

Agenda

Planning and regulatory committee

Date: **Wednesday 19 June 2019**

Time: **10.00 am**

Place: **Council Chamber, The Shire Hall, St Peter's Square,
Hereford, HR1 2HX**

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

For any further information please contact:

Tim Brown, Democratic Services Officer

Tel: 01432 260239

Email: tbrown@herefordshire.gov.uk

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Agenda for the meeting of the Planning and regulatory committee

Membership

Chairperson **Councillor John Hardwick**
Vice-Chairperson **Councillor Alan Seldon**

Councillor Graham Andrews
Councillor Paul Andrews
Councillor Polly Andrews
Councillor Toni Fagan
Councillor Terry James
Councillor Tony Johnson
Councillor Jim Kenyon
Councillor Jeremy Milln
Councillor Paul Rone
Councillor John Stone
Councillor Yolande Watson
(vacancies 2)

Agenda

		Pages
1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the minutes of the meetings held on 10 April 2019.</p>	11 - 44
5.	<p>CHAIRPERSON'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairperson.</p>	
6.	<p>174269 - BROOK FARM, MARDEN, HEREFORDSHIRE, HR1 3ET</p> <p>Proposed modification to existing agricultural building to accommodate a biomass boiler, including flue.</p>	45 - 68
7.	<p>1182628 - LAND TO THE SOUTH OF LEADON WAY, LEDBURY, HEREFORDSHIRE</p> <p>Application for approval of 1st phase reserved matters for the erection of 275 dwellings with appearance, landscaping, layout and scale to be considered only.</p>	69 - 120
8.	<p>182617 - LAND ADJACENT TO CAWDOR GARDENS, ROSS ON WYE, HEREFORDSHIRE.</p> <p>Proposed residential development of 32 dwellings of which 13 will be affordable homes, ecological corridor, separate public open space and provision of access enhancements together with partial (almost total) demolition of former railway bridge.</p>	121 - 162
9.	<p>191229 - 25 QUARRY ROAD, HEREFORD, HR1 1SS</p> <p>Proposed two storey and lean-to single storey extensions to the side (north) elevation.</p>	163 - 170
10.	<p>DATE OF NEXT MEETING</p> <p>Date of next site inspection – 16 July 2019</p> <p>Date of next meeting – 17 July 2019</p>	

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

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The Chairperson or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.

Guide to Planning and Regulatory Committee

The Planning and Regulatory Committee consists of 15 Councillors. The membership reflects the balance of political groups on the council.

(NB: Reflects proportionality reported to Council on 24 May 2019. Any subsequent changes will be applied after Council in July 2019.)

Councillor John Hardwick (Chairperson)	Herefordshire Independents
Councillor Alan Seldon (Vice-Chairperson)	It's Our County
Councillor Graham Andrews	Herefordshire Independents
Councillor Paul Andrews	Herefordshire Independents
Councillor Polly Andrews	Liberal Democrat
Councillor Toni Fagan	Green
Councillor Terry James	Liberal Democrat
Councillor Tony Johnson	Conservative
Councillor Jim Kenyon	Ungrouped
Councillor Jeremy Milln	Green
Councillor Paul Rone	Conservative
Councillor John Stone	Conservative
Councillor Yolande Watson	Ungrouped
Vacancy	Herefordshire Independents
Vacancy	It's our County (Herefordshire)

The Committee determines applications for planning permission and listed building consent in those cases where:

- (a) the application has been called in for committee determination by the relevant ward member in accordance with the redirection procedure
- (b) the application is submitted by the council, by others on council land or by or on behalf of an organisation or other partnership of which the council is a member or has a material interest, and where objections on material planning considerations have been received, or where the proposal is contrary to adopted planning policy
- (c) the application is submitted by a council member or a close family member such that a council member has a material interest in the application
- (d) the application is submitted by a council officer who is employed in the planning service or works closely with it, or is a senior manager as defined in the council's pay policy statement, or by a close family member such that the council officer has a material interest in the application
- (e) the application, in the view of the assistant director environment and place, raises issues around the consistency of the proposal, if approved, with the adopted development plan
- (f) the application, in the reasonable opinion of the assistant director environment and place, raises issues of a significant and/or strategic nature that a planning committee determination of the matter would represent the most appropriate course of action, or
- (g) in any other circumstances where the assistant director environment and place believes the application is such that it requires a decision by the planning and regulatory committee.

The regulatory functions of the authority as a licensing authority are undertaken by the Committee's licensing sub-committee.

Who attends planning and regulatory committee meetings?

Coloured nameplates are used which indicate the role of those attending the committee:

Pale pink	Members of the committee, including the chairperson and vice chairperson.
Orange	Officers of the council – attend to present reports and give technical advice to the committee
White	Ward members – The Constitution provides that the ward member will have the right to start and close the member debate on an application. In attendance - Other councillors may also attend as observers but are only entitled to speak at the discretion of the chairman.

How an application is considered by the Committee

The Chairperson will announce the agenda item/application to be considered, invite public speakers to move from the public gallery and take their seats in the council chamber, and explain any particular procedural matters relevant to the application.

The case officer will then give a presentation on the report.

The public speakers will then be invited to speak in turn (Parish Council, objector, supporter). Having spoken they will be asked to return to the public gallery. (see further information on public speaking below.)

The local ward member will be invited to start the debate (see further information on the role of the local ward member below.)

The Committee will then debate the matter.

Officers are invited to comment if they wish and respond to any outstanding questions.

The local ward member is then invited to close the debate.

The Committee then votes on whatever recommendations are proposed.

Public Speaking

The public will be permitted to speak at meetings of the Committee when the following criteria are met:

- a) the application on which they wish to speak is for decision at the planning and regulatory committee
- b) the person wishing to speak has already submitted written representations within the time allowed for comment
- c) once an item is on an agenda for planning and regulatory committee all those who have submitted representations will be notified and any person wishing to speak must then register that intention with the monitoring officer at least 48 hours before the meeting of the planning and regulatory committee

- d) if consideration of the application is deferred at the meeting, only those who registered to speak at the meeting will be permitted to do so when the deferred item is considered at a subsequent or later meeting
- e) at the meeting a maximum of three minutes (at the chairman's discretion) will be allocated to each speaker from a parish council, objectors and supporters and only nine minutes will be allowed for public speaking
- f) speakers may not distribute any written or other material of any kind at the meeting
- g) speakers' comments must be restricted to the application under consideration and must relate to planning issues
- h) on completion of public speaking, councillors will proceed to determine the application
- i) the chairman will in exceptional circumstances allow additional speakers and/or time for public speaking for major applications and may hold special meetings at local venues if appropriate.

Role of the local ward member

The ward member will have an automatic right to start and close the member debate on the application concerned, subject to the provisions on the declaration of interests as reflected in the Planning Code of Conduct (Part 5 section 6).

In the case of the ward member not being a member of the Committee they would be invited to address the Committee for that item.

In the case of the ward member being a member of the Committee they move to the place allocated for the local ward member to sit, do not vote on that item, and act as the ward member as set out above.

To this extent all members have the opportunity of expressing their own views, and those of their constituents as they see fit, outside the regulatory controls of the Committee concerned.

