcomed.

In respect of the scale of the proposed development, one Member was of the opinion that large supermarkets could easily become self-contained destinations. It was possible to get food, clothes, lottery, newspapers and white goods from one location without the need to visit the town centre.

Members felt that it would not be possible to produce suitable conditions to address the concerns raised in respect of the impact the application could have on the town of Ledbury. One Member stated that in their opinion the application was the wrong development, on the wrong site, at the wrong time.

Members noted the Localism Act, which gave great weight to the views of the local residents. It was however noted that it was more difficult in this case due to the apparently even split between the supporters and the objectors to the application.

In response to a number of questions the Principal Planning Officer advised the Committee that the sequential testing had been carried out in accordance with central government advice and had looked at appropriate sites in the area. He advised the Committee that the application had been considered consistent of the national and local planning policies regarding out of town developments.

In response to a question regarding the discrepancy in the population figures quoted for Ledbury he advised that the population of the Ledbury Ward was approximately 10000 but that the catchment area was larger and had been quoted as between 15800 and 21500 in the two different reports submitted by Jonas Drivers Deloitte, for the Council, and Turley's for the applicant.

Councillors PJ Watts and EPJ Harvey were given the opportunity to close the debate. They reiterated their opening remarks and made additional comments. Councillor Watts' additional comments included:

- That both Turley's and Jonas Drivers Deloitte's reports stated that the sequential test had been followed.
- The local community needed to be represented.
- Ledbury needed to evolve and change.
- The application should be approved.

Councillor Harvey's additional comments included:

- There was no objection to change but the proposed application would result in disproportionate, ill timed change.
- The 160 small businesses in the town centre would be at threat if the application as approved.
- The application should be refused.

Prior to the vote being taken on the application the Head of Neighbourhood Development advised the Committee that the wording of condition 2 had been amended in the Members' Update Sheet.

## **RESOLVED**

**That Planning Permission be refused on the following grounds:-**

- 1. The Local Planning Authority do not consider the submitted sequential assessment to be robust and as such is considered to be contrary to the Central Government advice contained within Policies EC15 and EC17 of Planning Policy Statement 4 and policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 2. The local planning authority consider that the expenditure capacity and impact assessments forming part of the planning application fails to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Ledbury Town Centre contrary to the Central Government advice contained within Policy EC17 of Planning Policy Statement 4 and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007.**
- 3. Given reason for refusal 2 above, the Local Planning Authority consider that the proposed development would be likely to adversely affect the character of the Ledbury Conservation Area contrary to the Central Government advice contained within Planning Policy Statement 5 and policy S7 of the Herefordshire Unitary Development Plan 2007.**
- 4. The proposal including the petrol filling station, would result in the loss of high quality employment land contrary to the Central Government advice contained within Policy EC2 of Planning Policy Statement 4 and policies S4 and E5 of the Herefordshire Unitary Development Plan 2007.**
- 5. The location of the proposal in an unsustainable location is such that it would increase reliance upon the private motor vehicle contrary to the Central Government advice contained within Planning Policy Statement 1, Planning Policy Statement 4, Planning Policy Guidance Note 13 and policies S1, S5, S6, DR2 and DR3 of the Herefordshire Unitary Development Plan 2007.**
- 6. The submitted Flood Risk Assessment contains inadequate information to demonstrate to the satisfaction of the Local Planning Authority that there**

would not be an increase in flood risk and as such the proposal is considered to be contrary to the Central Government advice contained within Planning Policy Statement 25 and policy DR7 of the Herefordshire Unitary Development Plan 2007.

7. The presence of protected species in the form of slow worms has been established. Insufficient habitat will be retained on the site for reptiles so the mitigation measures proposed by the applicant includes translocation of the reptiles to a suitable receptor site. Such a receptor site should be close to the application site, within Herefordshire, have suitable reptile habitat and ideally no existing populations of slow worms. The submitted application fails to identify a suitable receptor site. The submitted planning application cannot be approved without a suitable receptor site having been identified as in the absence of a suitable receptor site being identified, the Local Planning Authority are unable to establish whether translocation is a suitable mitigation strategy. In addition, the application does not include a suitable legal mechanism to secure translocation to an identified suitable receptor site together with long-term protection and monitoring of the receptor site. As such the proposal is contrary to the Central Government advice contained within Circular 06/2005, Planning Policy Statement 9 entitled 'Biodiversity and Geological Conservation and policies NC1, NC6, NC7, NC8 and NC9 of the Herefordshire Unitary Development Plan 2007.
8. The proposed development would necessitate a planning obligation (which complies with the criteria set out in the Supplementary Planning Document on 'Planning Obligations' which was adopted in April 2008) securing contributions towards sustainable transport infrastructure (including enhanced pedestrian and cycle links to the Ledbury Town Centre), to mitigate against the impact of the development together with the requisite legal costs in preparing such an Agreement and the requisite monitoring costs . A completed Planning Obligation has not been deposited and as such the proposal is contrary to Policy DR5 of the Herefordshire Unitary Development Plan 2007 and the Council's Supplementary Planning Document entitled 'Planning Obligations' (April 2008).
9. The proposed enhancement of the landscape buffer with associated biodiversity benefits to the rear of the proposed retail store does not lie within the planning application site area and as such a planning condition could not secure its provision. Furthermore no other legal mechanism is provided by the applicant to secure this landscaping. In the absence of this landscaping, it is considered that the continual horizontal mass and expanse of the building is such that it would have an adverse impact upon the amenities of the occupiers of numbers 12, 14, 16, 18, 20, 34, 36, 38, 40, 42, 44 and 46 Bronte Drive, contrary to Policies S2, DR2, LA6 and NC7 of the Herefordshire Unitary Development Plan 2007.

**Informative:**

1. For the avoidance of any doubt the documents to which this decision relates are:-
  - 1) Letter dated 28th Oct from Turley Associates received 31st October 2011
  - 2) Draft Heads of Terms received 31st October 2011
  - 2a) Existing Site Plan / Red Line Boundary - Drawing PL-01 received 31st October 2011



- 3) Existing Site Layout – Drawing No. PL-02 received 31st October 2011
- 4) Existing Elevations – Drawing No. PL-04 received 31st October 2011
- 5) Existing Site Sections – Drawing No. PL-03 received 31st October 2011
- 6) Proposed Site Plan – Drawing No. PL-10 received 31st October 2011
- 7) Proposed Ground Floor Plan – Drawing No. PL-11 received 31st October 2011
- 8) Proposed Roof Plan – Drawing No. PL-12 received 31st October 2011
- 9) Proposed Elevations – Drawing No. PL-13 Rev A received 2nd February 2012
- 10) Proposed Sections – Drawing No. PL-14 Rev A received 2nd February 2012
- 11) Proposed Boundary Sections – Drawing No. PL-15 Rev A received 2nd February 2012
- 12) Proposed Site Sections – Drawing No. PL-16 Rev A received 2nd February 2012
- 13) Proposed Part Bays – Drawing No. PL-17 received 31st October 2011
- 14) Sainsbury's PFS – Drawing No. 2592/20 received 31st October 2011
- 15) Sainsbury's PFS – Drawing No 2592/12 received 31st October 2011
- 16) Sprinkler Tank & Biomass Boiler details – Drawing No PL-20 received 7th December 2011
- 17) Trolley Bay Shelter Details – Drawing No. PL21 received 7th December 2011
- 18) Tree Survey Schedule received 31st October 2011
- 19) Tree Survey Plan – Drawing No. 900-01 Revision B received 31st October 2011
- 20) Tree Removal, Retention & Protection Plan – Drawing No. 900-02 Revision B received 31st October 2011
- 21) Outline Landscape Proposals – Drawing No. 900-03 Revision D received 31st October 2011
- 22) Inter Car Park Tree Pit Detail – Drawing No. 900-04 received 31st October 2011
- 22a) Pedestrian Walkway Tree Pit Detail – Drawing No. 900-05 received 31st October 2011
- 23) Statement of Community Involvement received 31st October 2011
- 24) Design & Access Statement received 31st October 2011
- 25) Planning Statement received 31st October 2011
- 26) Economic Assessment 7th November 2011
- 27) Employment Land Study received 31st October 2011
- 28) Transport Assessment received 31st October 2011
- 29) Interim Travel Plan received 31st October 2011
- 30) Service Yard Management Plan received 31st October 2011
- 31) Noise Impact Assessment received 31st October 2011
- 32) Air Quality Assessment received 31st October 2011
- 33) Renewable Energy & Energy Efficiency Assessment received 31st October 2011
- 34) External Car Park Lighting Statement received 31st October 2011
- 35) Landscape Statement received 31st October 2011
- 36) Ecological Assessment received 31st October 2011
- 37) Pan Brown Associates Phase 1 Desk Study received 31st October 2011
- 38) Flood Risk Assessment received 31st October 2011
- 39) Archaeological & Cultural Heritage Desk – Based Assessment received 31st October 2011 received 31st October 2011
- 40) Application Form received 31st October 2011

**141. S113380/F - HILLCREST, GORSLEY, ROSS ON WYE, HR9 7SW**

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mrs Foley, representing Linton Parish Council, and Mr Pearce, the applicant's agent, spoke in support of the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor H Bramer, the local ward member, commented on a number of issues, including:

- The site had been identified as suitable for housing development.
- The site was not within a conservation area and was not listed.
- Gorsley benefitted from a wide range of housing types and the proposed development would not be out of keeping.
- The site already benefitted from planning permission for a larger, single dwelling.
- The applicant was of the opinion that two, smaller, more affordable dwellings would be of more benefit to the community.
- 21 letter of support had been received from the local community.
- Both houses would have gardens and garages so could not realistically be classed as overdeveloped.
- The proposed development would not result in any issues of overlooking for neighbouring residents.
- The proposed dwellings would be finished in similar materials to the nearby dwellings mitigating any impact on the character and appearance of the area.

Members opened the debate by discussing the benefits of the proposed application. It was noted that the Parish Council and local residents were in support of the application and that two smaller dwellings would benefit the local community more than a single larger house. It was also noted that any issues of overlooking had been mitigated through the design of the dwellings. Members felt that the site visit had proved extremely beneficial in being able to make a judgement in respect of the application.

Some members did however have concerns in respect of the proposed development. It was noted that the new dwellings were higher and considerably wider than the previous proposed single dwelling on the site. Some members felt that this would clearly lead to over intensification on the site. It was further noted that the development would result in a 50% larger footprint on the site.

In response to a question regarding the lack of a Section 106 agreement in respect of the application, the Head of Neighbourhood Planning confirmed that as the proposal was for less than 5 dwellings a Section 106 agreement could not be requested.

Members discussed the possibility of a third bedroom being added to the dwelling at a later date and whether this would require an additional planning permission. The Head of Neighbourhood Planning confirmed that if the application was granted it would be granted in accordance with the supplied plans.

Councillor H Bramer was given the opportunity to close the debate. He reiterated his opening remarks and asked that the application be approved contrary to the case officer's recommendation.

The Head of Neighbourhood Planning noted that the Committee appeared minded to approve the application and requested that Committee guidance in respect of any conditions that could be added to the approval.

Members discussed conditions including the need to confirm slab levels and the removal of permitted development rights.

## **RESOLVED**

**THAT Planning Permission be granted as Members did not consider that the scale and form of the development would constitute overdevelopment of the site so as to have an adverse impact on the residential amenity of the adjoining properties, and a detrimental impact on the appearance of the site and the adjoining locality and so would comply with policies DR1, DR2 and H13 of Herefordshire Unitary Development Plan. Members concluded that the development was in accordance with the other relevant policies of the UDP as set out in the report.**

**Members confirmed that Conditions should be imposed relating to:-**

- **Highways,**
- **Contaminated land,**
- **That the development be in accordance with the submitted plans,**
- **Slab levels to be confirmed,**
- **Removal of Permitted Development rights.**

**Members added that the wording of the decision notice and conditions, and the inclusion of any additional appropriate conditions, be delegated to officers.**

### **142. S113513/CD - WATERFIELD ROAD, HEREFORD, HR2 7EL**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet. She advised the Committee that an additional conditions was detailed in the update sheet and requested that it be included in any resolution.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor GA Powell, one of the local ward members, commented on a number of issues, including:

- The application had attracted 55 letters of objection from local residents.
- The application would result in antisocial behavior taking place in the proposed car park.
- The fishermen would not use the proposed car park due to the distance from the pool, Haywood Lane would be a better location.
- The amenity of the local residents would be harmed by the application.
- A petition containing 44 signatures had been received.
- West Mercia Police's report had been omitted from the officer's report.
- The application should be refused.

Councillor AN Bridges, one of the other local ward members, also commented on a number of issues, including:

- The application had raised a great deal of debate and concern in the local area.
- West Mercia Police had concerns in respect of the application.

- The car park needed to be secured at night so the additional conditions referred to in the update report was welcomed.
- Could the section 106 agreement secure funds for CCTV in the car park.
- The proposed car park was too far for the fishermen to use, they would still park on Haywood Lane.
- A second car park at Haywood Lane would be welcomed.

Councillor PJ Edwards, the other local ward member, also commented on a number of issues, including:

- He had been involved in the initial setting up of the Country Park some years ago.
- The Country Park was nearly completed with the help of the section 106 agreement from the nearby housing development which was also nearing completion.
- The population of the South Wye area was approximately 10000.
- The additional condition securing the car park at night was welcomed.
- The management plan was also welcomed as was the suggestion of CCTV on the site.
- The application should be approved.

In response to the points raised by the Local Ward Members, the Principal Planning Officer advised that the local policing team had been contacted but had not responded as all correspondence in these circumstances comes from the police head office. She added that the Parks and Countryside team were in regular contact with the local policing team. In respect of CCTV on the site she added that it may be something to consider at a later date if there were issues at the site and CCTV was deemed necessary. It was felt that engagement with the parks and countryside team would be a more suitable route to assess any future CCTV requirements instead of a planning condition.

Members discussed the application and had concerns in respect of possible antisocial behaviour in the area. It was hoped that the conditions in respect of lighting and a secured gate could address these concerns. Members felt that the country park would be of great benefit to the residents of South Wye and felt that a car park was necessary for it to be fully utilised.

In summing up Councillor GA Powell, one of the local ward members, added that she was in full support of the country park but had reservations in respect of the location of the proposed car park. She requested that the application be deferred until a decision was made in respect of any possible relocation of the ball court.

Councillor AN Bridges, one of the other local ward members, felt that it was necessary to find another suitable parking location nearer to Haywood Lane for the fishermen to use.

Councillor PJ Edwards, the other local ward member added that discussions were ongoing in respect of an additional parking provision and requested that the application be approved.

## **RESOLVED**

**That planning permission be granted subject to the following conditions:**

1. **A01 Time limit for commencement (full permission)**



2. **B01 Development in accordance with the approved plans**
3. **Prior to commencement of development, a full working method statement and habitat restoration and enhancement scheme shall be submitted for approval in writing by the local planning authority. The Plan shall include timing of the works and details of storage of materials and shall be implemented as approved.**

**Reasons: To ensure that all species and sites are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and Policies NC1, NC4, NC6 and NC7 of Herefordshire's Unitary Development Plan.**

**To comply with policies NC8 and NC9 within Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006**

4. **The existing trees and hedgerow to the northern boundary of the site shall not be removed, destroyed or felled without the prior approval in writing of the Local Planning Authority. Prior to any maintenance or works being undertaken to the trees or hedge a detailed method / maintenance scheme shall be submitted to and approved in writing by the local planning authority. Works shall be carried out in accordance with the approved details.**

**Reason: To safeguard the amenity of the areas and to protect the amenities of local residents in accordance with policies DR2 and LA2 of the UDP.**

5. **Prior to the commencement of development a detailed management plan, that includes the following information shall be submitted to and approved in writing by the local planning authority:**
  - a) **Hours of opening of car park**
  - b) **Details of method and mechanism to locking / unlocking the access gate that serves the car park**
  - c) **Hours of lighting of car park**
  - d) **Position of and details of signs (that should include hours of operation / emergency contact details)**
  - e) **Position of waste bins**
  - f) **Maintenance and management of hedgerow to boundary with Car Park**

**The management of the car park shall be carried out in accordance with the approved plan in perpetuity.**

**Reason: In the interests of the amenities of the locality and to deter crime in order to comply with policies S1, DR1, DR2 and DR3 of the Herefordshire Unitary Development Plan**

**143. N120142/FH - THE KILNS, AVENBURY LANE, AVENBURY, BROMYARD, HEREFORDSHIRE HR7 4LD**

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mr Williams, the applicant's agent, spoke in support of the application.