Minutes of the meeting of Planning and regulatory committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 10 April 2019 at 10.00 am

Present: Councillor PGH Cutter (chairperson)
Councillor J Hardwick (vice-chairperson)

Councillors: BA Baker, WLS Bowen, DW Greenow, KS Guthrie, EL Holton, AW Johnson, FM Norman, RJ Phillips, AJW Powers, NE Shaw, D Summers and SD Williams

In attendance: Councillor P Rone

132. APOLOGIES FOR ABSENCE

Apologies were received from Councillors CR Butler, PJ Edwards, MD Lloyd-Hayes, and WC Skelton.

133. NAMED SUBSTITUTES

Councillor WLS Bowen substituted for Councillor PJ Edwards, Councillor AW Johnson for Councillor CR Butler, Councillor RJ Phillips for Councillor WC Skelton and Councillor D Summers for Councillor MD Lloyd-Hayes.

134. DECLARATIONS OF INTEREST

Agenda item 7: Marlbrook Primary School, Hereford

Councillor NE Shaw declared an other declarable interest as a cabinet member and left the meeting for the consideration of this item.

Agenda item 8: Land adjacent to Cawdor Gardens Ross-on-Wye

Councillors PGH Cutter and J Hardwick declared other declarable interests as Council appointees to the Wye Valley AONB Joint Committee.

135. MINUTES

RESOLVED: That the minutes of the meeting held on 13 March 2019 be approved as a correct record and signed by the Chairman.

136. CHAIRPERSON'S ANNOUNCEMENTS

The Chairperson thanked the Vice-Chairperson, members of the committee and officers who had supported the committee for their work.

137. 184506 - LAND WEST OF GARBROOK, LITTLE TARRINGTON, HEREFORD.

(Proposed development of ten dwellings including 2 affordable homes and 2 self build plots and associated access road, footpath link, sustainable drainage, hedgerow, tree and orchard planting.)

(Councillor J Hardwick fulfilled the role of local ward member and accordingly had no vote on this application.)

The Principal Planning Officer (PPO) gave a presentation on the application.

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

In accordance with the Council's Constitution, the local ward member, Councillor J Hardwick, spoke on the application.

He reported that he had requested that the application be considered by the committee because of local interest in the matter. The draft Neighbourhood Development Plan (NDP) could not be given weight. A great deal of work had been carried out on the application with regard to the design and he supported it.

In the Committee's discussion of the application the following principal points were made:

- The development would change Tarrington. However, careful consideration had been given to the design. The development included affordable housing. It was to be hoped that it would contribute to the overall sustainability of the settlement. It was not an overdevelopment. It would bring improvements to the unclassified road.
- The extra planting and open space was welcomed. It was requested that care be taken to protect tree root systems.
- The Parish Council supported main housing growth in the core of Tarrington village. However, no weight could be attributed to the draft NDP at this stage.

In response to questions the PPO commented:

- Neither Welsh Water nor the Environment Agency had provided an update in relation to an ongoing pollution issue at Garbrook to which the report referred. The Council's land drainage officer had had no comment on that issue. Clarification would be sought.
- The Transportation Manager had no objection to the proposed access with the current speed limits. However, the extant permission for 15 dwellings on an adjacent site included a financial contribution towards a Traffic Regulation Order to reduce speeds from Tarrington towards Garbrook. In response to an enquiry Balfour Beatty Living Places had invited the Parish Council to submit a formal request. No response had as yet been received. However, this was not a requirement in order for the development to proceed. The visibility splays were acceptable at the current speeds.
- There were a number of policy issues to be balanced. The site was not within or adjacent to the built up area of Tarrington or of Little Tarrington where development would have been permitted in accordance with policy RA2. However, having regard to the absence of a 5 year housing land supply and the provisions of the National Planning Policy Framework officers considered that the scheme addressed the key issues and the benefits outweighed the adverse impact of the conflict with policy RA2

and policy RA3. Unlike many settlements outside of a settlement boundary residents would have access to the main built up area with a number of improvements to footways proposed and there being access to public transport.

- In terms of density of development the council's policies did not set out specific density requirements per hectare. Policies did support the efficient use of land but also required development to reflect the context of the site. The proposed density of development in the application was considered appropriate in the circumstances.

The Lead Development Manager confirmed that the affordable housing would be low cost market housing legally tied in perpetuity. The balance and weight to be attributed to the various policies was the key consideration. The site was accessible to the village and would contribute to the required housing growth.

The local ward member was given the opportunity to close the debate. He had no additional comment considering that there had been a useful debate. However, he noted that the Parish Council, despite having raised an objection prompting the redirection to the Committee, had not chosen to make representations to the meeting.

Councillor Greenow proposed and Councillor Williams seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 12 votes in favour, 0 against and 1 abstention.

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

1. **C02 Time limit for submission of reserved matters (outline permission)**
2. **C03 Time limit for commencement (outline permission)**
3. **C04 Approval of reserved matters (layout, scale, appearance and landscaping)**
4. **C05 Plans and particulars of reserved matters (layout, scale, appearance and landscaping)**
5. **C06 – Development in accordance with the approved plans, except where otherwise stipulated by conditions attached to this permission (approved drawings: LT-PA2697P2-01a, LT-PA-2697P2-02a, LT-PA-2697P2-03a, LT-PA2697P2-05, LT-PA-2697-08A)**
6. **The reserved matters shall be in substantial accordance with the submitted 'Proposed development at Little Tarrington – Phase 2' drawing LT-PA-2697P2-03a**

Reason: To ensure the development reflects its context, so as to comply with the requirements of Policies LD1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7. **Development shall be carried out in accordance with the Site Plan phasing drawing (LT-2697P2-02), other than where stipulated by other conditions of this permission, and meaning that none of the dwellings approved for phase 2 shall be commenced until development has commenced for Phase 1 and the access and attenuation basin provided as per the approved drawings and subject to conditions of this permission.**

Reason: To ensure that the development is carried out comprehensively so as to ensure it reflects its context, so as to comply with the requirements of Policies LD1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 8. The reserved matters application, submitted pursuant to Condition 1 shall be accompanied by a noise risk assessment and where necessary an Acoustic Design Statement for the proposed dwellings in accordance with Stage 1 and Stage 2 of the ProPG* guidance. The objective is to ensure that the layout and design of the site takes into account the acoustic environment of the site and the maximum internal and external desirable noise levels according to BS8233 are achieved wherever possible. Proposed noise attenuation measures are to be described in full.**

(ProPG: Planning and Noise* Professional Practice Guidance on Planning & Noise New Residential Development Published by the Association of Noise Consultants, the Institute of Acoustics and the Chartered Institute of Environmental Health)

Reason: To ensure that the potential noise impacts of the SRN (Strategic Road Network) on the residents of the proposed development are sufficiently mitigated having regard to the requirements of policy SD1 of the Herefordshire Local Plan – Core Strategy and the requirements of the National Planning Policy Framework.

- 9. The reserved matters application submitted pursuant to Condition 1 shall comprise; either the housing mix set out in in this outline permission or in general accord with the Council’s Local Housing Market Assessment (or any successor document, adopted for these purposes by the local planning authority).**

Reason: To define the terms of the permission and to comply with Policies RA2 and H3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Pre-commencement conditions

- 10. The development hereby permitted shall not commence until a planning obligation pursuant to Section 106 of the Town and Country Planning Act 1990 has been certified as completed by the local planning authority. The said Agreement shall include:**

- I. The numbers, type, tenure and location on the site of the affordable housing provision to be made;**
- II. The arrangements to ensure such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
- III. The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**

The affordable housing shall be retained in accordance with the approved scheme.