One of the local ward members, Councillor A Seldon, could not be present at the meeting but had prepared a written statement in support of the application which was read out by the Democratic Services Officer.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JG Lester, one of the local ward members, commented on a number of issues, including:

- The application would enhance the building.
- The building could no longer be deemed an agricultural building in terms of Policy HBA12 and HBA13.
- The dwelling needed to be allowed to be a domestic dwelling, the proposed application would allow this.
- Planning policies needed to evolve and move with the times.
- Note the concerns in respect of the scale of the development, could this be negotiated?

Members discussed the application and noted that there had been no pre-application discussions between the applicant and the planning department. Members discussed the possibility of deferring the application to allow further discussions regarding the scale of the proposed development.

One Member felt that the link between the two units had already been established through the current conservatory building. It was further considered that the proposed extension would be in keeping with the existing dwelling and should be approved contrary to the case officer's recommendation. Other Members agreed that the proposed link building would improve the connection between the two buildings and would not be out of keeping with the existing dwelling.

The Development Manager – Northern Localities, advised that the application was in conflict with current planning policies and that it would impact on the character and appearance of the area. He added that a link building could have been permitted if it had been smaller but that due to the scale of the proposed development it should be refused in accordance with UDP policies HBA12 and HBA13.

Members felt that the proposed development was solely a replacement of the existing link building which was currently in the form of a conservatory and was not an extension, or a substantial alteration, and so would retain the qualities of the existing building, and would therefore be in accordance with Policies HBA12 and HBA13. They also added that the proposed link building would improve the connection between the two buildings, would enhance the buildings' rural character, the design would fit in with the rural location, and so the visual impact would not be detrimental to the character and appearance of the building and its rural setting, and would not be out of keeping with the existing dwelling.

They felt that the proposed materials were in keeping with the existing materials and this could be secured by a condition in any event.

## **RESOLVED**

**That planning permission be granted subject to conditions, with the wording of the Decision Notice and the inclusion of appropriate Conditions to be delegated to Officers.**

**144. SINGLE ENFORCEMENT AND PROSECUTION POLICY**

The Regulatory Services Programme Manager presented the report and gave members a detailed background in respect of the proposed single enforcement policy. He advised that the report had recently been to the Regulatory Committee and would be going before Cabinet in late March.

The Committee welcomed the joint working referred to in the policy and felt that a more transparent approach to enforcement was welcomed.

**RESOLVED**

**THAT:**

- (a) the principle of a Single Enforcement and Prosecution Policy is supported;**
- (b) the detail contained within a Single Enforcement and Prosecution Policy is supported.**

**145. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

**APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**

The meeting ended at 2.05 pm

**CHAIRMAN**





# PLANNING COMMITTEE

22 February 2012

## Schedule of Committee Updates/Additional Representations

**Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.**

**N113052/F - DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF A SUPERSTORE CLASS A1 PETROL FILLING STATION, CAR PARKING, BIOMASS BOILER, LANDSCAPING AND ASSOCIATED WORKS AT LAND AT GALEBREAKER HOUSE, LEADON WAY, LEDBURY, HEREFORDSHIRE, HR8 2SS**

**For: Sainsbury's Supermarkets Ltd per Turley Associates, 25 Saville Row, London, W1S 2ES**

### ADDITIONAL REPRESENTATIONS

#### Members

Councillor Bettington (Ledbury Ward) has written and stated that "Due to information I have received and an out of Town store I wish to OBJECT to the planning proposal".

Councillor Patricia Morgan of the neighbouring Frome Ward which includes the Parishes of Acton Beauchamp, Ashperton, Aylton, Bishops Frome, Canon Frome, Castle Frome, Eggleton, Evesbatch, Little Marcle, Much Cowarne, Munsley, Pixley, Putley, Stanford Bishop, Stretton Grandison and Yarkhill objects to the proposed development. She states:-

"As a neighbouring Ward Councillor to Ledbury I would very much appreciate the Committee taking a few minutes to read my thoughts on this application as it has raised considerable interest locally. I have kept it short!

- The level of interest is a reflection of the affection the Parishes in my ward quite rightly have for Ledbury. I note in the report that as a market town in Herefordshire, Ledbury is something of an exception. It has a well maintained built environment, low vacancy rates, healthy levels of new build and conversion activity. I would concur with this. This vitality in the high street needs to be treated with respect. This does not mean that the town should be preserved in aspic but more that new retail space needs to be thoroughly considered and unintended consequences minimised. This is the major issue and both opposers and supporters acknowledge this although draw different conclusions.
- There is local acknowledgement that there is need for some increased retail space in Ledbury. Indeed in some of my Parishes, locals say that they shop elsewhere from Ledbury because of this. Given the information provided in the report it seems to me that there are too many weaknesses in the argument that the planned size of this store is required. It is therefore likely that it would impact

significantly and detrimentally on the existing high street. This is not about restricting choice but expanding the retail offer must be done thoughtfully.

- The proposed location of this store is very much out of town and this will further threaten the vitality of the current high street. It would seem that there are other options for developing increased retail space and thus enhancing Ledbury as a market town. These must be more positively investigated. They have been too easily dismissed by rather weak arguments.
- An application that does not have the support of the Environment Agency because any flooding risk has not been addressed is unacceptable. I have met too many people affected by flooding not to pass comment here and insist on better.
- In the interest of brevity, this application is simply not good enough for Ledbury. It is a “one size fits all” option and we should demand better. I would urge the Committee to refuse the application on the grounds detailed in the report.”

Councillor Carl Attwood of the neighbouring Hope End Ward which includes the Parishes of Bosbury, Coddington, Colwall, Cradley, Mathon and Wellington Heath registers his concerns with respect the proposed development. He states:-

“I cannot be at the Planning Committee on Feb 22<sup>nd</sup> but as the Member of an adjacent Ward to Ledbury, would like to register my concern over the Sainsbury application.

The refusal of an appeal in Jan 2011 for a catering unit (in a geographical position close to the present application) on the grounds, inter alia, of threatening the vitality and viability of Ledbury Town Centre focuses the nub of the objection to the proposed Supermarket application.

Despite an understandable reaction which has been stimulated by Sainsbury themselves resulting in a degree of local public enthusiasm for this development, the deeper implications for the economy of the Town centre are clear and troubling.

If this application is approved then the opening chapter of the irreversible economic decline of the Town centre is started which will consign it to the fate of other once thriving market towns throughout the country which are now eviscerated of vibrant life, with dire implications for the wider Ledbury community as well as the centre.”

### Objectors

Since the publicity period inviting representations expired (3<sup>rd</sup> February 2012) the Local Planning Authority have received a further 131 written expressions of OBJECTION, providing a total of 2,540. The only new matter raised is that the objectors urge Members not to defer the application at the meeting on 22<sup>nd</sup> February 2012.

### Supporters

Since the publicity period inviting representations expired (3<sup>rd</sup> February 2012) the Local Planning Authority have received a further 547 written expressions of SUPPORT, providing a total of 1,539.

Some of those persons (supporters and objectors) who wrote in after 3<sup>rd</sup> February 2012, appear to have previously written to the Council with regard this application.

### Representation from owner / operator of Orchard Lane/Homend Site

A representation has been received from the agent acting for the owner and operator of the site at the corner of the Orchard Lane / Homend site which is an edge-of-centre site. He makes the following points:-

- In seeking to reject this sequentially preferable site the agent for the applicant seeks to rely upon his client’s view expressed several months ago that the retail store upon the Orchard Lane site was not

considered by his client for an extension or a new store. His client has reviewed their position in the light of the community's feedback and his client's professional advisers are now satisfied that a scheme for a replacement store upon the Orchard Lane site can be produced which meets his client's operational requirements whilst also respecting the locality.

- The Orchard Lane site could accommodate a replacement store with a gross floorspace of 4,201 square metres and a net sales area of 2,942 square metres;
- Given the location of the Orchard Lane site on the edge-of-centre, a larger store in this location has the potential to generate far greater spin-off economic benefits for the town centre associated with new linked shopping trips;
- Although similar in size to the proposed Sainsbury's store, the net increase in on-site retail floorspace at Orchard Lane (due to the demolition of the existing store) would be substantially less than Sainsbury's floorspace which, common sense dictates, would therefore have a far greater impact on Ledbury town centre than would a new store at Orchard Lane. The net increase of floorspace would be 2,039 square metres gross and 1,767 square metres net sales;
- Contrary to the assertion by the agent for the applicant, the cost of closing the Orchard Lane store to facilitate the site's regeneration does not rule out a viable scheme; and.
- There are no uncertainties whatsoever concerning land assembly and scheme delivery;

#### Representation from agent for applicant dated 15th February 2012

The agent for the applicant has made further submissions. In summary he advances the following arguments:-

- The advice the Council has received from Drivers Jonas Deloitte (DJD) is predicated on a fundamental misunderstanding of the impact methodology;
- Elements of their advice are not grounded in national or local planning policy;
- Comments on potential sequential sites is not categorical;
- DJD do not draw any firm conclusions in respect of PPS4, namely Policy EC17
- The adverse impact upon the character of the Ledbury Conservation Area is not soundly based.
- The Council fails to consider all of the material submitted in relation to employment land. It is only a cursory assessment;
- The planning policy requires flexibility in safeguarding land going forward;
- Retail is an important use which creates jobs;
- The development will ensure the expansion and retention of a key employer in Ledbury;
- The Council fail to acknowledge that the relocation of Galebreakers is not considered a material consideration;
- The Transportation assessment fails to consider the sequential approach;
- The recommend Transportation/Sustainability ground of refusal is not founded in planning policy;
- The agent for the applicant states that further information is being collated for the environment agency with regard the issue of flood risk;
- Sainsbury's have identified two potential sites for slow worms which meet the necessary criteria'; and
- The agent for the applicant Local Planning Authority prior to the application being determined.

#### Representation from agent for applicant dated 20th February 2012

The agent for the applicant submitted substantial additional information/submissions late on the afternoon of Monday 20<sup>th</sup> February 2012 which seeks to rebut the recommended nine grounds of refusal. This included a revised an addendum to the originally submitted 'Economic Assessment'. Such late submissions can only be summarised briefly. In summary these submissions:-

- Express concerns that the issues arising from the proposals have not been fully considered;
- Express the view that the reasons for refusal stem from limited dialogue on the key issues rather than insurmountable policy concerns;
- Claim that Officer report seeks to pre-determine the merits of the application And is misleading in stating that recommended grounds of refusal 1-5 cannot be overcome by way of an amendment to the submitted scheme of through negotiation;



- State that planning policy does not preclude out-of-centre retail development;
- Lists the benefits that the agent for the applicant considers the scheme would deliver;
- Draws attention to the support that the proposal has attracted including during their pre-application community engagement process;
- The recommended second ground of refusal is based on the DJD Report does not conclude on the acceptability of the proposal;
- The applicant would wish to engage further with Officers with respect the proposal;
- It is unclear on what basis Officers have been able to conclude that the trade draw resulting from the application proposal is likely to have an adverse affect upon the character of the Ledbury Conservation Area;
- The Officer report fails to give weight to the employment generation;
- The site is in a sustainable location and benefits from a good level of accessibility from surrounding residential areas;
- The proposed development is supported by a range of sustainable infrastructure and transport measures which are designed to promote sustainable travel to the site by foot. Cycle and public transport;
- Further measures to promote sustainability through the life of the development are also contained within an Interim Travel Plan;
- The site is largely surrounded by residential properties, including land beyond the industrial estate to the south of the site;
- Reason for refusal 6 – The agent for the applicant is of the view that a revised Flood Risk Assessment could be submitted that addresses the concerns of the Environment Agency;
- Reason for refusal 7 – It is stated that two sites have been identified for the relocation of slow worms and that these are within the ownership of Herefordshire Council;
- Reason for refusal 8 – the agent for the applicant is satisfied that an agreement could be reached with regard a Planning Obligation
- Reason for refusal 9 - the report does not suggest that this landscaping is fundamental to the acceptability of the application proposal;

### LESS Group

The LESS group that support the application state:-

“After due consideration by the LESS group we feel we must still voice our concerns about the inclusion of the LOTS petition in your report. This petition was collected in opposition to a previous application and as such we feel should not be allowed to stand for this current application. Its inclusion could be seen as misrepresentation of the people who signed as none were contacted to gain their permission to use their name in objecting to the current planning application. Since this came to light we have had numerous people contacting us stating that “although they signed against Tesco’s they are in favour of Sainsbury’s” we therefore feel that to include the petition could lead to a false impression to planning committee members of the level of support against the current application.

We understand that the application will be voted on purely on planning law & government guidelines and is not a "referendum", but, LESS feel, the petition inclusion in your report could have influence on individual planning committee member’s decisions.

We therefore request that the LESS groups concerns and objections are noted and made available to all the planning committee members prior to the meeting on 22<sup>nd</sup> February 2012.”

### **OFFICER COMMENTS**

#### Representation from owner/operator of Orchard Lane/Homend Site

The representation received from the agent acting for the owner and operator of the site at the corner of the Orchard Lane / Homend site which is an edge-of-centre site is highly relevant. It adds weight to the Officer appraisal that the sequentially preferable edge-of-centre Orchard Lane site could deliver additional retail floorspace to Ledbury and that the sequential testing provided by the agent for the applicant is not robust.

#### Representation from agent for applicant dated 15<sup>th</sup> February 2012

It is considered that DJD fully understand the impact methodology, their advice is based on Central Government advice and Development Plan policy, their advice with respect sequential testing is sound and that their conclusions are robust.

It is considered that recommended ground of refusal 2, being the impact upon the character of the Ledbury Conservation Area is soundly based. In this regard Members attention is drawn to paragraph 6.36 of the Committee Report.

The fact that the agent for the applicant appears to acknowledge that the relocation of Galebreakers is not a material consideration is welcomed. The proposal clearly involves the loss of good quality safeguarded employment land. The Council are flexible where an applicant can demonstrate that existing employment land is not suitable. However, the land in question is good quality serviced employment land. Indeed the existing firm that occupy the site have acknowledged that the site / land is a good site for an employment use. Galebreakers continued operation and location in Ledbury is not dependent on the outcome of this planning application. The importance of retailing is not dismissed but the Officer assessment centres around the appropriateness of the application site for retail use.

Recommended ground of refusal 5, is based on planning policy and includes specific reference to both Central Government advice and Development Plan policies.

At the time of reporting this Update Report the agent for the applicant has not provided further information to the Local Planning Authority with regard the issue of flood risk.

Sainsbury's have not informed the Local Planning Authority as to the location of the two sites that they consider the slow worms could be translocated to. It does not form part of the application under consideration. There is no evidence that they have assessed through survey work these two locations as to their suitability as a reptile habitat and have control over the land. There is also no legal mechanism advanced to secure such provision and long-term viability of the translocation as a mitigation strategy.

Engagement with the Local Planning Authority should take place with the Local Planning Authority at the pre-application stage. The submission of a planning application is considered to primarily be a request for a determination not a request for a negotiation. In this instance, the agent for the applicant was informed at the pre-application stage that Officers considered that there would be fundamental objections to the principle of the development, regardless of matters of detail, primarily due to the inappropriate location and scale (i.e. floorspace) of the proposal.

#### Representation from agent for applicant dated 20th February 2012

In the time available Officers have assessed the further submissions made by the agent for the applicant and conclude that there should be no change to the recommendation. The few points that Officers would make are:-

- Dealing briefly with Royal Haskoning's Note paragraphs in turn;

#### Section 2

2.2) I agree that the site is within 1km of the "The Old Cottage Hospital", but the Town Centre is around the Butter Market, which is 1 260m away.

2.3) The Site has been assessed by the industry standard programme "Accession" as "medium accessibility". This programme primarily assesses the accessibility to services and nearby towns and larger cities. The accessibility rating relates less well to accessibility within the town.

#### Section 3

3.2) PPG 13 states in Paragraph 20.1 that Local Authorities should;

"1. Focus land uses which are major generators of travel demand in city, town and district centres and near to major public transport interchanges. ... "

And further in PPG 13 Paragraph 35;

“ ... to promote the vitality and viability of existing town centres, which should be the preferred locations for new retail ... developments. ... At the local level, preference should be given to town centre sites, followed by edge of centre and, only then, out of centre sites ... well served by public transport.”

3.2 In “Guidelines for Providing for Journeys of Foot” (IHT, 2000), there is a table (Table 3.2, on page 49) showing acceptable walking distances, reproduced below.

	Town Centre (m)	Commuting/School/Sightseeing (m)	Elsewhere (m)
Desirable	200	500	400
Acceptable	400	1000	800
Preferred maximum	800	2000	1200

This table shows that the proposed development is too far from the town centre and many residential parts of the town for shopping trips.