Reason: In order to provide affordable housing, which is a benefit given significant weight in the planning balance, in accordance with

Policies RA2 and H3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 11. The development hereby permitted shall not commence until the local planning authority has approved in writing a Management Company Plan that sets out the long term management and maintenance of the Open Space, landscaping and biodiversity enhancement (other than in privately owned domestic gardens); the establishment of a Management Company; the freehold transfer of the Open Space to the Management Company and the recovery by that Management Company of service charge contributions from the owners of the Open Market Units towards the upkeep and permanent maintenance of the Open Space. The approved Management Company Plan shall be implemented prior to the first occupation of any of the dwellings hereby approved.**

Reason: To ensure that the open space, landscaping and biodiversity enhancement is retained and properly managed as benefit of the scheme and in accordance with policies OS1, OS2, LD1, LD2 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 12. Before any other works hereby approved are commenced, visibility splays shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 3 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 65 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.**

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

- 13. Before any other works hereby approved are commenced, the construction of the vehicular access shall be carried out in accordance with a construction access specification, which has first been submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12. Prior to first occupation of any of the approved dwellings the construction of the access shall be completed in accordance with a final specification, which has first been submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.**

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

- 14. Development shall not begin in relation to any of the specified off-site highway works until details of the works to the public carriageway U66205, as per Drawing LT-PA-2697-08A, have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the scheme has been constructed in accordance with the approved details.**

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

- 15. Details of the footway improvement works (on highway land only) to the north side of A438 between the unclassified road (U66205) and Tarrington village to the west, including a timetable for when these will take place, shall be submitted to and approved in writing by the local planning authority. The development hereby permitted shall not be occupied until the scheme has been completed in accordance with the approved details.**

Reason: To provide enhanced pedestrian connectivity for the occupants of the dwellings hereby approved and existing residents, which is a benefit of the scheme taken into account in the planning balance and having regard to the guiding principles of sustainable development contained within Policies SS4 and MT1 of the Herefordshire Local Plan - Core Strategy and guidance contained within the National Planning Policy Framework.

- 16. No development shall take place, with the exception of the formation of the access and visibility splays pursuant to conditions 11 and 12 of this permission, until clarification of the responsibility and maintenance of the surface water drainage system has been submitted to and approved in writing by the local planning authority. This shall be in accordance with the details agreed in the section 106 agreement for phase 1 (171777/F).**

Reason: To ensure compliance with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy.

- 17. With the exception of the formation of the vehicular access and visibility splays pursuant to conditions 11 and 12 of this permission, no other work shall commence until a detailed habitat enhancement scheme based on the recommendations in the Ecology Report by Ecology Services dated December 2018 should be submitted to and be approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

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

- 18. Prior to commencement of the development hereby permitted a Construction and Environmental Management Plan (CEMP) shall be submitted to the Local Planning authority for their written approval. The CEMP shall include:**

Methodologies to cover the possible presence of bats, nesting birds and other wildlife as relevant at the time of the construction as well as habitat protection. Consideration should be given on how to minimise and mitigate during the construction process: noise and vibration, air quality (including dust management), sustainable waste management, traffic management and flows, water management (surface and groundwater), management and protection of ecological resources including all wildlife and features such as trees and hedgerows, management of any contaminated land and managing spills and accidental discharges during operations and site operative parking. The CEMP should detail the appointed site manager who

will oversee implementation and briefing of all contractors, monitor and record all aspects of the CEMP, take all relevant action and liaison as may be needed.

The development shall not commence until the Local Planning Authority has given such written approval. The development shall be carried out in full accordance with the approved detail and thereafter maintained as such.

Reason: To safeguard the Gar Brook from any disturbance, disruption or accidental pollution during the construction phase, to safeguard existing habitats and protected species and to safeguard the wider environment in accordance with policies SS6, RA6 and LD2 of the Herefordshire Local Plan Core Strategy 2011-2031.

Pre-occupancy or other stage conditions

19. Prior to first occupation of any of the new dwellings evidence (such as photos/signed Ecological Clerk of Works completion statement) of 'fixed' habitat enhancements (such as bird boxes, bat boxes, bee boxes and hedgehog homes) included within gardens and the open space approved under this decision notice should be submitted to and approved in writing by the local planning authority; and shall be maintained thereafter as approved unless otherwise agreed in writing by the local planning authority. External habitat boxes should be made of a long-lasting material. No external lighting should illuminate any habitat enhancement or boundary feature.

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

20. Prior to the first occupation of the development, the flood alleviation channel outlined in section 4.2 of Hydro-Logic Services' FRA (dated Dec 2018 Ref:K0790 rep 2 rev 4) must be in place and operational unless otherwise agreed in writing by the Local Planning Authority.

Reason: To reduce flood risk to the approved dwellings and as to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

21. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities for the dwellinghouses have been properly consolidated, surfaced, drained and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall thereafter be retained and kept available for those uses at all times.

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

22. Prior to the first occupation of each of the dwellings hereby permitted covered and secure cycle parking facilities shall be provided within its curtilage and in accordance with a detailed scheme for such that has first

been submitted to and approved in writing by the Local Planning Authority. Thereafter these facilities shall be maintained for such use.

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

23. Prior to the first occupation of any of the dwellings hereby approved details for the storage and collection of waste and recycling bins shall be submitted to and approved in writing by the Local Planning Authority and provided in accordance with the approved details. Thereafter those areas shall be retained for their approved use.

Reason: To ensure that there is adequate provision for storage and collection of waste and recycling bins and to conform with the requirements of Policy SD1 of Herefordshire Local Plan – Core Strategy.

24. The ecological protection and working methods scheme as recommended in the ecology report by Ecology Services dated December 2018 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework (2018), NERC Act 2006

25. CE6 – Efficient use of water

Compliance conditions

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

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, in accordance with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

27. Finished floor levels for the buildings hereby approved shall be either 600mm above the 1:100 year plus 35% climate change flood level at the nearest model node elevation or 300mm above existing ground levels, whichever is the higher.

Reason: To protect the development from flooding including the impacts of climate change so as to comply with the requirements of Policy SD3 of the Herefordshire Local Plan – Core Strategy.

28. C97 – landscaping scheme (pursuant to condition 3 – implementation)

INFORMATIVES:

1. IP2 - Application Approved Following Revisions

2. **I35 - Highways Design Guide and Specification**
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. **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 HR4 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.**
5. **No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.**
6. **This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.**

Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.

7. **This planning permission is pursuant to the conditional requirement (condition 9) to enter into a planning obligation under Section 106 of the Town and Country Planning Act 1990.**
8. **Welsh Water Advisory Notes**
The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a

new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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

If you have any queries please contact the undersigned on 0800 917 2652 or via email at developer.services@dwrcymru.com

Please quote our reference number (PLA0039235) in all communications and correspondence.