Note also that in Paragraph 3.36 of the Guidelines above, it is stated that “... gradients, can be crucial in determining whether a development is pedestrian friendly”. The gradients in Ledbury are not generally excessive, but can be a deterrent, particularly for the disabled or elderly.

3.3 and 3.6 See above.

It is important to note that in the Market Town, 20.9% of households do not have access to a car or van. This percentage rises to 35.1% in the core of Ledbury. These figures are from the 2001 census (latest figures available), available at: <http://maps.herefordshire.gov.uk/exponare/GISMULTIMEDIA/RESEARCH/WARDS/AREAPROFILES/Ledbury.pdf>

The paragraphs above demonstrate clearly that the site is not particularly suited for walking access from the town centre and many other parts of the town, in turn significantly reducing the sustainability of the proposed location.

- It is the case that some Ledbury residents would be better served by the proposed new location, but they would be outnumbered by the number of residents disadvantaged by the new position in comparison to a town centre or edge of town centre location.
- Reason for refusal 6 – no revised flood risk assessment has been submitted to the Local Planning Authority, despite the agent for the applicant being sent a copy of the Environment Agency’s letter expressing their concerns on 8<sup>th</sup> January 2012;
- Reason for refusal 7 – the agent for the applicant has not informed the Local Planning Authority of the “suitable” receptor sites that the applicant has identified. There is no evidence that the “suitable sites” have been surveyed for their suitability for reptiles, and the Council’s Planning Ecologist has not had the opportunity to visit and assess them (location unknown). An agreement with the landowner would be essential as well as provision of a legal mechanism to secure the long-term viability of the translocation as a mitigation strategy.
- Reason for refusal 9 – the landscaping is considered to be critical in softening the mass of the proposed retail store. It remain a fact that the landscaping shown to be provided falls outside of the application site area and as such cannot be secured by way of a planning condition nor does the applicant offer an alternative legal mechanism to secure its provision.
- The agent for the applicant could have engaged with the Local Planning Authority in detailed pre-application negotiations but decided to submit a planning application without such detailed discussions. Clearly, after reading the Committee Report if they wished to engage further with the Local Planning Authority, the opportunity existed to withdraw this application and then engage in further discussions with Officers prior to submitting a fresh application (if they considered that appropriate).



**Drivers Jonas Deloitte's advice has also been sought with regard the addendum to the originally submitted 'Economic Assessment'.** Clearly they have had not had sufficient time to have a detailed review of the data provided, but advise:-

"In our previous comments, we stated that we believed that Turley's assessment of impact on Ledbury shops was incomplete, because the impact on Ledbury shops had been calculated based on the proposed store turnover from the catchment only, and had ignored trade diversions from expenditure from beyond the catchment. Turley's have provided additional clarifications and an updated assessment, which was received by Drivers Jonas Deloitte on 21 February 2012.

At the request of the Council, in order to inform an urgent update report, we have had an initial headline review of this information and some brief comments below..

### Sequential Test

- Site & Premises to the West of Lawnside Road – We note Turley's assertion that accommodating a foodstore on the site would be challenging, however there is no evidence that this would be insurmountable through an appropriate design response. Notwithstanding this, to be considered sequentially preferable the site must be considered available within a reasonable amount of time. Our previous comments in this regard stand and it is for the Council to determine and justify this based on their local knowledge and understanding of the circumstances affecting the site.
- Existing Tesco Store – We are aware of confirmation by Tesco that a store similar in scale to that proposed by Sainsbury's can be viably accommodated on the existing site. The site could be considered to be suitable, viable and available for re-development, albeit it is currently in the control of a competing operator. As an edge-of-centre site it is therefore sequentially preferable to the Sainsbury's site.

### Impact

Reason 2 for refusal as stated in the Officer's Report to Committee is that:-

"The local planning authority consider that the expenditure capacity and impact assessments forming part of the planning application are not robust and fail to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Ledbury Town Centre contrary to the Central Government advice contained within Policy EC17 of Planning Policy Statement 4 and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007."

Whilst Turley's have sought to clarify their assessment, our initial review of their response does not change our over-arching conclusions regarding the likely impact of the proposals.

- Notwithstanding Turley's updated assessment, we still have concerns as to a number of their assumptions and note that the assessment still culminates in what we consider to be a fairly high level of impact. The proportion of turnover derived from outside of the catchment area is still high and in effect underestimates the level of trade diverted from Ledbury stores. We remain unconvinced that convenience goods expenditure capacity exists to support the turnover of the application proposal.
- It should not be assumed that the specialist convenience shops in Ledbury will be immune from the commercial pressures of substantial additional large foodstore provision.
- We accept the additional range and quality of products that would be offered by a new Sainsbury store in Ledbury. These have to be considered against the disbenefits that could arise, in particular any disbenefits in terms of an undermining of the performance of retailers who already play a key role in supporting Ledbury's unusual and valued offer.

That the historic character and conservation area status of much of the town centre places greater weight on consideration of the implications of impact than would otherwise be the case. "

### LESS Group

With regard the comments of the LESS Group, a specific request was made by the LOTS Group to include reference to their previous petition in the report to Committee. Their reasoning for inclusion is set out in paragraph 5.12 of the Committee Report. It was considered that to refuse their request would not be

reasonable. It may be the case that some people who signed that petition are in favour of the current proposal. However, it remains reported to Members for information purposes and as set out above planning applications are not determined on some form of referendum. The Officer appraisal places no weight on this matter.

#### Other Matters

For Members information, it is understood that the vote at the Ledbury Town Council was seven Councillors supporting the proposal and seven Councillors opposing the application (2 abstentions) with the Chairman exercising his casting vote against.

There is an error within my report at paragraph 5.5. The word "Aylton" should be replaced with the word "Pixley".

#### **CHANGE TO RECOMMENDATION**

Amend reason for refusal 2 to read :-

"The local planning authority consider that the expenditure capacity and impact assessments forming part of the planning application fails to demonstrate that the proposal would not have a significant adverse impact upon the viability and vitality of Ledbury Town Centre contrary to the Central Government advice contained within Policy EC17 of Planning Policy Statement 4 and Policies S5, TCR1, TCR2 and TCR9 of the Herefordshire Unitary Development Plan 2007".

**S113380/F - ERECTION OF TWO DWELLINGS WITH ATTACHED GARAGING AT HILLCREST, GORSLEY, ROSS ON WYE, HR9 7SW**

**For: Country Construction per Mr David Pearce, Lavender Cottage, Nettleton, Chippenham, Wiltshire, SN14 7NS**

#### **ADDITIONAL REPRESENTATIONS**

Letter from B and N Langstone, 5 Ivy House Estate, Gorsley

We would like to bring to your attention the fact there are no semi-detached house on the B4221 between Newent and Gorsley.

The need for affordable housing will be realised by the proposed development between the Council and Two Rivers Housing Association of 12 properties near the Roadmaker public house.

#### **CHANGE TO RECOMMENDATION**

There is no change to the recommendation.

**S113513/CD - CONSTRUCTION OF CARPARK AND FOOTWAY / CYCLEWAY OFF WATERFIELD ROAD FOR THE BELMONT HAYWOOD COUNTRY PARK. AT WATERFIELD ROAD, HEREFORD, HR2 7EL**

**For: Mr Hemblade per Ms Paula Jobson, Amey, 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT**

#### **ADDITIONAL REPRESENTATIONS**



1.1 Comments from West Mercia Constabulary received as follows:

I feel that the DAS (Design and Access Statement) for this application fails to address and support crime prevention, Anti-Social Behaviour issues or the fear of crime.

I have some concerns on the management of this proposed car parking facility, in particular during late evenings and the hours of darkness when it is suggested the facility will be closed? How is the car parking going to be secured during these times, and are there going to be official seasonal opening times displayed and enforced?

A well used car parking facility can often be 'self policed' by reducing criminal opportunity due to the flow of users and the surveillance this provides.

It can also reduce the anonymity that criminals desire, and reduce the fear of crime of users. However a little used facility does not provide such benefits and crime and anti-social behaviour can flourish.

I consider it vital to the sustainability of this car park and the control of crime and anti-social behaviour that both the management and hours of opening are both clearly displayed and controlled/enforced. Signage should be clearly displayed to inform users of this and should include a telephone number/help point for damage etc to be reported.

Landscaping should be carefully selected and maintained so that areas to hide are reduced as often daylight vehicle crime is committed when the vehicle occupants are observed from close by, parking and leaving their vehicle.

As a general guide, shrubs should be minimal and not within parking areas. Shrubs should be maintained at a maximum height of 1 metre and tree canopies at a height of 2.5 metres from the ground to provide a clear through line of sight and good natural surveillance.

CCTV is omitted from the DAS. Is CCTV a consideration to be installed at this development?

1.2 A further letter has been received from Mr Brawley who identifies explicit concerns about the following:

Fly Tipping – this is already a problem and could be enhanced by convenient 24hr open access. Could be a fire and environmental hazard

Joy riders burning out cars and vans that could set fire to wooden fence and grass crete (plastic) surface

Why not re-use the lockable barriers? Why should residents act as unpaid lock openers or watch the car park?

Youths will migrate from unlit ball court to the lit car park. Potential noise from car stereos / mopeds etc

Lack of rubbish bins for users. The plastic ones in the park have already been set on fire / melted and any provided should be metal.

1.3 In response to these issues raised above and in the report the applicants (Parks and Countryside) have made the following comments:

1) The hedge will be retained which will provide a noise and visual barrier between the car park and Kestrel Road

2) The street lamp will be provided with a double head to ensure the car park is lit up during darkness. There will also be a timer switch installed which will allow it to be turned off after a certain time.

3) We will look to install a vehicular barrier if resources can be identified to lock and unlock it. Some members of the local community have offered to be key holders.

- 4) The local policing team will be requested to patrol the area regularly.
- 5) Amey Herefordshire will be requested to keep the area free of litter and empty the bins regularly.
- 6) A review will be carried out regarding the concern around the nearby existing ball park and its relationship to the proposed car park
- 7) It is proposed that 3 free standing durable (weather resistant) external bins with galvanised steel liners to be installed; 1 in the car park area and 2 along the footway/cycleway.

## OFFICER COMMENTS

In response to the comments made by local residents and West Mercia Police, Officers have been working with the applicants and their agents to try and answer some of these queries.

The plans have been amended to show the position of a lockable gate and provision of a double headed light (with timer). This has come in response to the objections outlined above and in the report. A condition relating to the management of the site is suggested so that the mechanisms for locking the gate can be investigated (ie community rota or other means) as well as the consideration of hours opening, signage (including position) and times of lighting.

The matter of CCTV can be explored. There is no money set aside explicitly for this within the Section 106 for the Mulberry Close development and will need to be explored through other means. It is acknowledged that this may have wider benefits in respect of the use of the Ball Park if this can be achieved.

The issues in relation to the legal route of the PROW have also been considered and I understand that the applicants will need to apply for a diversion either under the Highways Act or Town and Country Planning Act.

The matter of the potential that this car park will add to anti-social behaviour in the area has been fully considered and the recommendations of the police taken into account and plans adjusted accordingly. The proposal continues to be recommended for approval.

## CHANGE TO RECOMMENDATION

### *Additional Condition:*

Prior to the commencement of development a detailed management plan, that includes the following information shall be submitted to and approved in writing by the local planning authority:

- a) Hours of opening of car park
- b) Details of method and mechanism to locking / unlocking the access gate that serves the car park
- c) Hours of lighting of car park
- d) Position of and details of signs (that should include hours of operation / emergency contact details)
- e) Position of waste bins
- f) Maintenance and management of hedgerow to boundary with Car Park

The management of the car park shall be carried out in accordance with the approved plan in perpetuity.

Reason: In the interests of the amenities of the locality and to deter crime in order to comply with policies S1, DR1, DR2 and DR3 of the Herefordshire Unitary Development Plan

<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>14 MARCH 2012</b>
<b>TITLE OF REPORT:</b>	<b>APPEALS</b>

---

**CLASSIFICATION:** Open

### **Wards Affected**

Countywide

### **Purpose**

To note the progress in respect of the following appeals.

### **Key Decision**

This is not a key decision

### **Recommendation**

That the report be noted

### **APPEALS RECEIVED**

#### **Application No. N 111382/O**

- The appeal was received on 3 February 2012
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Dr Gwilym Edmondson - Jones
- The site is located at Pipers Gate, Floyds Lane, Wellington Heath, Ledbury, Herefordshire, HR8 1LR
- The development proposed is Outline planning permission for the erection of a small single storey two bedroom
- The appeal is to be heard by Written Representations

**Case Officer: Mr N Banning on 01432 383093**

#### **Application No. N 111754/FH**

- The appeal was received on 14 February 2012
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr William Rowlatt
- The site is located at 6 Castle Close, Eardisley, Hereford, Herefordshire, HR3 6NL
- The development proposed is Installation of photovoltaic solar energy panels to the roof.
- The appeal is to be heard by Written Representations

**Case Officer: Mr P Mullineux on 01432 261808**

---

Further information on the subject of this report is available from the relevant case officer

### **Application No. N 112601/L**

- The appeal was received on 14 February 2012
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr William Rowlatt
- The site is located at 6 Castle Close, Eardisley, Hereford, Herefordshire, HR3 6NL
- The development proposed is Installation of photovoltaic solar energy panels to the roof.
- The appeal is to be heard by Written Representations

**Case Officer: Mr P Mullineux on 01432 261808**

### **Application No. S 112878/A**

- The appeal was received on 14 February 2012
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Tile Giant Ltd
- The site is located at Tile Giant, 44b Holmer Road, Hereford, Herefordshire, HR4 9RS
- The development proposed is Fascia sign over shop front, panel sign on gable.(retrospective)
- The appeal is to be heard by Written Representations

**Case Officer: Mark Lane on 01432 260474**

### **Application No. N 111357/F**

- The appeal was received on 14 February 2012
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr Graham Fillery
- The site is located at Bleathwood Manor Farm, Bleathwood, Herefordshire, SY8 4LT
- The development proposed is Replacement cattle shed on site of original cattle shed
- The appeal is to be heard by Written Representations

**Case Officer: Mr C Brace on 01432 261795**

### **Application No. S 112188/F**

- The appeal was received on 17 February 2012
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by NJ & IE Cockburn
- The site is located at Pennoxstone Court Farm, Ruxton Lane, Kings Cuple, Hereford.
- The development proposed is Proposed variation of conditions 10, 12 and 19 and the removal of condition 7 of planning permission DMSE/100966/F – To erect take down and re-erect polytunnels rotated around fields as required by the crops under cultivation (Part retrospective)
- The appeal is to be heard by Hearing

**Case Officer: Mr E Thomas on 01432 260479**

### **Application No. S 111711/F**

- The appeal was received on 21 February 2012
- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal is brought by Mr I Joseph
- The site is located at Land at Lower Lyde (Parcel 7209), Sutton St Nicholas, Hereford, HR1 3AS
- The development proposed is Siting of temporary living accommodation for agricultural worker.
- The appeal is to be heard by Written Representations

**Case Officer: Mr M Tansley on 01432 261815**

---

Further information on the subject of this report is available from the relevant case officer

## APPEALS DETERMINED

### Application No. S111396/FH

- The appeal was received on 30 December 2011
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Mark Crockett
- The site is located at The Old Chapel, Tillington, Herefordshire, HR4 8LW
- The application dated 31 May 2011 was refused on 13 September 2011
- The development proposed was a proposed extension to dwelling and erection of garage and store.
- The main issue is the effect of the proposed development on the character and appearance of the building and the locality.

**Decision:** The application was refused under delegated powers on 13 September 2011.  
The appeal was dismissed on 7 February 2012.

**Case Officer: Ms Kelly Gibbons on 01432 261781**

### Application No. S111132/F

- The appeal was received on 16 September 2011
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr John Lee
- The site is located at Field, The Leys, Lynne Down, Much Marcle, Herefordshire, HR8 2NS
- The application dated 7 April 2011 was refused on 31 August 2011
- The development proposed was the change of use of land from agricultural to a one family traveller site, including siting of one mobile home, touring caravan, shed and new access.
- The main issues are (i) The location of the site in relation to services and facilities; (ii) the effect of the proposal on the character and appearance of the surrounding countryside; (iii) the effect of the proposal on the setting of the nearby listed farmhouse; and (iv) whether any harm arising from the proposal would be outweighed by other considerations

**Decision:** The application was refused by committee contrary to Officer recommendation.  
The appeal was allowed on 22 February 2012.

**Case Officer: Andrew Prior on 01432 261932**

If members wish to see the full text of decision letters copies can be provided.