- 9. Environment Agency advisory note re: pollution**
Developers should incorporate pollution prevention measures to protect ground and surface water. We have produced a range of guidance notes giving advice on statutory responsibilities and good environmental practice which include Pollution Prevention Guidance Notes (PPG's) targeted at specific activities. Pollution prevention guidance can be viewed at: <https://www.gov.uk/guidance/pollution-prevention-for-businesses>.

138. 190280 - MARLBROOK PRIMARY SCHOOL, GREEN CROFT, HEREFORD, HEREFORDSHIRE, HR2 7NT

(Proposed extension to existing primary school with associated external works including new car park and highway improvement works.)

(Councillor Shaw withdrew from the meeting during consideration of the application.)

The Development Manager gave a presentation on the application.

In accordance with the criteria for public speaking, Mr J Bothamley, a UK funder of educational services, spoke in objection.

In accordance with the Council's Constitution, the local ward member, Councillor P Rone, spoke on the application.

He made the following principal comments:

- The school would always face pressure on places. It served the area of highest population density in the City and Ofsted had rated it an outstanding school.
- The proposal had been under consideration for some years. It would provide opportunity for pupils.

- The school was in a residential area and residents were affected by school traffic. There was a travel plan in place. However, car parking issues in the area did arise and the proposed car parking space would be beneficial and was essential.

In the Committee's discussion of the application the following principal points were made:

- There was broad support for the application. There was an established strategic demand for the additional places and the replacement of the existing temporary buildings was to be welcomed. The current pressure on parking and the proposed parking provision was noted.
- A concern was expressed about the potential for the proposal to have an adverse impact on other schools.
- The Lead Development Manager commented that paragraph 6.4 of the report confirmed the need for additional school places in the south of the city. The proposal would also provide for the replacement of the temporary buildings currently in use.
- The design could be improved upon.
- The issue of travel and parking was a much broader issue than just this one school and the effect on its immediate area.
- It was requested that it be ensured that the trees that would be lost as a result of the development were replaced.

The Lead Development Manager commented that new trees were proposed to replace those that would be lost. The school did have a travel plan in place. The replacement of the temporary buildings would be of benefit.

The local ward member was given the opportunity to close the debate. He had no additional comment.

Councillor Greenow proposed and Councillor Holton seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 11 votes in favour, 1 against and 1 abstention.

RESOLVED: That officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions considered necessary by officers named in the scheme of delegation to officers:

1. **C01 - A01 Time limit for commencement (full permission)**
2. **C07 - Development in accordance with approved plans and materials**

Pre-commencement Conditions

3. **CNS - Habitat Regulations (River Wye SAC-SSSI) - Nature Conservation Protection**

Before any work, including any site clearance or demolition begin, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) shall be supplied to the planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018) and Herefordshire Council Core Strategy (2015) policy LD2

4. CNS – Welsh Water (Drainage)

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

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment having regard to the requirements of policy SD3 and SD4 of the Herefordshire Local Plan – Core Strategy

5. CNS – Construction Management Plan

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:

- a) Parking for site operatives and visitors which shall be retained and kept available during construction of the development.**
- b) Details of working hours and hours for deliveries**
- c) Emergency / site contacts during the construction period**
- d) Site compound location**
- e) A scheme for the control of dust arising from building and site works**
- f) Measures to promote sustainable means of transport for construction staff with respect to the construction site**

The agreed details of the Construction Management Plan shall be implemented throughout the construction period.

Reason: In the interests of the residential amenity of properties within the locality and of highway safety in accordance with Policies SD1 and MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

6. C90 – Tree Protection

Pre-occupation Conditions

7. CAL - Access, turning area and parking

8. CB2 - Secure covered cycle parking provision

9. **CB3 - Travel Plan (with requirement for annual travel surveys)**
10. **C97 – Landscape Implementation (Soft and hard landscaping)**
11. **CNS – Sport England (Court Provision)**

Prior to the construction of the replacement netball courts, further details of their design and specification to include:

- a) **a cross section showing the proposed levels of the courts and the associated run off areas, and**
- b) **construction details of the courts to from sub-base level to surface course level including any colour coating (where proposed) and application of the proposed line markings to demonstrate that the courts will provide appropriate slip resistance, shall be submitted to and approved in writing by the Local Planning Authority (after consultation with Sport England).**

The specification of the courts shall accord with Sport England guidance in “Artificial Surfaces for Outdoor Sport” Design Guidance Note (SE 2013) and the relevant Technical Design Guidance from England Netball.

The netball courts shall not be constructed other than in accordance with the approved details and before the school extension hereby permitted is first brought into use.

Reason: To ensure the provision of the replacement courts to a satisfactory specification having regard to the guidance contained the National Planning Policy Framework (particularly Para 97) and Sport England’s Playing Fields Policy, which is presented within its ‘Playing Fields Policy and Guidance Document’

Compliance Conditions

12. **CNS - Habitat Regulations (River Wye SAC) – Foul- and Surface Water**

For the development approved under this Decision Notice all foul water shall discharge through a connection to the local Mains Sewer network; and all surface water managed through and on site attenuation system with final discharge to existing mains sewer network; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Habitat Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Council Core Strategy (2015) policies LD2, SD3 and SD4.

INFORMATIVES:

1. **IP2 - Application Approved Following Revisions**

2. INS - Having regard to condition 11:

Sport England have would refer you to the relevant guidance as follows:

<https://www.sportengland.org/facilities-planning/design-and-cost-guidance/artificial-sports-surfaces/>

<https://www.englandnetball.co.uk/surface-requirements/>

3. I54 - Disabled needs

(The meeting adjourned between 11.20 to 11.35 am)

139. 182617 - LAND ADJACENT TO CAWDOR GARDENS, ROSS ON WYE, HEREFORDSHIRE.

(Proposed residential development of 32 dwellings of which 13 will be affordable homes, ecological corridor, separate public open space and provision of access enhancements together with partial (almost total) demolition of former railway bridge.)

(Councillor Summers had left the meeting and was not present during consideration of this application. Councillor Williams had left the meeting for a short time and was therefore not permitted to vote.)

The Principal Planning Officer (PPO) gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these minutes.

He added in relation to the Cawdor Arch Road Railway Bridge that English Heritage had declined an application in 2013 for the arch to be listed and he expanded on their reasoning. The removal of the bridge was to allow emergency services vehicles to access the proposed site, in particular fire tenders. There was no professional objection in heritage terms to the loss of the bridge. Account had been taken of local sentiment.

In accordance with the criteria for public speaking Mrs A Park, a local resident, spoke in objection to the application. S Griffiths, the applicant's agent, spoke in support.

The local ward member, Councillor RL Mayo was unable to attend the meeting. The Chairperson read out a statement he had submitted.

The statement contained the following principal comments:

- The application for Cawdor Gardens had been a long time in development.
- It was sad to see the loss of a wild green space near the centre of town. However, several concerns have been addressed in the application including providing a play area and a designated wildlife corridor.
- The removal of the Cawdor railway arch had generated the most objections. He considered this to be an iconic landmark of Ross, in a highly visible and well used thoroughfare. The site had been the subject of a number of applications , most recently in 2017. That application had been withdrawn. However, the highways team had agreed that the removal the arch was not necessary to allow access to the site. Instead a priority system where the traffic entering the site would have priority would be acceptable and this system would have the added benefit of slowing down traffic coming down the hill towards the junction at the bottom of the hill. It seemed

that it would therefore be possible to develop the site and retain the railway arch. He thought the arch could add some interest and uniqueness to the site.

- If the application were to be approved he requested that some stringent heads of terms were added to protect the arch from being damaged or removed until there was a guarantee of development or phases of development.

In the Committee's discussion there was a focus on the possibility of retaining the railway bridge. One view was that the bridge had no particular merit and the development, which had many public benefits, should proceed as recommended. A contrary view was that, whilst the bridge might not be of national importance it was locally distinctive and should be retained if possible.

Officers commented that measurements of the bridge suggested that a standard fire tender should be able to pass through, albeit with little room to spare. Whilst the existing development beyond the railway bridge could be accessed, a different level of access may be required to support the larger development proposed.

It was noted that no response had been received from the emergency services when consulted upon the application.

In response to questions the PPO clarified that the proposal would provide for a 2m footpath distinct from the carriageway. Currently when passing through the arch pedestrians had to share the carriageway with vehicles. Car parking for the development would be provided for within the development. The planning application in 2017 to which reference had been made provided for the bridge to be retained. During the consultation process the Transportation Manager had raised the issue of whether access could be achieved by emergency services vehicles. The application had been withdrawn and the question of access and other issues had remained unresolved.

A concern was expressed about the gradient of the site and the consequences of this for the stability of the site and construction of the development.

There was also an underprovision of public open space in Ross –on- Wye. Whilst it was proposed to provide a play area for the residents, this would not compare with the potential benefit to residents of Ross –on- Wye as a whole if the area were to be developed as open space.

The Town Council had expressed concerns about the design.

In response to points made the Lead Development Manager commented that the land was in private ownership and the potential development of the whole area as public open space was governed by that constraint. The harm associated with the loss of the railway bridge needed to be balanced against the benefits of the proposed development. Welsh Water had confirmed that they would have the ability to service the site by 2020. Having regard to the gradient of the site construction would have to be in accordance with appropriate building standards. The removal of the railway bridge would facilitate access by the emergency services and provide safer pedestrian access including for schoolchildren. There wasn't scope for an alternative access to the site.

A motion that the application be approved was lost.

Councillor Phillips proposed and Councillor Bowen seconded a motion that consideration of the application be deferred pending receipt of reports from the emergency services. The motion was carried with 11 votes in favour, none against and 1 abstention.

RESOLVED: That consideration of the application be deferred pending receipt of reports from the emergency services.

140. 183951 - LAND TO THE WEST OF ST MARYS CHURCH, BROAD OAK, HEREFORDSHIRE

(Proposed erection of two detached dwellings and new vehicular access.)

(Councillors Greenow, Norman and Summers had left the meeting and were not present during consideration of this application.)

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, as appended to these minutes.

In accordance with the criteria for public speaking, Mrs J Joseph, the applicant's agent, spoke in support of the application.

The local ward member, Councillor DG Harlow was unable to attend the meeting. The Chairperson read out a statement he had submitted.

The statement contained the following principal comments:

In principle he was in favour of the application for the following reasons:

- Broad Oak is a settlement in the Core strategy within the larger parish of Garway. As well as having a popular and successful school the parish also has a new village hall and in Broad Oak itself there is a petrol station and village shop. This means that in the context of rural Herefordshire this location is a highly sustainable option for a small scale development.
- A bus service operates from Broad Oak to Hereford
- A reduced speed limit onto the B4521 making it a 30mph zone had made the road much slower addressing any concerns over road safety. No objection had been made by the Transportation Manager.
- There is no single style of home in Broad Oak and the variety offered by this new scheme would complement rather than detract from the visual style.
- Building on pockets like this one on the edge of a sustainable village helped to ensure rural housebuilding and contribute to meeting the housing land supply targets.
- There had been considerable interest from local families wanting to move to the houses thereby ensuring continuity amongst rural families

In summary, whilst he understood that some existing residents may oppose development in the area more rural housing was needed, particularly this sort of development in this sort of location.

In the Committee's discussion of the application the following principal points were made:

The local ward member supported the application. The proposal was for 2 houses in a settlement where development was permitted in accordance with policy RA2.

The principle of development did not appear to be at issue. The site was sustainable. The question was one of scale and design.

Reference was made to the decision taken on application 184506 earlier in the meeting and the importance of consistency in decision making. It was suggested that it appeared that officers were prepared to recommend approval of a large scheme in an area outside the settlement boundary, giving weight to the social and economic benefits, but were not inclined to attribute such weight in the case of a small scheme.

The Lead Development Manager commented that policy RA2 provided that, in the absence of an NDP, applications would be assessed on whether they were within or adjacent to the built up area. The majority of NDP's would require development to be within the settlement boundary. An application adjacent to the settlement boundary would not be looked on favourably, subject to every application having to be considered on its own merits. He considered the application did differ to application 180456 in that in this case there was an NDP with limited weight. It was a question of whether the site was locationally acceptable for development, whether the development would result in a change of character, and whether the design was considered acceptable within that location.

Councillor Baker proposed and Councillor Johnson seconded a motion that the application be approved on the grounds that the proposal was compliant with policy RA2. The motion was carried with 6 votes in favour, 3 against and 2 abstentions.

RESOLVED: That planning permission be granted on the grounds that the proposal was compliant with policy RA2 and officers named in the scheme of delegation to officers be authorised to detail the conditions and reasons put forward for approval.

Appendix - Schedule of Updates

The meeting ended at 1.15 pm

Chairperson

PLANNING AND REGULATORY COMMITTEE

Date: 10 April 2019

Morning

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.

SCHEDULE OF COMMITTEE UPDATES

182617 - PROPOSED RESIDENTIAL DEVELOPMENT OF 32 DWELLINGS OF WHICH 13 WILL BE AFFORDABLE HOMES, ECOLOGICAL CORRIDOR, SEPARATE PUBLIC OPEN SPACE AND PROVISION OF ACCESS ENHANCEMENTS TOGETHER WITH PARTIAL (ALMOST TOTAL) DEMOLITION OF FORMER RAILWAY BRIDGE AT LAND ADJACENT TO CAWDOR GARDENS, ROSS ON WYE, HEREFORDSHIRE,

For: Mr Jones per Mrs Caroline Reeve, 6 De Salis Court, Hampton Lovett Industrial Estate, Droitwich Spa, WR9 0QE

ADDITIONAL REPRESENTATIONS

An additional representation of expanded comments has been received on 8 April 2019 from a local resident, who adds the following –

The point I would like to raise is this: the number one problem facing humanity at present is Global Warming and the principal source of the Carbon Dioxide which is put into the atmosphere is from the burning of fossil fuels in road transport. This needs to be solved by getting both people and freight off the roads and onto electrified railways, (and in the cities people onto trams and trolley buses), this is paramount. It is equally as important to produce clean electricity as it is to reduce the demand for it, the present situation where everybody runs around in individual transport is unsustainable from every point of view.

Herefordshire Council has recognised the part the Hereford and Gloucester Canal can do to provide a link between the two cities and has put into its future plans the fact that the corridor should be left for the future development of the canal, for which the Council should be praised. Equally it should do the same thing for the routes of the old railway lines, which will have to be reopened in the future if we are to tackle Global Warming. Admittedly it will not be the present government which does anything to counteract Global Warming, given its addiction to Fracking, but we have to hope that a future government will, otherwise as Fraser says in Dad's Army, "We're all doomed."