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>14 MARCH 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>S111970/F - PROPOSED EXTENSION TO EXISTING PUB WITH 10 BED ACCOMMODATION AND 2 STAFF DWELLINGS AT THE MILL RACE PUB, WALFORD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5QS</b></p> <p><b>For: Eagle Inns Ltd, Ruardean Works, Varnister Road, Nr Drybrook, Gloucestershire, GL17 9BH</b></p>

**Date Received: 20 July 2011**

**Ward: Kerne Bridge**

**Grid Ref: 358673,22025**

**Expiry Date: 18 October 2011**

Local Member: Councillor JG Jarvis

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

- 1.1 The Mill Race Public House and associated car parking is on the west side of the B4234. Nelsons Court a development of 5 houses is to the north. Farm land adjoins the site on its west side with Goodrich Castle further to the west. Walford Timber Sawmill and open storage yard is to the southwest.
- 1.2 The car park on the north side of the pub and to the rear is in Flood Zone 2 and 3.
- 1.3 The site is located outside the identified main village boundary of Walford (Coughton) as shown on Inset Map 39 in the Herefordshire Unitary Development Plan and within the Wye Valley Area of Outstanding Natural Beauty.
- 1.4 This application proposes the erection of a 2-storey accommodation block that will be positioned in the southwest corner of the car park adjacent to the western boundary of the site. The accommodation block will provide 10 letting rooms each providing a bedroom, sitting area and bathroom.
- 1.5 The application also proposes the construction of a 2-storey building on the north side of the entrance off the B4234 that will accommodate 2 flats providing 2 bedrooms, kitchen/dining/lounge and shower room. The building will be gable end onto the B4234 and on a similar "building line" to the housing on the north side of the pub. Entrance to the flats will be off the driveway to the car park. The flats are intended to provide accommodation for staff employed at the Mill Race facility.
- 1.6 A single storey addition to the rear of the pub is also proposed that will extend the trading area. A balcony is proposed above the addition that will be screened either side by a 2 metre high wall. The balcony will look out over the car park towards farm land and Goodrich Castle.
- 1.7 It is proposed to dispose of sewerage by way of a new biodisc treatment plant that will be located in the northwest corner of the car park, close to the existing treatment plant.

---

Further information on the subject of this report is available from Mr D Thomas on 01432 261974

## 2. Policies

### 2.1 National Planning Guidance:

PPS1	-	Delivering Sustainable Development
PPS4	-	Planning for Sustainable Economic Growth
PPS7	-	Sustainable Development in Rural Areas
PPS25	-	Development and Flood Risk

### 2.2 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
S7	-	Natural and Historic Heritage
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
DR7	-	Flood Risk
DR14	-	Lighting
H7	-	Housing in the Countryside Outside Settlements
H8	-	Agricultural and Forestry Dwellings and Dwellings Associated with Rural Businesses
H13	-	Sustainable Residential Design
LA1	-	Areas of Outstanding Natural Beauty
RST1	-	Criteria for Recreation, Sport and Tourism Development
RST2	-	Recreation, Sport and Tourism Development Within Areas of Outstanding Natural Beauty
RST12	-	Visitor Accommodation
RST13	-	Rural and Farm Tourism Development

## 3. Planning History

3.1	DCSE2005/0527/F	Refurbishment of public house and construction of 4 residential dwellings. Withdrawn.
3.2	DCSE2007/3912/F	Single storey extension. Withdrawn.
3.3	DCSE2008/2312/F	Extension to form delicatessen shop. Approved 5.11.2008.
3.4	S110887/F	Extension to public house, 10 bedroom accommodation block and 2 staff dwellings. Withdrawn.

## 4. Consultation Summary

### Statutory Consultees

4.1 Environment Agency: Has no objection to the development subject to conditions.

### Internal Council Advice

4.2 Traffic Manager: Has no objection subject to conditions.

4.3 Conservation Manager (Landscape): Has no objection.



4.4 Environmental Health and Trading Standards: Has no objection subject to a condition requiring the submission of lighting details.

## 5. Representations

5.1 Walford Parish Council has no objection to this application, provided the staff accommodation remains tied to the business.

5.2 Objections have been received from

B Taylor, Laburnum Cottage, Walford  
TA Barnett, 4 Nelson's Court, Walford  
CG Coggins, Giddis, Goodrich

J and E Underwood, 993 Bukit Timah Road, Mapplewoods, 01/11 Saraca Court, Singapore  
G Smith, Walford Timber Ltd, The Sawmills, Walford

In summary it is said

- I am concerned the 10 bedroom accommodation unit is overpowering and very close to my boundary.
- Inadequate parking proposed.
- The new house, restaurant extension will look directly over my property.
- The plans are totally out of character, size and proportion to the room available.
- The application is inadequate in dealing with the disposal of foul drainage.
- The block of ten letting rooms would have a damaging impact on our property. It will blot out all view in that direction.
- The second floor windows will look into our garden and all our rear windows.
- Parking close to our property will cause disturbance, especially at night.
- The balcony will look straight into our property.
- The accommodation block will be extremely close to our business, Walford Timber.
- There may be conflict between our activities and the guest accommodation.
- This could have an impact on our business.

5.3 Letters of support have been received from:

A Rolfe, The Poppies, 12 Tudor Walk, Berry Hill, Coleford  
NH Thomas, 6 Lilac Drive, Monmouth  
B Ennis – No address given.

In summary it is said:

- The proposal will improve a valuable community asset.
- Local pubs should be allowed to diversify to ensure survival.
- Herefordshire needs good tourist accommodation.
- The proposal will provide additional employment.

5.4 A petition in support of the application with 56 signatures has been received.

5.5 A Design and Access has been submitted with the application. In summary it is said:

- The pub is situated in the centre of Walford.
- Behind the pub is a picturesque view of the River Wye with Goodrich Castle in the background.

- A 10 bedroom accommodation block is defined as the minimum size and therefore essential that at least 10 bedrooms were created together with additional dining space within the pub to accommodate the additional evening use.
- Staff accommodation is essential to ensure guests are catered for and ongoing viability of the business in securing and retaining competent staff as well as security and overlooking supervision. The scale of the development is in keeping with the existing street scene.
- The existing first floor flat has been demolished to create additional trading area to be used for conferences and business meetings.
- Overall 52 parking spaces are provided on the site. Providing an additional 15 spaces over the existing situation allowing 10 spaces if the accommodation is full.
- There will be a very small increase in activity within the car park over the existing situation.
- The vernacular design will blend the proposal into this countryside village.

5.6 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

## **6. Officer's Appraisal**

6.1 The Mill Race is located outside the main village boundary of Walford (Coughton) as shown on Inset Map 39 in the Herefordshire Unitary Development Plan. Consequently, for the purpose of planning policy the site is located in the countryside. This application proposes the following:

### Extension to Public House

6.2 The extension is proposed to the rear of the pub and will increase the bar area. The scale and form of the extension is considered acceptable in that it allows the form of the original building to remain dominant.

6.3 The application also proposes a balcony above the extension. The balcony will look out towards Goodrich Castle. A 2 metre high screen wall is proposed either side of the balcony. Having regard to the impact of the balcony on the residential amenity of the neighbouring property, it is considered the height and position of the screen wall will protect the amenity of the neighbour and reduce overlooking that may arise.

### Accommodation Block

6.4 The site is located within the Wye Valley Area of Outstanding Natural Beauty. The primary purpose of designation of these areas is to conserve and enhance their natural beauty. The most relevant policy with regard to the AONB is Unitary Development Plan Policy LA1.

6.5 In addition, the pressure for recreation related development within the AONB merits a specific policy within the Herefordshire Unitary Development Plan – Policy RST2. Whilst AONB designation allows recreation proposals to be accommodated where such developments do not compromise the landscape quality, it is important that precedence is given to the principal aim of conserving and enhancing the natural beauty of the area.

6.6 Policy RST2 reads as follows:

Within the Malvern Hills and Wye Valley Areas of Outstanding Natural Beauty, the conservation of the unique character and qualities of the landscape and of biodiversity and geological interests will have precedence over the development of facilities for recreation, sport and tourism. In particular such developments must:

- respect and be in keeping with the inherent distinctiveness of the local landscape;
- be small-scale and constructed from appropriate materials; and

---

Further information on the subject of this report is available from Mr D Thomas on 01432 261974

- make a positive contribution to the understanding and quiet enjoyment of the natural beauty of the AONB.
- 6.7 Council policy therefore places paramount importance on the protection of the natural beauty of the AONB, which is of national importance. For this reason the policy is particularly restrictive and development should only be permitted when it meets the specific requirements of the policy.
- 6.8 The first policy issue is whether the development respects and is in keeping with the inherent distinctiveness of the local landscape. Given that the site is already used as a leisure facility and the existing landscape character is that of amenity land and car parking associated with the leisure facilities, development of the scale proposed is considered to be acceptable. There is very limited change to the landscape character of the site. The proposal is not considered to have an undue effect on the rural quality and character of the AONB.
- 6.9 The second policy issue is whether the development is small scale and constructed from appropriate materials. The proposed is for a 2-storey building that is positioned close to the rear boundary of the site.
- 6.10 Insofar as the visual impact of the proposed building is concerned that the building will be to the rear of the pub and will be seen as part of a group. It is considered siting the proposal in this position allows the building to relate visually to the group. The eaves height of the accommodation block will be no higher than the eaves height of the existing pub building, and on a similar contour. In this respect it is considered that the accommodation building will be viewed as a low-key structure that will not have a discernable impact on the acknowledged visual qualities of the area. Accordingly, it is not considered the proposal will cause harm to the character or quality of the landscape and the proposal is considered acceptable having regard to policy LA1. No objection, subject to conditions, is raised by the Conservation Manager/Landscape Officer in relation to the impact of this proposal on the landscape quality of the AONB.
- 6.11 The third issue is whether the development makes a positive contribution to the understanding and quiet enjoyment of the natural beauty of the AONB. There is an existing commercial use on site. This proposal is for additional guest accommodation that will be used in connection with the established leisure activities of the site and in this respect the policy requirement is met.
- 6.12 The site of the accommodation block lies partially within Flood Zone 3, the high risk Zone, and wholly within Flood Zone 2, the medium risk Zone. The proposed accommodation block is situated towards the western portion of the site, on land bordering Flood Zone 3.
- 6.13 PPS25: Development and Flood Risk requires 'a sequential risk-based approach to determining the suitability of land for development in flood risk areas is central to the policy statement and should be applied at all levels of the planning process.' The aim of the Sequential Test is to steer new development to areas at the lowest probability of flooding. Based on the scale of the accommodation block, the Environment Agency is satisfied the scale and nature of the proposal, which is considered 'minor development' in accordance with PPS25. The requirement for sequential testing of proposals within Flood Zones has been carefully considered. In view of the importance of integrating the guest accommodation with the existing facilities and upon the basis that the guest accommodation will be intermittently occupied, it is considered that the proposed development is acceptable.

Staff Accommodation

- 6.14 As mentioned above the Mill Race is located outside the recognised boundary of Walford. The site is located in the countryside where Policy H7 restricts residential development. The policy does allow exceptions to this principle, as follows:
- the development is clearly necessary in connection with agriculture or forestry and cannot be located in a settlement and complies with policy H8; or
  - it is a necessary accompaniment to the establishment or growth of a rural enterprise, and complies with policy H8;
  - it results from the re-use of a rural building in accordance with policies HBA12 and HBA13;
  - it is a replacement for, comparable in size and scale with and on the same site as an existing building with established residential use rights;
  - it is an extension to an existing dwelling in accordance with policy H18;
  - it is a site providing for the needs of Gypsies or other Travellers in accordance with policy H12;
  - it is rural exception housing in accordance with policy H10.
- 6.15 While, it is said the staff dwellings are essential to the supervision of the accommodation block it has not been satisfactorily demonstrated why the accommodation must be provided on this site or why it cannot be provided within the pub or elsewhere in the locality. Also, until such time as the accommodation block has been constructed the reason for the dwellings is regarded as premature. None of the exceptions identified above are relevant to this application since there is no functional justification for the development of 2 dwellings in connection with either the proposed accommodation block or the pub business. Consequently, the need for a person or persons to live on the site in connection with the business has not been proven.
- 6.16 In conclusion, while the extension to the Mill Race is acceptable in term of its scale and form and the accommodation block complies with policies RST1 and RST2, the applicant has not demonstrated there is a functional requirement for the dwellings. As such this element of the proposal is contrary to policy H7 which restricts housing development in the countryside.

**RECOMMENDATION**

**That planning permission be refused for the following reasons:**

- 1. The proposed dwellings are considered to be contrary to Policy H7 of the Herefordshire Unitary Development Plan together with the advice contained in Planning Policy Statement 7: Sustainable Development in Rural Areas, as the site is located outside a defined settlement and none of the exceptions to new housing development in the open countryside have been satisfied.**
- 2. In the absence of a functional justification, the proposed dwellings would be harmful to the local environment and to the Wye Valley Area of Outstanding Natural Beauty in which the use is located. As such the proposal conflicts with Policy LA1 of the Herefordshire Unitary Development Plan.**

Decision: .....

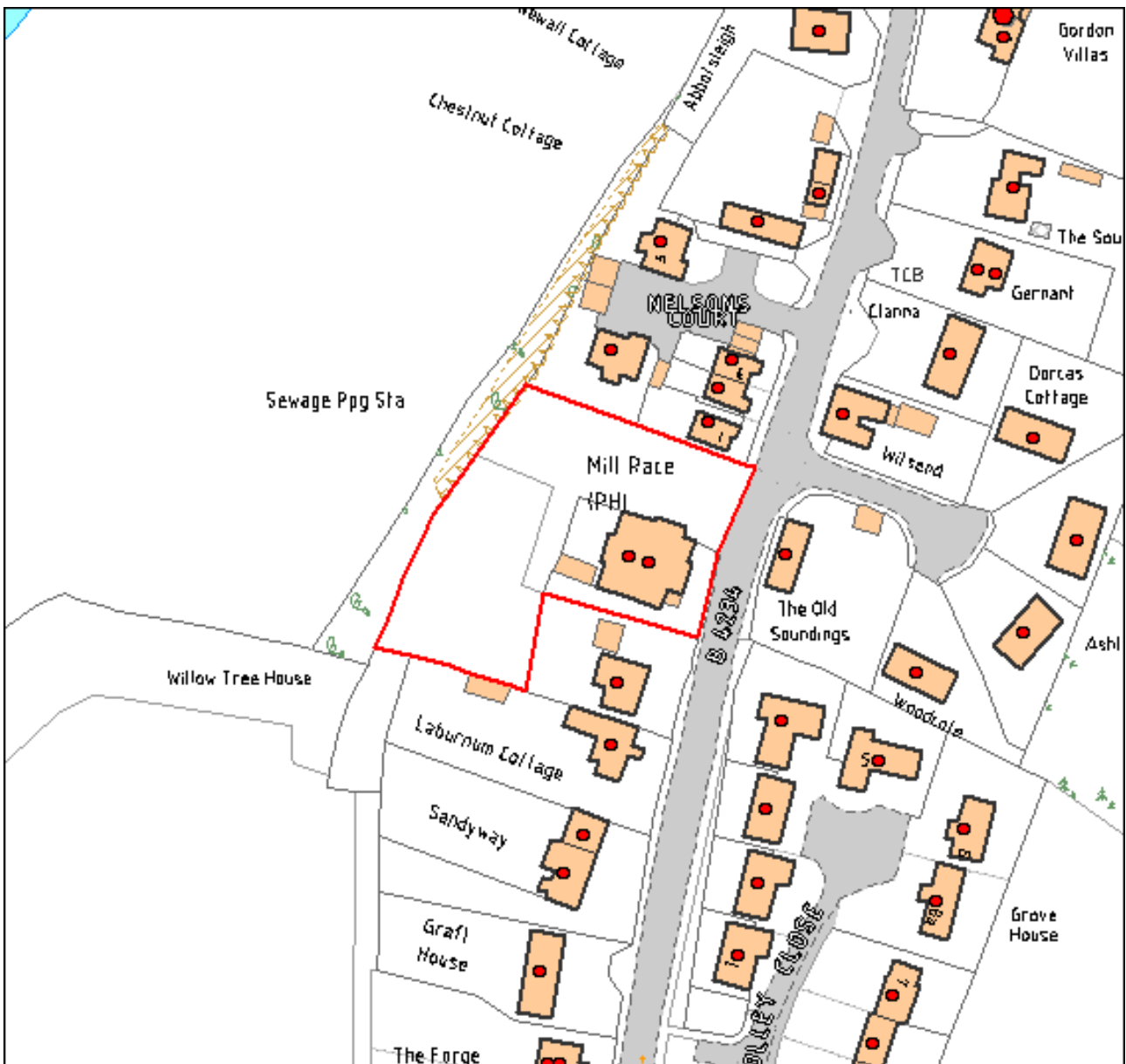
Notes: .....