Hence my objection to the removal of the railway bridge in this scheme, we must protect the old railway routes.

OFFICER COMMENTS

The additional comments are noted and as referenced within the report at 6.69. The reopening of the relevant branch line is not something under consideration as far as any current or emerging plans show and is not safeguarded by planning policies or legislation. In any event and as also noted within the Conservation comments, in many places the line will have been built over or otherwise obstructed and not capable of exact reinstatement. Any future railway infrastructure serving Ross on Wye would need to be designed and facilitated to accommodate the town and its development at the moment such a proposal comes forward.

There is no current or emerging planning policy or legislative base to resist the proposal on this basis. Therefore no change to recommendation is proposed.

However the wording of the recommendation does require amending and this is reflected in the change below.

RECOMMENDATION - Amended wording

That subject to the completion of a Planning Obligation under Section 106 of the Town & Country Planning Act 1990, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any further conditions or amendments to conditions considered necessary by officers named in the scheme of delegation to officers.

183951 - PROPOSED ERECTION OF TWO DETACHED DWELLINGS AND NEW VEHICULAR ACCESS AT LAND TO THE WEST OF ST MARYS CHURCH, BROAD OAK, HEREFORDSHIRE

For: Mr Partridge per Julie Joseph, Trecorras Farm, Llangarron, Ross On Wye, HR9 6PG

ADDITIONAL REPRESENTATIONS

A neighbour has submitted the additional representation by email dated 2nd April 2019:

I received this automated email as I had written comments opposing the development of these new dwellings in Broad Oak.

Having had another look at the application, I can see quite a few new documents have been submitted in the last few months.

One of these is a drainage plan. I am writing as the plan is not accurate. They have omitted a council maintained drain which runs under the road from directly outside my house and discharges in the roadside ditch exactly where the proposed driveway is to the new dwellings on the east of the proposed site.

As this drain has been omitted from the plan, no provision is made to account for the considerable amount of rainwater which it carries at present and, more concerning, planners may not be aware of any restrictions which would be sensible to ensure that any newly created driveway did not compromise the existing drainage network.

I don't know if it is too late for this information to be passed onto the case officer, but I felt it an important point to note.

OFFICER COMMENTS

Paragraph 1.1 comments on St Mary's Church being an 'undesigned heritage asset'. For the avoidance of doubt, the building is afforded no statutory protection and while there is a social value to it, harm is not identified to its setting as a result of the proposed development.

As stated within the Committee report at paragraph 6.32, the maintenance of highway drains are controlled under separate legislation and any developer would have a duty to ensure these are not damaged.

NO CHANGE TO RECOMMENDATION

Minutes of the meeting of Planning and regulatory committee held at Council Chamber, The Shire Hall, St Peter's Square, Hereford, HR1 2HX on Wednesday 10 April 2019 at 2.00 pm

Present: Councillor PGH Cutter (chairperson)
Councillor J Hardwick (vice-chairperson)

Councillors: BA Baker, WLS Bowen, DW Greenow, KS Guthrie, EL Holton, AWJohnson, PP Marsh, FM Norman, RJ Phillips, AJW Powers, NE Shaw and SD Williams

141. APOLOGIES FOR ABSENCE

Apologies were received from Councillors CR Butler, PJ Edwards, MD Lloyd- Hayes, FM Norman and WC Skelton.

142. NAMED SUBSTITUTES

Councillor WLS Bowen substituted for Councillor PJ Edwards, Councillor AW Johnson for Councillor CR Butler, Councillor PP Marsh for Councillor FM Norman and Councillor RJ Phillips for Councillor WC Skelton.

143. DECLARATIONS OF INTEREST

None.

144. CHAIRPERSON'S ANNOUNCEMENTS

The Chairperson reiterated his thanks to members of the committee and to officers for their work.

145. 183281 - SWAN HOUSE, WEST STREET, PEMBRIDGE

(Proposed five bedroom dwelling to the rear of Swan House.)

(Councillor Phillips fulfilled the role of local ward member and accordingly had no vote on this application.)

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, as appended to these minutes.

In accordance with the criteria for public speaking, Mr A Pace, of Pembridge Parish Council, spoke in opposition to the Scheme. Mr A Whibley, the applicant's agent, spoke in support.

In accordance with the Council's Constitution, the local ward member, Councillor RJ Phillips, spoke on the application.

He made the following principal comments:

- The site formed part of the village's historic burgage plot layout. The burgage plots had consistently been protected by the planning policies of Herefordshire Council and its predecessors. The Neighbourhood Development Plan (NDP) had been adopted and continued this protection.
- When consulted on the NDP Historic England had stated that, amongst other things, the protection of the burgage layout of the village was to be applauded. It was unclear therefore as to how this related to Historic England's response to the application included in the report to the Committee. The NDP, as approved, by the Planning Inspector, reflected the earlier comments.
- It was important the Committee supported adopted NDPs and confirmed that development on the burgage plots was restricted. The proposal was contrary to core strategy policies LD1 and LD 4 and a range of policies within the Pembridge NDP in particular PEM 19 that specifically related to the protection of the burgage plot layout.

In the Committee's discussion of the application it was observed that NDPs should conform to strategic priorities of the local plan but in policy decisions where there was a conflict between the neighbourhood policy and a non-strategic local policy the neighbourhood policy should take precedence. The Pembridge NDP at PEM 19 provided for the protection of the burgage plot layout. The NDP was adopted and attracted full weight. The application should therefore be refused.

The Lead Development Manager commented that Historic England and the Historic Buildings officer had raised no objection to the principle of development on the site leading to the officer recommendation for approval in this particular instance.

The local ward member was given the opportunity to close the debate. He noted that PEM 4 identified sites for new housing development to meet the housing need. The burgage plots had not been identified for development.

Councillor Shaw proposed and Councillor Bowen seconded a motion that the application be refused on the grounds that it was contrary to core strategy policies LD1, LD4, and NDP policies PEM 3,4,19 and 20, and relevant paragraphs of the NPPF. The motion was carried with 12 votes in favour, none against and no abstentions.

RESOLVED: That planning permission be refused on the grounds that the application was contrary to core strategy policies LD1, LD4, and NDP policies PEM 3, 4, 19, and 20 and relevant paragraphs of the NPPF and officers named in the scheme of delegation to officers be authorised to detail the reasons for refusal.

146. 190122 - BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HR5 3RU

(Application for approval of reserved matters following outline approval 160581/o (proposed site for the erection of 5 no. Four bedroom dwellings.). Reserved matters for access only.)

(Councillor Holton had left the meeting and was not present during consideration of this application. Councillor Phillips fulfilled the role of local ward member and accordingly had no vote on this application.)

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, as appended to these minutes.

He noted that since the publication of the committee report, the Planning Inspectorate had confirmed that they had received an appeal in respect of the Council's earlier decision. The scheme subject to the appeal was to all intents and purposes the same as the scheme currently being considered. The outcome of the appeal was awaited.

In accordance with the criteria for public speaking, Mr R Edwards, of Titley and District Parish Council spoke in opposition to the Scheme. Mr R Jones, a local resident, spoke in objection.