**Background Papers**

Internal departmental consultation replies.

---

Further information on the subject of this report is available from Mr D Thomas on 01432 261974



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

**APPLICATION NO:** S/111970/F

**SITE ADDRESS :** THE MILL RACE PUB, WALFORD, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5QS

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





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>14 MARCH 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>S113131/F - ERECTION OF RETIREMENT LIVING HOUSING FOR THE ELDERLY, (CATEGORY II TYPE ACCOMMODATION), COMMUNAL FACILITIES, LANDSCAPING AND CAR PARKING AT VICTORIA HOUSE, 149-153 EIGN STREET, HEREFORD, HR4 0AN</b></p> <p><b>S113132/C - ERECTION OF RETIREMENT LIVING HOUSING FOR THE ELDERLY, (CATEGORY II TYPE ACCOMMODATION), COMMUNAL FACILITIES, LANDSCAPING AND CAR PARKING AT VICTORIA HOUSE, 149-153 EIGN STREET, HEREFORD, HR4 0AN</b></p> <p><b>For: McCarthy &amp; Stone Retirement Lifestyles Ltd per The Planning Bureau Ltd, Hartington House, Hartington Road, Altrincham, Cheshire, WA14 5LX</b></p>

**Date Received: 7 November 2011      Ward: St Nicholas & Three Elms      Grid Ref: 350503,240048**

**Expiry Date: 29 February 2012**

Local Members: Councillors SM Michael, JD Woodward, PA Andrews, EMK Chave & C Nicholls

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

- 1.1 The application site lies to the west of Hereford's city centre on the A438 (Eign Street), and at the western edge of Hereford's Conservation Area. The area is characterised by a mix of uses including small-scale independent shops, two large food retailers (Sainsbury's and Aldi), educational (Hereford Art College and Lord Scudamore School) and residential premises (Victoria Court). The road is a busy arterial route into the city and, with residential areas further to the west, serves both local and through traffic.
- 1.2 The site is roughly rectangular in shape with an approximate area of 0.35 hectares. It is bounded to the north by Eign Street, being set back from the road behind a bus lay-by and a brick wall topped by a mature hedge. The southern boundary is shared with Lord Scudamore School and currently comprises a 3 metre high chain-link fence. The residential development of Victoria Court is to the east and the Great Western Social Club at a lower level to the west. There are a number of trees within the site, particularly along the eastern and western boundaries.

---

Further information on the subject of this report is available from Mr A Banks on 01432 383085

- 1.3 The site is currently occupied by Victoria House, which is centrally located with open areas surrounding it. The building was originally constructed in 1912 to provide accommodation for the resident surgeon of the Eye Hospital, and was latterly used as associated office accommodation. The Eye Hospital has since been converted to residential use and is integral to the development to the east known as Victoria Court. The office use has now ceased and Victoria House has been vacant for some time, remaining in the ownership of the Primary Care Trust. The condition of the building and its curtilage are deteriorating as a consequence of its vacancy and the surrounding grounds have become overgrown and untidy with the tarmac area immediately in front used indiscriminately by the public for parking. The building is, however, an attractive two storey structure, of brick construction with a slate hipped roof. It is well detailed, presumably to signify its importance locally, with dressed stone window surrounds and timber and render above gabled projections on the front elevation addressing Eign Street.
- 1.4 This report deals with two separate applications, both of which are intrinsically linked. The first is for the demolition of Victoria House in order to facilitate the re-development of the site. The second is a detailed planning application for its replacement with a development comprising 29 x 1 bedroom and 11 x 2 bedroom (40 in total) retirement apartments for sale to the elderly. The scheme also includes manager's accommodation and communal facilities to include a residents' lounge, laundry, over-night guest suite and a buggy store.
- 1.5 The plans show a single building occupying approximately one third of the site, with car parking for 17 vehicles in its north eastern quadrant and landscaped areas to either side, and rear of the building. It is three storeys with a maximum height of 11.1 metres to the ridge. In more detail, the accommodation is organised as a series of four brick-built elements, linked by a glazed atrium that runs through the core of the development and serves to provide residents with some of the communal facilities referred to above. Most apartments will have their own private balconies and residents will also have full access to the landscaped gardens shown on the plans to the east and west of the building.
- 1.6 The application is accompanied by a series of documents that are listed as follows:
- Design, Access and Sustainability Statement
  - Planning Statement
  - Building and PPS5 Assessment
  - Statement of Community Involvement
  - Tree Survey
  - Contaminated Land Site Investigation Report
  - Archaeological Desk Based Assessment
  - Transport Impact Report
  - Drainage Survey
  - Bat Survey and Extended Phase 1 Habitat Survey
  - Affordable Housing and Viability Statement
  - Draft Heads of Terms Agreement

## 2. Policies

### 2.1 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
S6	-	Transport
DR1	-	Design
DR2	-	Land Use and Activity



DR3	-	Movement
DR5	-	Planning Obligations
DR6	-	Water resources
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H14	-	Re-using Previously Developed Land and Buildings
H15	-	Density
H19	-	Open Space Requirements
T8	-	Road Hierarchy
T11	-	Parking Provision
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
HBA6	-	New Development Within Conservation Areas
HBA7	-	Demolition of Unlisted Buildings Within Conservation Areas
RST3	-	Standards for Outdoor Playing and Public Open Space

#### Supplementary Planning Documents

2.2 Planning Obligations – Adopted April 2008

2.3 National Policy Documents

PPS1	–	Delivering Sustainable Development
PPS3	–	Housing
PPS5	–	Planning for the Historic Environment
PPS9	–	Biodiversity and Geological Conservation
PPG13	–	Transport

### **3. Planning History**

3.1 There is no planning history for the site that is specifically relevant to this application. However, planning permission was granted on the adjoining site to the east under application reference DCCW2004/0108/F for the conversion of Victoria Eye Hospital to six dwellings and the erection of 18 new dwellings with associated landscaping and parking.

### **4. Consultation Summary**

#### Statutory Consultations

4.1 Welsh Water – No objections subject to the imposition of conditions relating to the separate treatment of foul and surface water

#### Internal Council Advice

4.2 Traffic Manager: Initially commented that the ratio of 0.35 spaces per apartment (17 in total) was insufficient and suggested that a ratio of 0.7 per apartment would be more appropriate, equating to 28 spaces in total. However, following an exchange of correspondence about the rationale behind the parking provision made it is recommended that, as it is argued that the average age of entry to the development is likely to be in excess of 70 years, a condition restricting availability to potential residents aged 65+ be imposed.

4.3 Conservation Manager (Historic Buildings): The heritage assessment of Victoria House by Beardmore Urban meets the requirements of PPS5 in that it ‘provides a level of information that is proportionate to the significance of the asset. Its assessment of the building as a

---

Further information on the subject of this report is available from Mr A Banks on 01432 383085

competent but average example of an early C20th dwelling is accepted. The loss of any building must be weighed on its merits, but PPS5 accepts that some degree of change is inevitable in the built environment and that new development can make a positive contribution to the character and local distinctiveness of an area. On this basis no objection is raised to the proposal.

- 4.4 Conservation Manager (Landscape): generally content with the application, subject to conditions to deal with the detailed design of the landscaping scheme.
- 4.5 Conservation Manager (Ecology): The survey work completed is largely accepted. Additional information has been requested regarding the investigations and findings within the loft space of the building. The applicant's agent has also been advised of the Council's need as a competent authority to complete a Habitats Regulations Assessment Screening Report (an HRA). This requires the submission of further information relating to water quality issues and the potential impact of the development as it discharges to the River Wye Special Area of Conservation (SAC). This has yet to be received at the time of writing this report and is reflected in the recommendation set out below.
- 4.6 Housing Development Officer: Not supportive of the application in its current format as it does not make any on-site affordable housing provision and that the amount available for an off-site contribution does not accord with the advice given at the pre-application stage, when it was suggested that if an off-site contribution were to be accepted, it should equate to £50,000 per dwelling. Based on a 35% provision this would amount to 14 dwellings and a contribution of £700,000.
- 4.7 The suggestion made in the applicant's supporting documents that a mixed development of affordable and open market would cause friction between residents is disputed, and an example at The Rose Gardens on Ledbury Road is cited, where a mix of independent living apartments, both open market and affordable, has been very successful. This is considered to be a good and comparable example where housing management has not proved to be an issue.
- 4.8 CCTV Commissioning Officer: There are areas in close proximity to the application site where there is a high incidence of anti-social and criminal behaviour and disorder. The area of Eign Street/Whitecross Road/Great Western Way is particularly identified as a busy route in and out of the city by foot and by vehicle and a camera on the main highway over the subway under Whitecross Road would greatly enhance the current system. Accordingly a contribution of £21,865 is requested.
- 4.9 Head of Environmental Health and Trading Standards: No objection subject to the imposition of a condition relating to a remediation scheme regarding contaminated land issues.
- 4.10 Parks & Countryside: It is noted that the development includes 1,620 m<sup>2</sup> (0.162ha) of amenity green space which will include varied planting, walking routes, social seating areas, lawns and communal gardens. On this basis an off site contribution towards open space provision is not required.

## **5. Representations**

- 5.1 Hereford City Council: Object to the application and have asked that the scheme be re-designed in order that at least one parking space per flat is provided, plus some spaces for visitors and service providers.
- 5.2 Hereford Civic Society: Do not object to the application but see the lack of renewable energy as a missed opportunity.

- 5.3 Woolhope Naturalists Field Club: Object specifically to the demolition of the existing building and consider that it should be listed. They have not commented on the detailed design of the replacement building.
- 5.4 Three letters have been received in response to the period of public consultation. All of these are generally favourable towards the application highlighting the improvement of a currently derelict site and the provision of a type of accommodation that is currently lacking in Hereford as recurring themes. One resident of Victoria Court has asked for careful regard to be had to issues around residential amenity.
- 5.5 The consultation responses can be viewed on the Council's website by using the following link:-  
[www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113131](http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113131)

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

[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## **6. Officer's Appraisal**

- 6.1 Before assessing the detailed design of the replacement building, consideration must first be given to the proposed demolition of the existing building and the contribution that it makes to the character and appearance of the conservation area and the street scene.
- 6.2 Policy HBA7 of the Herefordshire Unitary Development Plan refers specifically to the demolition of unlisted buildings in conservation areas and suggests that demolition will only be permitted if:
- The proposal is accompanied by a proposal for re-development
  - The building does not make a positive contribution to the character or appearance of the conservation area, and
  - The structural condition of the building is such that the cost of repair out-weighs the importance of its retention
- 6.3 Policies HE.6 and HE.7 of PPS5 are also considered to be of relevance as they require local planning authorities to have regard to the particular nature and significance of the heritage asset (in this case the conservation area) and the impact of new development on it, taking into account the desirability for it to make a positive contribution to the character and local distinctiveness of the historic environment.
- 6.4 The proposal is the subject of two separate applications; one for demolition and the other for a replacement building. Therefore the first part of Policy HBA7 is met.
- 6.5 The second two bullet points need to be read in conjunction with one another. Their inference is that, if it is concluded that the building in question is not considered to make a positive contribution to the conservation area, its structural condition is not of significance. Elements of Policy HE.7 are also relevant here where local authorities need to assess the significance of the asset.
- 6.6 The Council's Historic Buildings Officer has considered the impact of demolishing the building and concurs with the conclusion of the applicant's assessment that it does not make such a positive contribution that it must be retained and thus compromise the re-development of the site. In coming to this conclusion, consideration has been given to the comments received from the Woolhope Naturalists Field Club who are of the view that the building is a significant piece of Arts and Crafts Architecture and is worthy of listing.

- 6.7 The Council has not received any indication from English Heritage that it is considering the building for listing and, on the basis of the comments from the Historic Buildings Officer, it is concluded that it does not make such a contribution to the conservation area to warrant its retention. Therefore, it is considered that subject to an appropriately designed replacement, the principle of demolition is accepted.
- 6.8 Turning now to the proposed redevelopment of the site, there are a number of matters to be considered with specific regard to the planning application for the new development and these can be summarised as follows:
- Affordable housing provision and viability
  - Design
  - Scale and massing
  - Impact on adjoining land uses
  - Car parking provision
  - Ecological Issues

Affordable housing provision and viability

- 6.9 These two issues are very closely linked and therefore it is appropriate to deal with both under the same heading.
- 6.10 It is implicit from the applicant's submission that they accept that the type of accommodation that they are providing are dwellings as defined under Class C3 of the Town and Country Planning Use Classes Order. Therefore it is appropriate to require an affordable housing provision under Policy H9 of the Herefordshire Unitary Development Plan.
- 6.11 At the pre-application stage the applicant's agent advised of their client's intention to make an off-site contribution for affordable housing. They were advised that this would need to be justified. Notwithstanding this, a figure for an off-site contribution was provided by officers to form part of a Heads of Terms Agreement. Based on an equivalent 35% provision this would amount to £700,000 – 14 dwellings at £50,000 each. It is worth noting that, at no time throughout the course of pre-application discussions or the consideration of the planning application, has the level of off-site contribution that the Council has stated been questioned but rather the implications for the viability of the scheme. This is a material consideration to which weight must be attached in the context of the overall aim of promoting sustainable development.
- 6.12 The applicant has submitted an Affordable Housing and Viability Statement as part of the application. This asserts that the provision of on-site affordable housing within developments for specialised housing for the elderly is both problematic and unviable. It concludes that in this instance, an off-site provision would be more appropriate.
- 6.13 By way of further explanation, the report advises that the type of accommodation to be provided results in the payment of a service charge by residents to cover the upkeep and maintenance of the building and grounds, and the salary of a house manager. It suggests that if low cost or subsidised housing is included within the development, an additional cost of maintenance would have to be borne by private residents, leading to potential friction or animosity. It is therefore concluded that it is more appropriate to consider an off-site contribution towards affordable housing.
- 6.14 The case for off-site provision seems to focus exclusively on incompatibility and friction between private residents and residents in low cost or subsidised properties. The statement implies that two separate blocks would be required to overcome this, adding to the cost of the development of the site and making it unviable.

- 6.15 The applicant's agent has referred to a case study in Launceston where their client did agree to a mixed development of open market and affordable units to provide evidence for these assertions. However, the Council's Housing Development Officer has highlighted a case at The Rose Gardens on Ledbury Road where a similar project has successfully incorporated a mix of affordable and open market units.
- 6.16 The report then goes on to consider the economic viability of the scheme, using the Homes and Communities Agency (HCA) Economic Appraisal Toolkit (2009) to assess development costs. It is freely available to any organisation that wishes to use it and can be used collaboratively by Local Planning Authorities and developers to help establish the viability of proposed levels of affordable housing obligations at an early stage in the planning process.
- 6.17 The financial assessment makes a number of assumptions about the eventual value of the residential units, the build cost of the development, the profit margin that should be expected by the developer and the value of the site. However, it excludes any affordable housing provision or Section 106 contributions from its development costs, and the model has been used to conclude that the excess finance, once these other factors have been considered, is the amount available for a contribution.
- 6.18 Although the viability model used is accepted nationally, its specific purpose is to assess the viability of affordable housing provision. The assessment simply presumes that it is not viable to provide affordable housing on site due to management issues and not financial pressures. The statement that it is not viable to construct two separate blocks is not supported by a financial assessment of such a provision and therefore is not substantiated. It is your officer's view that the application of the HCA's toolkit in this particular case therefore has a limited value and does not serve to test the viability of on-site affordable housing provision. In order to seek some clarity on this issue, your officer's have sought to engage the District Valuers Office (DVO). This needs to be undertaken with the agreement of the applicant, as the costs incurred are charged to them rather than the Council. The DVO offer an independent assessment of the financial viability of schemes. While your officer's have formed an opinion based on the information before them, the involvement of the DVO would bring further certainty to this issue. At the time of writing this report, agreement has yet to be reached as to whether they will be commissioned to independently assess the financial viability of the scheme, and amount of affordable housing provision available through an off-site contribution that it might make.
- 6.19 Furthermore, the Council's Housing Development Officer has also referred to a specific case in Hereford where similar accommodation has been provided without any division between open market and affordable accommodation. This serves to demonstrate that the applicant's fears about management problems can be addressed. Whilst a case study might have been provided to support an argument to the contrary, your officers have identified a comparable and successful development within the city.
- 6.20 It is concluded that the case made about the financial viability of the scheme is questionable and, in the absence of any other legitimate justification, the applicant's position regarding on-site provision is unwarranted. Accordingly it is considered that the proposal fails to make adequate provision for affordable housing and is therefore contrary to Policy H9 of the Herefordshire Unitary Development Plan.

### Design

- 6.21 As discussed in the previous paragraphs it is considered that the loss of the existing building would be justified through a replacement building that offers some benefit to the conservation area and street scene in terms of its architectural quality.
- 6.22 The plans have been amended since the original submission of the application to take account of initial concerns about the scale and massing of the building and the design of the elevation

---

Further information on the subject of this report is available from Mr A Banks on 01432 383085

presenting to Eign Street. These include the introduction of a contemporary oriel window and alterations to improve the architectural rhythm of the front elevation, as well as the introduction of full height glazing mid-way along the west elevation to add a further visual break.

- 6.23 Officers are satisfied that the amendments to the detailed design of the building represent a sufficient improvement to allay the concerns raised in this respect, particularly the alterations to the front elevation. The west elevation is relieved by a combination of vegetation that will be retained within the site, and the breaks created by the different built elements. The choice of a good quality brick would also be key to the appearance of the building, but this is a matter that could be dealt with by condition.

#### Scale and Massing

- 6.24 The roof plan of the proposal shows that the building comprises four distinct elements, each with a pitched roof, connected by a glazed atrium. It has a footprint of approximately 1,150 square metres which accounts for around one third of the total site area.
- 6.25 The mass of the building is significant by comparison to the residential development of Victoria Court, which benefits greatly from the visual break provided by the shared open space at the heart of the development. However, the atrium at the core of the proposed development serves to break up the mass and the use of four separate pitched roofs also helps to minimise its overall scale. The introduction of three storeys is reflective of the development at Victoria Court which is of a similar height to this proposal, and to other buildings along Whitecross Road. The principle view will be of the north elevation from Eign Road and the scale of this is comparable to that of other building in the street scene. It is therefore concluded that the scale and mass of the proposal is acceptable.

#### Impact upon Adjoining Land Uses

- 6.26 As described earlier in this report, the area is characterised by a mix of uses. At the boundaries of the application site the two most sensitive are the residential use of Victoria Court to the east and Lord Scudamore School to the south.
- 6.27 The design of the proposal has responded to consultations undertaken with residents of Victoria Court prior to the submission of the application. The east elevation, which faces Victoria Court, is staggered and at their closest, the distance between opposing elevations is 17 metres. This relates to one modest two storey projection and more typically the distance between the two ranges between 27 and 30 metres. This relationship is considered to be entirely acceptable and will not result in any significant degree of overlooking. It is worth noting that there has been no adverse reaction to this proposal from residents in Victoria Court.
- 6.28 The proposal has been carefully assessed from the grounds of Lord Scudamore School. At its closest point in the south eastern corner, the development will be 3 metres from the shared boundary with the school, increasing to 6.6 metres at the south western corner. The proximity of the building to the school has been a point of concern throughout pre-application discussions and the consideration of this application, particularly due to mass and scale of the building at such close quarters to an area immediately adjacent within the school grounds that is used as an open air learning area. It is considered that on balance the degree of separation is acceptable. This conclusion is reached having regard to the relative orientation of the 2 sites, which would ensure that there would be no overshadowing of the outdoor teaching area, the presence of intervening trees and additional planting and the associated classroom building on the boundary. Furthermore, it is evident that the school does not object to the presence of the building and has not commented on the application.

### Car Parking Provision

- 6.29 The applicant's have submitted a Transport Impact Report with the application. This considers the likely dependency on private forms of transport by potential residents and provides an assessment based on surveys undertaken at other properties across the country owned by the applicants. In line with the definition of Category II type retirement housing, which this application seeks to provide, the age of residents will normally be restricted to 60+ except where a resident over the age of 60 has a partner of 55 years of age or over. The evidence provided by the report suggests that the average age of entry to the applicant's properties is in fact 76.
- 6.30 The report then continues to analyze car ownership levels of residents by age. Between the ages of 55-60 it shows this to be at 80%, declining steadily to 33% between the ages of 75-80. It is upon this latter level of car ownership that the applicants have based their parking provision, with 14 spaces for residents equating to a 35% overall provision, with a further three spaces for visitors.
- 6.31 In light of the assumptions made about the age of residents and their average level of car ownership, the applicant's were asked to give consideration to the imposition of a condition that would require the minimum age of the principal occupant of an apartment to be a minimum of 65. No response has been received to this request.
- 6.32 The report also states that the position regarding parking, and entitlement to a permit, would be made clear to prospective residents prior to their purchase of a property. On this basis, it is for any purchaser to decide whether or not they still want an apartment without parking in the event all of the permits had been allocated. There is an absence of on-street parking in the immediate vicinity of the application site and alternative parking is very limited, except perhaps the Horse and Groom car park opposite which charges members of the public a daily fee. It is therefore concluded that the impact of a lack of parking on site is unlikely to impact elsewhere.
- 6.33 The provision of just 17 car parking spaces in total does fall short of the normal expectations that would be placed upon a development of this nature. However, the proximity of the site to the city centre, the accessibility of local services, and the fact that a bus stop is immediately outside the site are all mitigating factors for a lower level of on-site parking and, combined with the analysis of existing sites as described above, your officers are content with the provision that has been made provided that a condition limiting the minimum age of the principal occupant of each apartment is imposed. On this basis the car parking provision is considered to be acceptable.

### Ecological Issues

- 6.34 At the time of writing this report, the further information requested by the Council's Ecologist regarding the method and extent of internal inspection of the building for the presence of bats and information regarding water quality and HRA has yet to be received.
- 6.35 The latter of these two issues is one that demands further explanation as it is likely to become a matter that affects an increasing number of planning applications across certain parts of the county in the future. Phosphate levels in the Rivers Wye and Lugg have been identified as being at a critical level, to an extent that it potentially compromises their designations as SACs. As a competent authority, the council has an obligation to complete a screening opinion to determine whether or not developments within their catchment areas are likely to have significant effects on them. This is not a matter to be considered in isolation, but also in respect of the in combination effects of other developments within the catchment area. In order to do this, the Council requires the applicant to provide them with additional information about water quality issues.

6.36 If committee were minded to approve the application for planning permission, then delegated authority could be given to named officers to approve the application subject to the resolution of these matters. Without such a resolution, and in the absence of the information required, this would be a reason to refuse the application.

Conclusion

6.37 The lack of appropriate affordable housing provision, either through an on-site provision or an acceptable off-site contribution means that this proposal is contrary to Policy H9 of the Herefordshire Unitary Development Plan. The subsequent lack of an acceptable Heads of Terms Agreement means that the proposal also fails against the requirements of Policy DR5 and the Council's adopted Planning Obligations SPD. In this case these concerns are outweighed by any overriding material considerations and the redevelopment proposal is therefore recommended for refusal.

6.38 In the absence of an approved scheme for the redevelopment of the site the first requirement of Policy HBA7 is not met and consequently the application for Conservation Area Consent is also recommended for refusal.

**RECOMMENDATION**

**In respect of DMS/113131/F that planning permission be refused for the following reasons:**

- 1. The proposal fails to make adequate provision for affordable housing. The local planning authority is not satisfied that the Affordable Housing and Viability Statement submitted in support of the application is sufficiently detailed and does not demonstrate that a provision of on-site affordable housing would be economically unviable, or that the low level of contribution proposed for an alternative off-site provision is warranted. In the absence of an on-site affordable housing provision or sufficient justification for non provision, or an equivalent off-site contribution, the proposal is contrary to Policy H9 of the Herefordshire Unitary Development Plan.**
- 2. In the absence of an agreed Draft Heads of Terms Agreement the proposal is contrary to Policy DR5 of the Herefordshire Unitary Development Plan and the Council's adopted Supplementary Planning Document - Planning Obligations.**

**In respect of DMS/113132/C that planning permission be refused for the following reason:**

- 1. In the absence of an approved scheme for the redevelopment of the site the demolition of the existing building is unwarranted and the clearance of the site would be detrimental to the character and local distinctiveness of the Conservation Area contrary to Policy HBA7 of the Herefordshire Unitary Development Plan.**

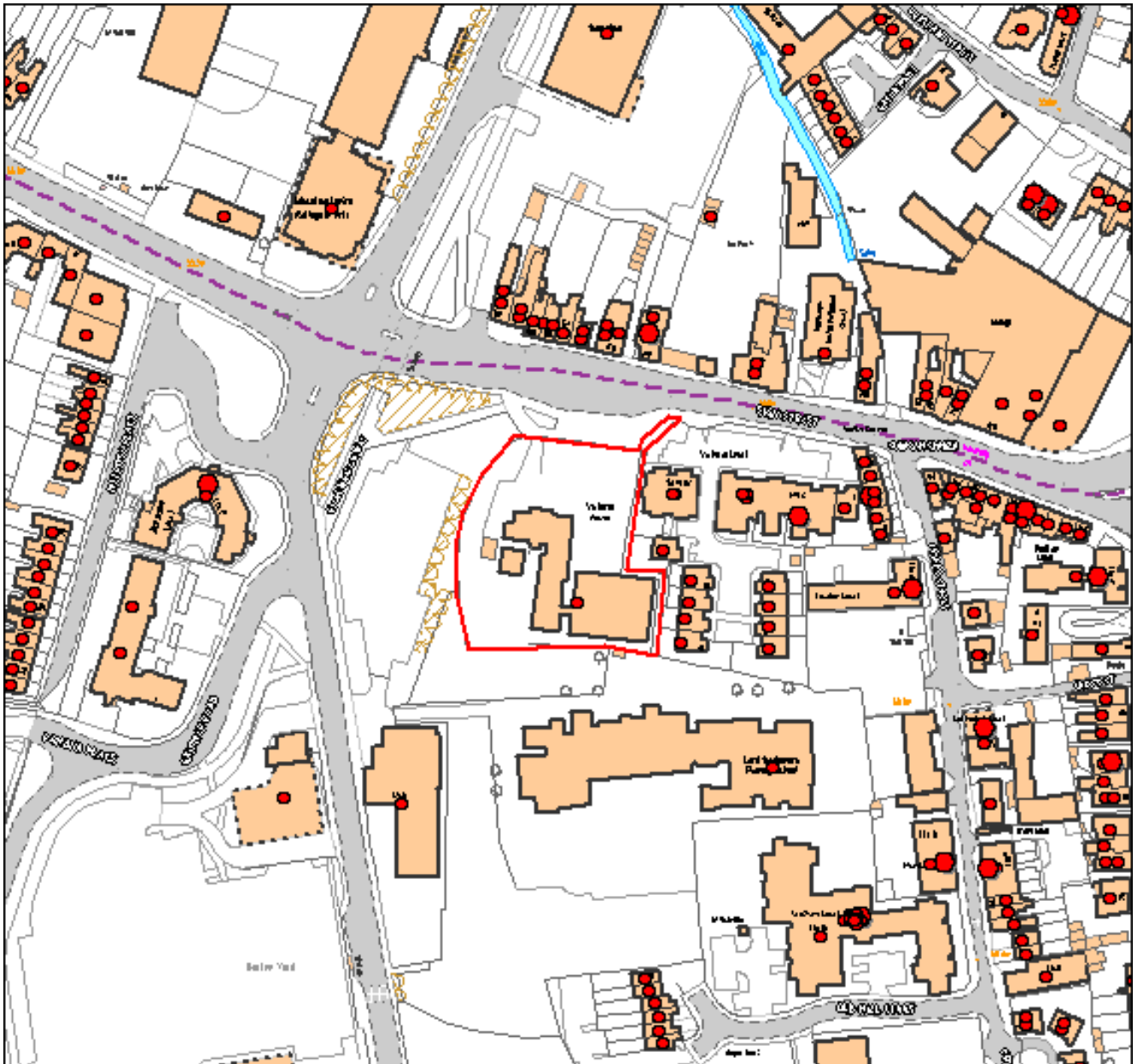
Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.





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

**APPLICATION NOS:** DMS/113131/F & DMS/113132/C

**SITE ADDRESS :** VICTORIA HOUSE, 149-153 EIGN STREET, HEREFORD, HR4 0AN

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

Further information on the subject of this report is available from Mr A Banks on 01432 383085





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>14 MARCH 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>N113460/F &amp; N113461/L - CHANGE OF USE FROM 3 BEDROOM HOUSE IN TO TWO NUMBER TWO BEDROOM FLATS AND INTERNAL ALTERATIONS TO SECOND FLOOR FLAT AT 43 BROAD STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8DD</b></p> <p><b>For: Messrs Colin &amp; Brian Davies, The Haven, Oldwood, Tenbury Wells, Worcestershire, WR15 8TA</b></p>

**Date Received: 8 December 2011**

**Ward: Leominster North**

**Grid Ref: 349563,259309**

**Expiry Date: 16 February 2012**

Local Members: Councillor P Jones CBE and FM Norman

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

- 1.1 The application site is located within the settlement boundary of Leominster, a market town, as defined on the Unitary Development Plan Proposal Map LEOM 2. The site comprises a Grade II listed three storey townhouse in a state of significant disrepair with a road frontage position on Broad Street, a principle route into and through Leominster. This location is a prominent position on the gateway into/ out of the historic town centre and central shopping and commercial area.
- 1.2 The building is a dwelling of late 18<sup>th</sup> century/ early 19<sup>th</sup> century origins comprising Stucco finish to ground floor; roughcast render finish at first and second floor;, and a shallow-pitched Welsh slate roof with a central brick ridge stack. External alterations to window details occurred in the 20<sup>th</sup> century. Remnants of the original timber frame are evident behind the Georgian exterior and façade.
- 1.3 The proposal is the change of use and subdivision of the existing three bedroom dwelling to form 2 two bedroom flats. This includes internal alterations and overall upgrading of the building. The application comprises a Full Planning application and a Listed Building Consent application, both of which are assessed and considered together in this report.

## **2. Policies**

### **2.1 National Planning Guidance:**

Planning Policy Statement 1: Delivering Sustainable Development  
 Planning Policy Statement 5: Planning for the Historic Environment  
 Planning Policy Statement 11: Transport  
 Planning Policy Statement 25: Flood Risk and Development

### **2.2 Herefordshire Unitary Development Plan:**

---

Further information on the subject of this report is available from Mr C Brace on 01432 261795

S1	-	Sustainable development
S2	-	Development requirements
S3	-	Housing
S7	-	Natural and historic heritage
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
DR4	-	DR4 – Environment
H1	-	Hereford and the market towns: settlement boundaries and established residential areas
H13	-	Sustainable residential design
H14	-	Re-using previously developed land and buildings
H17	-	Subdivision of existing housing
H18	-	Alterations and extensions
T8	-	Road hierarchy
T11	-	Parking provision
HBA1	-	Alterations and extensions to listed buildings
HBA3	-	Change of use of listed buildings
HBA4	-	Setting of listed buildings
CF2	-	Foul drainage

### 2.3 Other Material:

Environment Agency PPS25 FRSA (national) Advice, issued 24<sup>th</sup> January 2011

## 3. Planning History

- 3.1 DCNW2007/3061/F – Conversion of eight bedroom house into a three bedroom house and a number two bedroom flat with garages serving both proposed units – Approved with Conditions 22<sup>nd</sup> November 2007
- 3.2 DCNC2003/0853/L – Various external alterations, including repairs to brickwork, guttering, and render – Approved with Conditions 6<sup>th</sup> January 2004

## 4. Consultation Summary

Internal Council Advice

- 4.1 The Transportation Manager makes no objection to the proposal, however requests a condition is attached if permission is granted ensuring the retention of one car parking space per unit. This is included in the recommendation set out at the end of this report.
- 4.2 The Conservation Manger supports the application, noting that the listed building is in a significant and detrimentally poor condition in regards the building itself, and streetscene. The proposal not only restores this listed building but also safeguards it in the long-term with an appropriate use. Conditions are recommended if approval is granted. These are outlined in the recommendation, below.
- 4.3 The Development Manager Enforcement confirms complaints have been/ were received regarding the state and disrepair of this listed building from Leominster Town Council. Formal action under Section 215 of the TCPA has been held in abeyance due to the sale of the property to the new owners who have demonstrated a commitment to addressing the situation. This has included discussions and updates with both Enforcement and Conservation Officers.