In accordance with the Council's Constitution, the local ward member, Councillor RJ Phillips, spoke on the application.

He outlined the background to the application, the issues that had arisen about highway safety in relation to access to the main road and the legal opinions that had been received. The question of revoking the current permission involved safety considerations and the cost of compensation to the landowner. He considered that it would be preferable if the committee deferred consideration pending the outcome of the appeal.

Councillor Greenow proposed and Councillor Williams seconded a motion that the application be deferred pending the outcome of the appeal to the planning inspectorate. The motion was carried with 10 votes in favour, 1 against and no abstentions.

RESOLVED: That consideration of the application be deferred pending the outcome of the appeal to the planning inspectorate.

147. 182236 - BODENHAM LAKE NATURE RESERVE, BODENHAM, HEREFORDSHIRE

(Proposed re-profiling works to include: southern land spit at the eastern end of the lake to be lowered and divided into three islands. Small island close to bird hide on the southern side of the lake will be cleared of trees, lowered and divided into three smaller islands. The southern half of the western island will be re-profiled.)

(Councillor Holton had left the meeting and was not present during consideration of this application. Councillor Baker fulfilled the role of local ward member and accordingly had no vote on this application.)

The Principal Planning Officer (PPO) gave a presentation on the application, and updates/additional representations received following the publication of the agenda were provided in the update sheet, as appended to these minutes.

In accordance with the Council's Constitution, the local ward member, Councillor BA Baker, spoke on the application.

He supported the application noting that no objections to it had been received. He expressed a concern about ensuring public access and the ability of the sailing club to use the site.

In the Committee's discussion of the application it was noted that all the consultees appeared to support the proposal and members indicated their broad support for the proposal. However, clarification was sought in relation to public access and the use of the site by the sailing club.

The PPO commented that the site was open to the public. The use by the sailing club had declined but had not been restricted by the Herefordshire Wildlife Trust as managers of the site. The Trust had given its assurance that the site would remain open to the sailing club. Some safety measures would be in place during construction works.

The local ward member was given the opportunity to close the debate. He had no additional comment.

Councillor Greenow proposed and Councillor Guthrie seconded a motion that the application be approved in accordance with the printed recommendation. The motion was carried with 11 votes in favour, none against and no abstentions.

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

1. **A01 Time limit for commencement (full permission)**
2. **C06 Development in accordance with approved plans**
3. **During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.**

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

4. **The Method of Work and Environmental Risk Management by Frog environmental dated September 2016 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.**

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), NPPF (2018), Wildlife & Countryside Act (1981 as amended) and Core Strategy (2015) policy LD2.

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **Bodenham Lake and adjacent River Lugg (SAC) are recognised for their importance for biodiversity, protected species and ecological habitat and we would like to formally remind the applicant that they have a legal duty to ensure compliance with all relevant legislation and best working practices such as CDM, Health & Safety, Wildlife & Countryside Act, Habitat Regulations et al, at all times during the project and construction.**
3. **In addition to planning permission, the works may require a Flood Risk Activities permit under the Environmental Permitting Regulations (EPR) where works may act to affect a Main River or its floodplain. The applicant is advised to contact the Environment agency direct for clarification.**

148. DATE OF NEXT MEETING

The committee noted the date of the next meeting.

Appendix - Schedule of Updates

The meeting ended at 3.35 pm

Chairperson

PLANNING AND REGULATORY COMMITTEE

Date: 10 April 2019

Afternoon

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.

183281 - PROPOSED FIVE BEDROOM DWELLING TO THE REAR OF SWAN HOUSE AT SWAN HOUSE, WEST STREET, PEMBRIDGE,

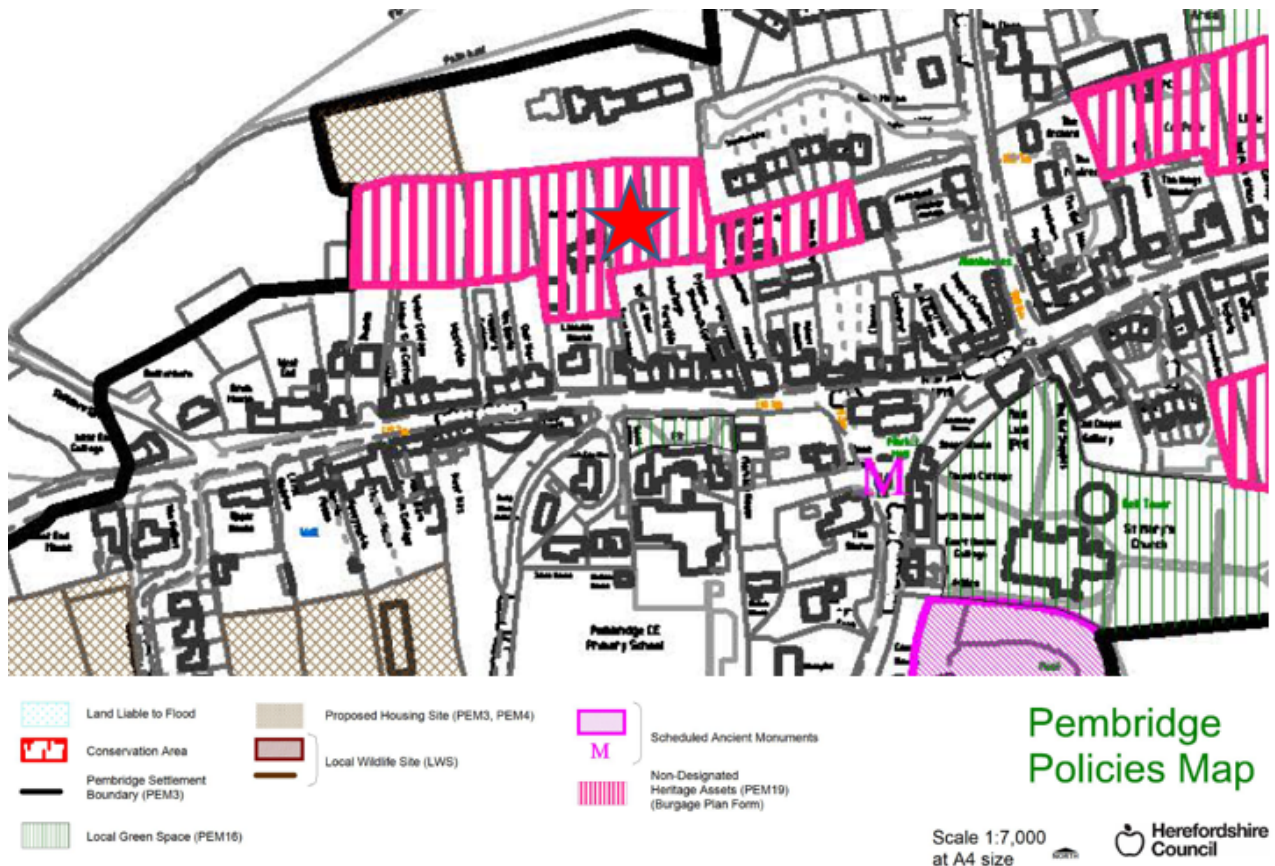
For: Mr Smith per Mr Alex Whibley, 43 College Road, Hereford, HR1 1EE

ADDITIONAL REPRESENTATIONS

None received.