## 5. Representations

---

Further information on the subject of this report is available from Mr C Brace on 01432 261795

- 5.1 The applicants have on the advice of Planning and Conservation Officers made a number of small revisions to the internal layouts of the proposed units. For information, objectors were re-consulted on these amendments.
- 5.2 Two letters or other representations have been received from owners/ occupiers of adjacent dwellings. Whilst these are not 'objections', both parties raise reasonable and relevant issues and concerns and essentially seek clarification and/ or assurances regarding the proposal
- 5.3 Mrs Arrowsmith and Mr Preece of Waterloo House, 41 Broad Street, Leominster, Herefordshire, HR6 8DD make the following summarised comments –
- In principle support the renovation and refurbishment of this listed building given its historic importance and current impact on the streetscene and own property
  - Concern over parking arrangements and restrictions on own and others parking rights and rights of access
  - Concerns over the capacity of sewerage and waste water system through the resultant increased use and burden on the system
  - Seeks assurances over fire protection between properties, including own
  - Concern over refuse and waste storage/ collection and provision thereof
  - Seeks assurances that works carried out will be done so in a professional, neighbour friendly manner in regards minimising disruption, appropriate working practices and disposal/ handling of hazardous substances and dust
  - Concern over noise from proposed uses and request of appropriate soundproofing mitigation is incorporated
- 5.4 Mr R Hargest of 2 Waterloo Mews, Vicarage Street, Leominster, Herefordshire, HR6 8DS makes the following summarised comments –
- Concerns over parking arrangements and impeding of existing residents parking and access
  - Concerns over increased use of parking/ access area of which maintenance is paid for by current owners of properties in 'The Mews' group of dwellings
  - Seeks assurances that works carried out will be done so within the curtilage of 43 Broad Street and carried out in a professional, neighbour friendly manner in regards minimising disruption, appropriate working practices and disposal/ handling of hazardous substances and dust
  - That suitability of tenants of these units will be carefully considered given the nature, needs of this area and residents
- 5.5 Leominster Town Council supports the application and encourages its approval. No other comments are offered.
- 5.6 Dwr Cymru/Welsh Water makes no objection to the application, however requests the inclusion of an Informative on any Planning Permission decision notice so issued. This is included in the recommendation set out below
- 5.7 The consultation responses can be viewed on the Council's website by using the following link:-  
[www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113460](http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113460)
- Internet access is available at the Council's Customer Service Centres:-  
[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

### Introduction

---

Further information on the subject of this report is available from Mr C Brace on 01432 261795

- 6.1 The Local Planning Authority is extremely concerned regarding the condition of this Grade II listed building. It would not be an overstated point to say this frontage building is at risk, by virtue of its quite appalling state. It is emphasised that this situation is not the fault of the current owners or applicant.
- 6.2 The building needs a viable new sustaining use and in principle this scheme offers up a sound result, commensurate with the historic fabric.

### **Land Use and Location**

- 6.3 The site is located in an established residential area within Leominster, adjoining other residential units to the North, South, and East. Furthermore the site is considered an edge of centre location, immediately adjacent to the defined town centre and 'Central Shopping and Commercial Area'. This is in principle a location where new residential development is directed as per national and local policies, and furthermore is considered a highly sustainable location for residential development. Residents hereabouts are likely to walk to the shops and facilities provided in Leominster from this location and have a lower dependency on using a private vehicle to go about many day to day activities.
- 6.4 New residential development in an existing residential area is in principle an acceptable land use. Consideration and regard are had to site specific characteristics including impact upon amenity, privacy, character, and highway issues. The third party representations summarised above seek clarification on, and mitigation against reasonable concerns the proposal could generate on this area and existing residential amenity.
- 6.5 The current lawful use of the building is as one three bedroom house and one two bedroom flat. It is considered there is no significant impact upon adjoining residential and amenity from this proposal, creating a net gain of one residential unit, given the exiting situation. Furthermore no new openings are proposed in the external elevations to compromise privacy.
- 6.6 The concerns regarding fire protection and sound proofing from noise are dealt with under Building Regulations. The applicant has confirmed in regards fire, an interlinked smoke detection system will be installed in each flat, along with complete one hour fire separation between the proposed and existing neighbouring properties. All works will have to be carried out to the approval and compliance with The Building Regulations 2000 Document B Fire Safety. It is noted no such protection between the application building, No.43 and the adjoining properties NO.41 and No.45 Broad Street currently exists.
- 6.7 In regards concerns over noise, The Building Regulations 2010 Document E Resistance to the Passage of Sound covers this issue, and the works will have to comply with this. Furthermore, the proposed layouts have located 'quieter' residential rooms – bedrooms, kitchen, adjacent to the party wall separating the application building and No.41 Broad Street. The lounge areas of the proposed flats front onto Broad Street, which itself is a significant noise source given the volume of traffic movements, nearby fire station, and a main pedestrian route from a large public car park into the town centre.
- 6.8 In this regard UDP policies S1, S2, S3, DR1, DR2, DR4, H1, H13, H14, and H17 are satisfied.

### **Standard of Accommodation Provided**

- 6.9 The proposed flats have a habitable space of 73 sq metres and 89 sq metres. The existing flat on the third floor has for comparison purposes, a habitable space of 89 sq metres. The proposed flats are considered to provide a good standard of accommodation comprising two bedrooms, bathroom, kitchen, and lounge. The layouts maximise the internal space, and advance quality of residential amenity through locating bedrooms at the rear away from the noisy Broad Street frontage.

- 6.10 The proposal will result in a significant upgrade and improvement of the buildings energy efficiency through exceeding the energy efficiency standards specified in The Building Regulations 2010 Document L1A Conservation of fuel and power in new dwellings. Other sustainable measures include installation of dual flush toilets, low capacity showers, and combination boilers.
- 6.11 Although not 'affordable' through legal agreement or condition, these units will be more affordable having regard to their size, form, and location.
- 6.12 In this regard UDP policies S1, S2, S3, DR1, DR2, DR4, H1, H13, H14, and H17 are satisfied

### **Heritage and Conservation**

- 6.13 The Government's objectives regarding the historic environment are set out in Planning Policy Statement 5. It is recognised that intelligently managed change may be necessary to ensure and maintain an asset for the long term. As such wherever possible, it is desirable and preferred that such assets are put to a use which is both viable and consistent with the conservation of the asset.
- 6.14 The building as a whole was originally a large town storey house, with accommodation including eight bedrooms provided over its three storeys. The third storey has already been converted into a self contained two bedroom flat through Planning Permission DCNC2007/3061/F. The further subdivision of the building, resulting in three two bedroom flats is considered an acceptable and appropriate use.
- 6.15 The exterior of the building will be unaffected and it will still read as a single dwellinghouse, thus preserving its original character. Furthermore, the restoration and repair of the building – this combining significant external and interior works – will enhance the listed building and the setting of the adjacent listed buildings.
- 6.16 The internal works do not impinge upon the listed building in a detrimental manner and result in suitable subdivision of space. Partitions removed are of no historic value, and those inserted can be removed. The internal works are therefore reversible and acceptable as the character and special interest of this listed building is preserved.
- 6.17 In this regard UD Policies S1, S2, S7, DR1, DR2, DR4, H17, HBA1, HBA3, and HBA4 are satisfied and complied with.

### **Highways**

- 6.18 The site has pedestrian access to the ground floor flat directly from Broad Street, whilst the first floor flat, and existing second floor flat are accessed from the rear and served by an internal staircase formed within an existing internal passageway. Vehicular access and parking which serves all three flats is located off Vicarage Street, which runs in a North Easterly direction behind the buildings fronting Broad Street.
- 6.19 A condition ensuring the retention of one garage per flat is recommended in order that adequate parking in conjunction with the proposal exists. The garages are required by this condition to be solely for the storage and garaging of motor vehicles/ bicycles and use as ancillary residential accommodation is prevented. Given the town centre proximity location one parking space per unit is considered adequate. Visitors have the benefit of parking being provided in the Broad Street public car park located immediately opposite.
- 6.20 The third party representations regarding the parking and access rights are a civil matter. Notwithstanding that, a constructive dialogue between the applicant and concerned residents

---

Further information on the subject of this report is available from Mr C Brace on 01432 261795

has occurred on this issue. As a result, it is proposed that appropriate directional signage will be erected. The appropriateness of such signage and demarcation would be controlled by a condition. Furthermore the applicant proposes a clause in any tenancy agreement that any tenant and/ or their visitors of whom they have responsibility that continually fail to comply with the parking regulations will be refused renewal of their tenancy. It is stressed this would be an agreement and contract outside Planning's jurisdiction; however such an approach is advanced by the applicant and supported by the concerned third parties.

6.21 In this regard, UDP policies DR3, H13, H17 and T8 are satisfied.

### **Sewerage/Flooding**

6.22 The application is located within Flood Zone 2 and 3, as defined on the Environment Agency's flood zone mapping, however is on the extreme edge of this defined area. Nevertheless a Flood Risk Assessment has been completed. The first floor flat is above the flood risk level, and in regards the ground floor flat measures to reduce the impact of any flood event include all electrical outlets to be positioned 450mm above finished floor level, and existing external door to be sealed against water egress. It is agreed and accepted that the raising of the ground floor levels would undermine the character of the listed building.

6.23 Given all of the above, and the fact the existing lawful use of the building includes a three bedroom dwelling utilising the ground floor area, suitable mitigation measures are proposed and furthermore there is a negligible impact upon flood risk.

6.24 In the absence of any objection from Dwr Cymru/Welsh Water and their assertion, via the applicant that 'the property is not recorded as being at risk of internal flooding due to overloaded public sewers', it would appear third party concerns on this issue could be a result of inappropriate materials being disposed of via the sewerage system.

6.25 In this regard UDP policies S1, S2, S3, DR1, DR2, DR4, DR7, H13, H17, and CF2 are satisfied and complied with.

### **Conclusion**

6.26 The proposal secures the restoration and refurbishment of an 'at risk' Grade II listed building, supplying additional units of accommodation to the county's housing mix in a viable and appropriate manner which is compliant with national and local planning policies.

6.27 The reasonable concerns of adjoining residents are either addressed through planning conditions recommended to the grant of planning permission, or through other legislation.

6.28 On the basis of all of the above representations and consideration of the planning application against national and local planning policies approval with conditions is recommended.

### **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. F08 No conversion of garage to habitable accommodation**
- 4. F13 Restriction on separate sale**



- 5. H10 Parking - single house
- 6. H15 Turning and parking: change of use - commercial
- 7. I16 Restriction of hours during construction

**INFORMATIVES:**

- 1. N16 Welsh Water Informative

**Approval of Listed Building Consent be granted subject to the following conditions:**

- 1. D04 Details of window sections, eaves, verges and barge boards
- 2. D05 Details of external joinery finishes
- 3. D10 Specification of guttering and downpipes
- 4. Prior to commencement of this Listed Building Consent, a schedule of remaining doors, architraves, skirtings, fireplaces and old floor boards with details of their retention, protection and re-use shall be submitted to the LPA for its written approval, and the subsequent works shall proceed in accordance with the details agreed.

**Reason:** In order to safeguard the character and appearance of this Grade II listed building through the retention, protection, and appropriate re-use of The interior fittings which are a significant part of the special interest of the building

- 5. Prior to commencement of this Listed Building Consent, full written details and appropriate plans showing of the routes and external termini of mechanical, plumbing and electrical services shall be submitted to the LPA for its written approval, and the subsequent works shall proceed in accordance with the approved details.

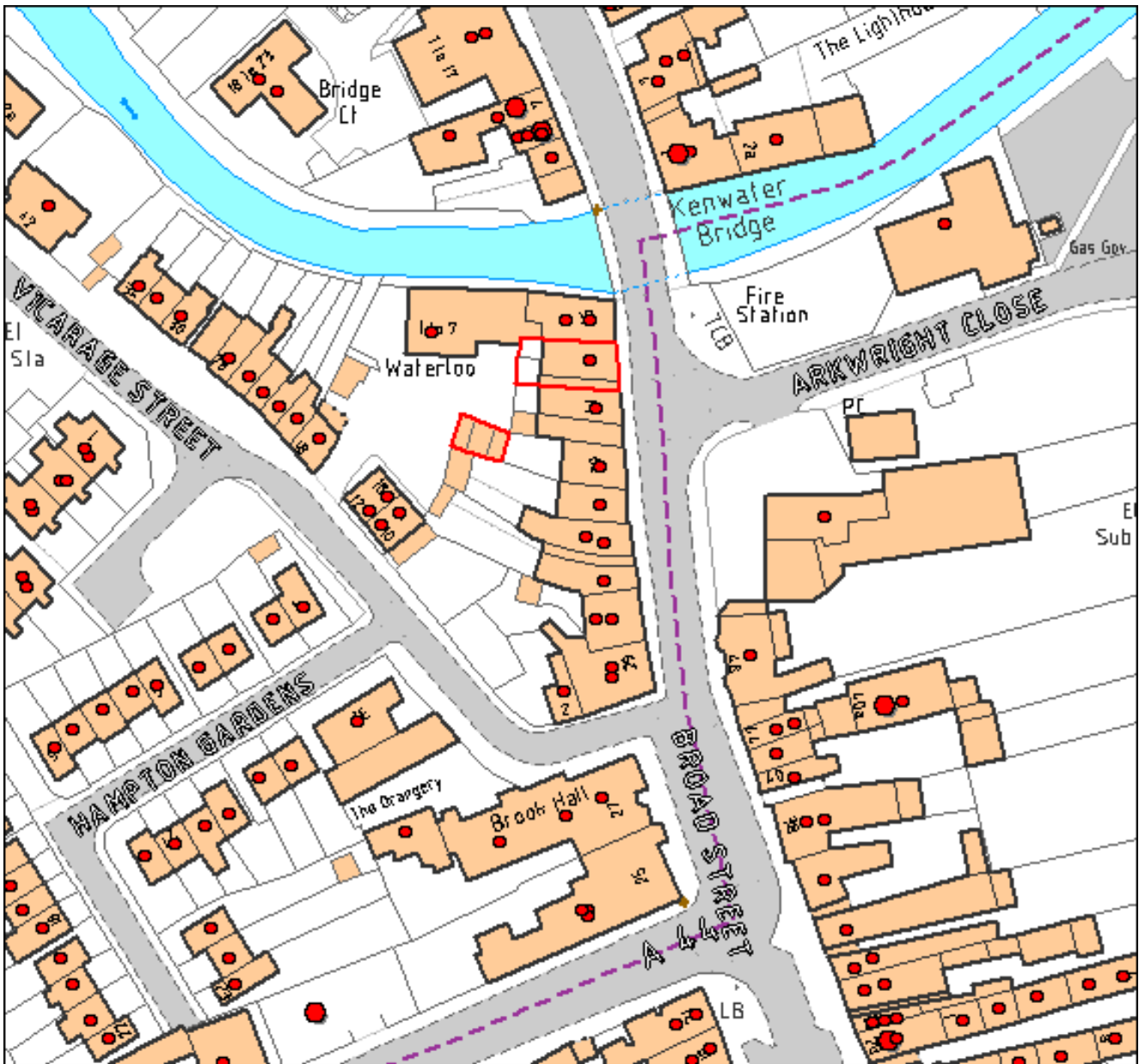
**Reason:** In order to safeguard the character and appearance of this Grade II listed building and the wider streetscene.

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** N113460/F & N113461/L

**SITE ADDRESS :** 43 BROAD STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8DD

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

Further information on the subject of this report is available from Mr C Brace on 01432 261795



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>14 MARCH 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>S102272/F - VARIATION OF CONDITION 20 OF PLANNING PERMISSION DCSE2008/0095/F REGARDING ROUNDABOUT JUNCTION DELIVERY AT LAND AT TANYARD LANE, ROSS ON WYE, HEREFORDSHIRE, HR9 7BH</b></p> <p><b>For: Persimmon Homes South Midland per RPS Planning &amp; Development, Highfield House, 5 Ridgeway, Quinton Business Park, Birmingham, B32 1AF</b></p>

**Date Received: 3 September 2010**    **Ward: Ross-on-Wye East**    **Grid Ref: 360722,224825**  
**Expiry Date: 3 December 2010**  
Local Members: Councillors AM Atkinson and PGH Cutter

## 1. Site Description and Proposal

1.1 The application site comprises the eastern part of an extensive area (about 8 hectares) of land off Tanyard Lane that is allocated for residential development in the Herefordshire Unitary Development Plan. The site is bounded by Tanyard Lane and a modern housing development which lies to the north, the A40 to the east, Rudhall Brook to the south and modern housing to the south-west. This proposal relates to the extant planning approval for 87 dwellings. There is a mixture of house types across the extant scheme including detached, semi-detached and terraces including 30 affordable dwellings. The larger dwellings would front onto the A40. The dwellings would be protected by acoustic barriers of 3 metres in height to the northern and western sides of existing dog kennels. Planning approval was granted by the then Southern Area Planning Sub-Committee in April 2008, planning approval was subsequently granted in February 2010, subject to a Planning Obligation/Section 106 agreement.

1.2 This proposal seeks to vary the terms of Condition 20 to extant planning permission DCSE2008/0095/F. This condition reads as follows: -

*Before any works are commenced the roundabout shown on drawing 50390/100 Rev C hereby approved shall be constructed and shall be the only means of vehicular access for construction traffic and future occupiers to the development hereby approved, unless otherwise agreed by the local planning authority in consultation with the Highways Agency.*

*Reason: In the interests of highway safety, the amenities of residents and to comply with Policies DR2 and DR3 of the Herefordshire Unitary Development Plan.*

In essence, the developer is seeking to defer the construction of the roundabout for a period of 12 months to enable up to 40 dwellings to be constructed (not occupied) with a temporary construction access provided. The proposal is to utilise an existing farm gate entrance in the north-east corner of the site for use as the temporary construction access. This access point

---

Further information on the subject of this report is available from Andrew Prior on 01432 261932

will allow the developers to start work on site and build up to 40 dwellings, of the 87 dwellings approved in February 2010. The dwellings erected would not be occupied until such time as the roundabout has been constructed. The temporary access point is closer to residential properties in Chatsworth Close and as such the developer will provide a hoarding of up to 2.4 metres in height that will screen HGVs coming into and leaving the construction site and will also provide sound attenuation to the noise generated by the access and the noise of construction.

- 1.3 In terms of associated works on the A40, it will also be necessary to provide a 40 mph speed restriction, extra signage and to control the direction of vehicles entering and leaving the site as well as provide wheel cleaning facilities. These are measures that would have been required in the event that the developer was able to comply with the terms of Condition 20 in its original form

## 2. Policies

### 2.1 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
S3	-	Housing
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR4	-	Environment
DR5	-	Planning Obligations
DR7	-	Flood Risk
DR9	-	Air Quality
DR10	-	Contaminated Land
H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H2	-	Hereford and the Market Towns: Housing Allocations
H3	-	Managing the Release of Housing Land
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H15	-	Density
H16	-	Car Parking
H19	-	Open Space Requirements
ED5	-	Safeguarding Employment Land and Buildings
T6	-	Walking
T7	-	Cycling
T8	-	Road Hierarchy
T11	-	Parking Provision
RST3	-	Standards for Outdoor Playing and Public Open Space
NC1	-	Biodiversity and Development
NC8	-	Habitat Creation, Restoration and Enhancement

## 3. Planning History

- 3.1 DCSE2005/3207/F Residential and associated development including 60 dwellings, linear park and site access. Withdrawn.
- 3.2 DCSE2005/3208/F Residential and associated development including linear park and site access. S106 not yet agreed.
- 3.3 DCSE2006/0171/F 3 arm roundabout on alignment of A40(T). Appeal Dismissed 02.03.07.

- 3.4 DCSE2006/4006/F 3 arm roundabout on alignment of A40(T). Approved 07.11.07.
- 3.5 DCSE2008/0095/F Erection of 87 dwellings and associated garages, new access and linear park. Approved 03.02.10 (subject to Planning Obligation).

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

##### Statutory Consultations

- 4.1 Highways Agency has no comments to make given the section of A40 is de-trunked. The Highways Agency also states that in order to allay concerns relating to the impact on the Over-Ross roundabout, we attached a condition previously (condition 21) that no development shall be occupied unless the mitigation works have been completed. Condition 21, as previously recommended by the Highways Agency should not be undermined by this proposed variation to Condition 20.

##### Internal Council Advice

- 4.2 Traffic Manager has stipulated that the site access shall only be used by construction traffic i.e. no sales or public use of the temporary access point until such time as the roundabout access is in place. There shall be no occupation of dwellings until such time as the roundabout is completed and the temporary access is closed. There also needs to be a limit of 12 months on the time available for use of the temporary access and works on up to 40 dwellings. A visibility splay of 3m x 215 metres in each direction would be required.
- 4.3 Environmental Health and Trading Standards Manager initially requested further details for acoustic hoarding, however with further details submitted support is given subject to control of deliveries i.e. none on Sundays of Bank Holidays and only between the times specified by the applicant.

#### **5. Representations**

- 5.1 Ross Town Council has no objections provided a wheel wash is provided to keep mud on the A40 to a minimum.
- 5.2 Ross Rural Parish Council rejects the revised application to introduce a temporary access to the site and delaying construction of the island :the island must come first.
- 5.3 Ten letters of objection have been received from local residents and on behalf of a local business. These are summarised as follows:
- Public safety reasons for constructing roundabout first, still remain.
  - Allowing proposal allows Persimmon time to submit a further roundabout application.
  - Application for Caravan Park access off A40 denied by Inspector in 1997: traffic has increased since then.
  - Mud on road.
  - Small entrance extremely dangerous.
  - Increased noise levels, dust, air pollution will detract from amenity of residents.
  - Patio door only 10 metres from boundary of site.
  - If developer can afford to build 40 houses can afford to build roundabout.
  - Unoccupied houses would attract vandals, site accessible from Tanyard Lane.
  - Loss of light from hoardings.
  - Eyesore of signage.
  - Temporary access may well become a permanent one.
  - Viability of business should be safeguarded, refuse this proposal.
  - What are phases 2, 3, 4 ? Why not build near Labels it is an eyesore.

---

Further information on the subject of this report is available from Andrew Prior on 01432 261932

- 5.4 The applicant's agents have submitted plans detailing the route of the temporary access point, the highlighting of the dwellings to be erected within a stated 12 month period, details for site hoardings and road signage.
- 5.5 In a letter that accompanied the initial letter submitted in support of the application the following main points are made:
- (i) Condition 20 does not allow for works beginning on site such as landscaping, drainage works, and site preparation. The conditions imposed require substantial highways infrastructure prior to the construction of works on dwellings. Without such funding the delivery of a roundabout cannot commence.
  - (ii) Of the initial 24 units, 8 will be affordable ones. The work compound will move to a permanent location following completion of the initial 24 units.
  - (iii) Envisaged that as the final units (plots 26-31) and (plots 46-56) are completed so will the roundabout junction onto the A40.
  - (iv) Intended to only use temporary access for 18 months (note this has since been amended to 12 months).
  - (v) Due to proximity of field access to existing dwellings, hoardings will be erected protecting residential amenity from noise nuisance and visual intrusion.
  - (vi) Access onto A40 based on a left in and left out arrangement. Manned barrier will restrict access.
  - (vi) Will be restricted between the hours of 08.00 – 18.00 Monday to Friday and 8.00 – 13.00 on Saturdays. It is intended to keep top soil and other surpluses from excavations on site until such time as the roundabout is in place.
  - (vii) This is considered to be the best means of delivering capital funding for the required roundabout junction.
- 5.6 In a further letter, the applicant's agent states that the developer would wish to use the temporary period for as short a period of time as possible. This would though be dependent upon the S278 agreement being completed quickly. There are also other off site works that need to be completed.
- Also, the temporary access will only be open to construction traffic and consultants. Show homes will not be open to the public until the roundabout junction is in place. The temporary access will require the implementation of a lower speed limit i.e. 40 mph. However, visibility of 215 metres (for 60 mph) will be provided. The signage on the northern side of the junction can be sited further north outside of the visibility splay.
- As regards noise attenuation, acoustic details can be specifically conditioned i.e. no less than 2.4 m high and of plywood on a timber framework. Such hoarding will screen HGVs. The temporary compound is sited further away from the northern as discussed previously.
- 5.7 In a further letter submitted on behalf of the applicants. It is stated that the 2.4 metres high EcoHoard will provide up to 10 dB attenuation and a minimum of 5 dB attenuation.
- 5.8 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB and prior to the Committee meeting.

## 6. Officer's Appraisal

- 6.1 The site forms part of a larger strategic housing allocation in the Herefordshire Unitary Development Plan. The approved layout for Phase 1 included the detailed design for the new roundabout which was required to be constructed before works commenced upon the 87 dwellings. The current proposal relates to the phasing of development and seeks the flexibility to allow up to 40 dwellings within a 12 month period to be erected (but not occupied) before work is completed on the roundabout. Therefore, the main issues for consideration relate to the implications for deferring the construction of the roundabout and these relate to the associated impact of the temporary construction access upon residential amenity of occupiers in Chatsworth Close and the highway safety implications.
- 6.2 The applicants are seeking to defer the construction of the roundabout in order facilitate capital funding that would be released by the construction and sale of the dwellings, which would be offset against the significant upfront cost of building the roundabout. The developer was initially seeking a period of up to 18 months, however the Traffic Manager has recommended a restriction of 12 months from start of works on site. As submitted the proposal would allow for up to 40 dwellings to be constructed within this period

### Residential Amenity

- 6.3 In broader terms the construction of 87 new dwellings of the site would have an impact on the amenity of residents in Chatsworth Close. However as proposed the main change would be the provision of a temporary construction access closer to these properties that adjoin the development site. It is acknowledged that there will be some disturbance to existing residents but this can be mitigated by the use of hoardings that will provide sound attenuation and screening, together with control of deliveries (excluding Saturday afternoons, Sundays and Bank Holidays as recommended by the Environmental Health and Trading Standards Manager). It should also be noted that regard must be had for the background noise of traffic using the A40 together with that of construction of the first phase of development and to the fact that the developers do not propose to export excavated material from the site through the temporary access thereby minimising the traffic using the temporary construction. The representations received from local residents are acknowledged but having regard to the advice received from the Environmental Health and Trading Standards Manager, it is not considered that the proposal can reasonably be resisted for reasons of residential amenity. Therefore, the measures proposed accord with Policies S2, S6, DR2, DR4, and DR13 of Herefordshire Unitary Development Plan.

### Highway Safety

- 6.4 The Traffic Manager had concerns about the stated intention of using the access point for 18 months together with the siting for signage and visibility achievable. It is considered that by restricting the time period for use of the temporary access to 12 months, by providing the required visibility and associated signage these initial concerns have been addressed.

The proposal provides for wheel cleaning facilities and reasonable controls over the frequency and nature of deliveries, for example the retention of excavated material on the site will minimise HGV movements. Accordingly it is considered that the proposal satisfies the requirements of Policies DR2, DR3 and T8 of Herefordshire Unitary Development Plan.

It is considered that the provision of a temporary access that is time limited and appropriately controlled would provide sufficient flexibility to the developer whilst adequately protecting residential amenity and enable much needed housing for Ross-on-Wye to come forward and accordingly subject to the conditions set out below the application is recommended for approval.

## RECOMMENDATION

That planning permission be granted subject to the following conditions and those conditions attached to the original planning permission SE2008/0095/F where they remain relevant:

1. The development hereby permitted shall be begun before 3 February 2013.

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

2. Within 12 months of the commencement of the development hereby approved, or upon completion of 40 dwellings, whichever is the sooner, the roundabout shown on drawing no. 50390/100 Rev C shall be constructed and certified as complete by the local planning authority and shall thereafter be the only means of vehicular access for construction traffic and future occupiers to the development hereby approved.

Reason: In the interests of highway safety and the amenity of local residents and to conform with Policies DR3 and T11 of Herefordshire Unitary Development Plan.

3. Before the temporary construction access is first brought into use the hoardings as specified in the letter dated 23 December 2010 shall be erected in accordance with drawing no. 1.

Reason: In the interests of the amenity of local residents and to conform with Policy DR3 of Herefordshire Unitary Development Plan.

4. There shall be no deliveries taken at or despatched from the site via the temporary construction access outside the following times: Mondays to Fridays 0800 and 1800, Saturdays between the hours of 0800 and 1300 nor at any time on Sundays, Bank or Public Holidays.

Reason: In the interests of the amenity of local residents and to conform with Policy DR3 of Herefordshire Unitary Development Plan.

5. There shall be no removal of top soil or other material generated by the excavation of the site until such time as the roundabout is available for use.

Reason In the interests of the amenity of local residents and to conform with Policy DR3 of Herefordshire Unitary Development Plan.

6. H03 Visibility splays (3 metres x 215 metres)

7. The signage and road markings required for the temporary construction access shall be carried out in accordance with approved plan (101 Rev.C) before first use of the temporary construction access and shall be retained for the duration of its approved use.

Reason: In the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

### Informatives:

1. It is an offence under Section 148 of the Highways Act 1980 to allow mud or other

---

Further information on the subject of this report is available from Andrew Prior on 01432 261932



debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

2. The developer is required to submit details of the layout and alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations. It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Adequate storm water disposal arrangements must be provided to enable Herefordshire Council, as Highway Authority, to adopt the proposed roadworks as public highways. The applicant is, therefore, advised to submit the engineering and drainage details referred to in this conditional approval at an early date to the Senior Engineer, PO Box 236, Plough Lane, Hereford, H4 0WZ for assessment and technical approval. No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.
3. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
4. **N15 Reason(s) for the Grant of PP/LBC/CAC**

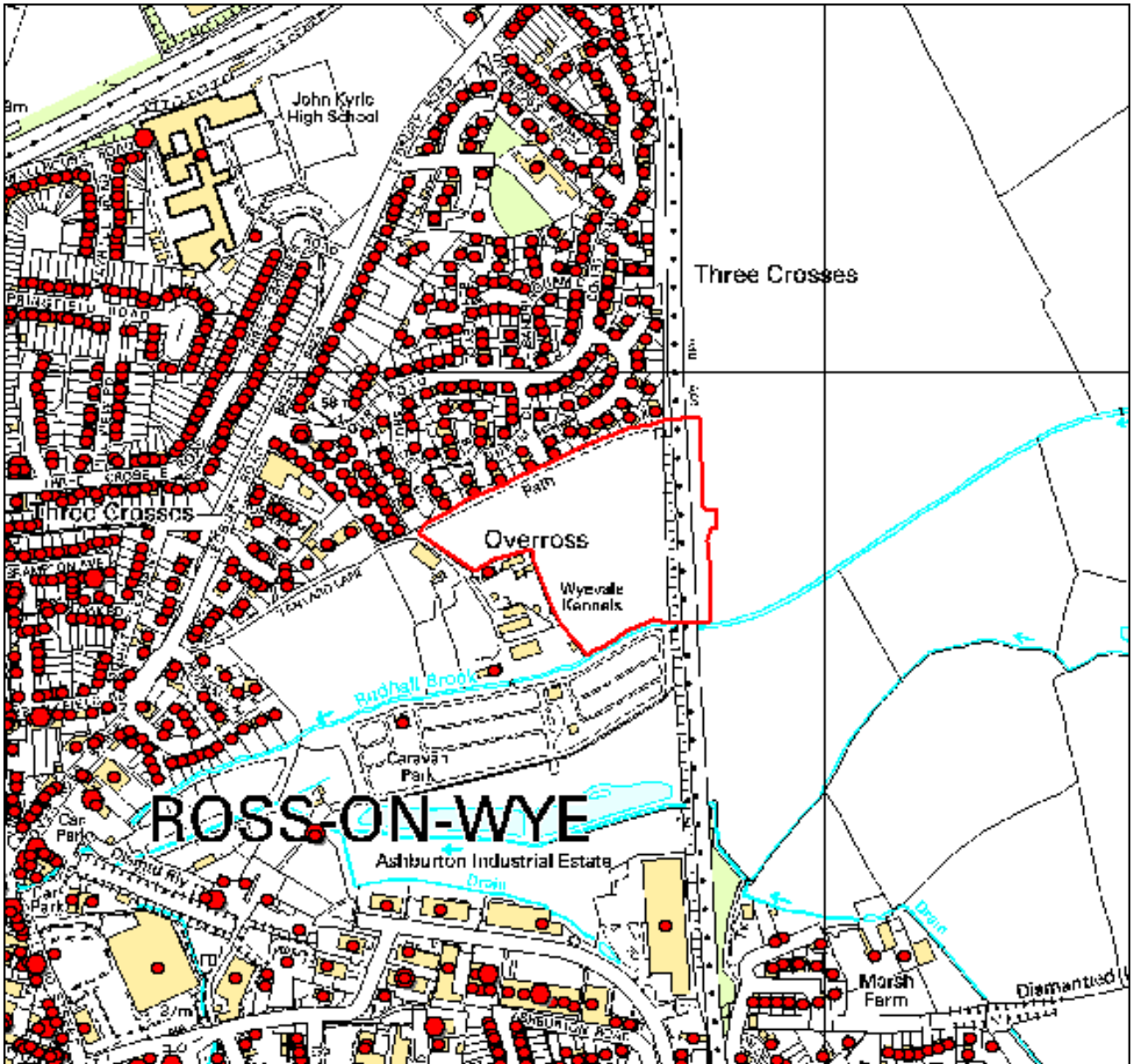
Decision: .....

Notes: .....

.....

### **Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** S/102272/F

**SITE ADDRESS :** LAND AT TANYARD LANE, ROSS ON WYE, HEREFORDSHIRE, HR9 7BH

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