OFFICER COMMENTS

A copy of the Pembridge Village Policies Map from the Pembridge Neighbourhood Development Plan is included below. The burgage plots afforded protection through policy PEM19 are denoted by the pink hatched areas, and the proposal site location is denoted by the red star.



NO CHANGE TO RECOMMENDATION

190122 - APPLICATION FOR APPROVAL OF RESERVED MATTERS FOLLOWING OUTLINE APPROVAL 160581/O (PROPOSED SITE FOR THE ERECTION OF 5 NO. FOUR BEDROOM DWELLINGS.). RESERVED MATTERS FOR ACCESS ONLY. AT BALANCE FARM, EYWOOD LANE, TITLEY, KINGTON, HR5 3RU

For: Mrs Vaughan per Mr Alan Poole, Green Cottage, Brierley, Leominster, Hereford, HR6 0NT

ADDITIONAL REPRESENTATIONS

None received.

OFFICER COMMENTS

As outlined in the report, the application currently being considered is a resubmission of an earlier Reserved Matters Application for access that was refused on 28th September 2018. Since the publication of the Committee Report, the Planning Inspectorate have confirmed that they have received an appeal in respect of the Council's earlier decision and that the appeal was valid on 3rd March 2019 (APP/W1850/W/19/3225568). The scheme subject to the appeal is to all intents and purposes the same as the scheme currently being considered. The outcome of the appeal is awaited.

NO CHANGE TO RECOMMENDATION

182236 - PROPOSED RE-PROFILING WORKS TO INCLUDE: SOUTHERN LAND SPIT AT THE EASTERN END OF THE LAKE TO BE LOWERED AND DIVIDED INTO THREE ISLANDS. SMALL ISLAND CLOSE TO BIRD HIDE ON THE SOUTHERN SIDE OF THE LAKE WILL BE CLEARED OF TREES, LOWERED AND DIVIDED INTO THREE SMALLER ISLANDS. THE SOUTHERN HALF OF THE WESTERN ISLAND WILL BE RE-PROFILED AT BODENHAM LAKE NATURE RESERVE, BODENHAM, HEREFORDSHIRE,

For: Miss Cowling per Miss Sophie Cowling, Lower House Farm, Hereford, Herefordshire, HR1 1UT

ADDITIONAL REPRESENTATIONS

A further representation has been received from Angela Lloyd, one of the objectors, in response to the Wildlife's Trust additional supportive information. The contents of the letter received is summarised as follows:

- I am pleased to see that a silt curtain was deployed; however, this does not remove the issues that are occurring with current sedimentation levels. I would have expected there to have been monitoring carried out before, during and after the works (this is a minimum requirement), but in order to feel satisfied that there are no further breaches to the Water Framework Directive or Wildlife and Countryside Act I feel it is necessary to receive assurances that more regular monitoring (by staff on the ground) is carried out. What ongoing monitoring of water quality is scheduled?
- I appreciate there is a need to thin some of the islands, this will certainly enhance biodiversity, however, creating a mosaic of habitats (which is what I am suggesting) will enhance it even further (i.e. have both well managed wooded and gravel islands). Clear felling existing islands and simply coating them in gravel is not a sustainable or sensible solution. More creative solutions should be sought (e.g. implementation of floating ecosystems).
- Whilst the maintenance of a 1hectare site for existing species is laudable, I would ask if this is sufficient. As stated the number of native species nesting on the site is 'few'. I would suggest that a total area in excess of 1hectare would be necessary to ensure an increase in the number of species.
- Whilst a spatial divide was created during 2018, there does not appear to have been a sufficient temporal divide, which is my concern for works in the future. Further clarification around the timeframes for the proposed work is required. Please can these be provided?
- Simply using expert knowledge and skill does not always ensure that a job is completed to the highest or best standard. There is no substitute for deep, local knowledge of a site. Sadly HWT like all conservation organisations across the country have been negatively impacted by austerity.
- Did colleagues from WWT suggest other species be planted in the margins to increase biodiversity in the shallows? If not, are there plans to increase floral diversity in this habitat?
- Simply planting young Phragmites is insufficient to stem the current issues of sedimentation.
- The traffic from Canada geese over these areas alone is creating these issues, needless to say what happens during heavy rainfall events. It is wonderful to know that reedbeds will one day provide habitat for invertebrates, birds and mammals, but my concern lies around the here and now and the way in which these areas have been created.
- Longer phasing of these works would have certainly been a good starting point. I am glad to see that the RSPB restoration manual is being utilised, this again is a minimum requirement for this kind of project. Simply planting young Phragmites is insufficient to stem the current issues of sedimentation.
- I am heartened to see that Herefordshire now has a vibrant membership amongst its Wildlife Trust. It has been a long time coming. I appreciate that is not easy to muster support for conservation in a county with agriculture as its main industry. As stated previously I firmly believe that the management of this site requires deep local knowledge. There is an expectation that the Trust would be working in partnership with all of the organisations outlined above, however, utilising outside, expert knowledge and skills will be fruitless without dynamic, strategic steering on a daily basis on the ground.

Six further letters of support from volunteers at Bodenham Lake on behalf of the Wildlife Trust. Contents of letters are summarised below;

- Trail cameras have been used to enable evidence to be gained on the use of these areas from the start of this project. The cameras are usually monitored weekly, and evidence is collected for the seven days and collated by the Trust. The cameras have also been deployed on the islands and land spit from May to August 2018 inclusive.

- It has been apparent that at present the islands, due to the density of tree cover and scrub, support little diversity of wildlife. In contrast, on the areas around the lake where vegetation has been cleared and a shallow bank created many migrant birds have been photographed in these areas, even before the reprofiling. Otters, fallow deer, muntjac, fox, mink, badger, hedgehog and a polecat have all been photographed. Elusive birds such as the water rail have been seen in the areas of reed beds
- Since the reprofiling of the lakeside last autumn, the number and diversity of wildlife has increased. Widgeon, teal, oyster catchers and mandarin duck are some of the species that now visit these enhanced areas. The partial clearance and enhancement of habitat on the islands can only sustain and encourage this wildlife and provide a safe area for breeding.
- The improvements proposed not only benefit the habitat for wildlife, but also increase the enjoyment of visitors to this beautiful reserve. It is well known that engagement with nature is of positive benefit to wellbeing.
- During weekly visits reports of sightings are often told to me by visitors, including glimpses of otters and the water rail. The proposed works will enable such visitors to have a much better view of the wildlife from the hides, and also be of educational benefit to the school children who visit.

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	19 JUNE 2019
TITLE OF REPORT:	174269 - PROPOSED MODIFICATION TO EXISTING AGRICULTURAL BUILDING TO ACCOMMODATE A BIOMASS BOILER, INCLUDING FLUE AT BROOK FARM, MARDEN, HEREFORDSHIRE, HR1 3ET For: Mr Gregory per Mrs Denise Knipe, 20 Park Lane Business Centre, Park Lane, Basford, NG6 0DW
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=174269&search=174269
Reason Application submitted to Committee – Redirection	

Date Received: 13 November 2017 Ward: Sutton Walls Grid Ref: 352142,248333

Expiry Date: 1 June 2018

Local Member: Councillor K S Guthrie

1. Site Description and Proposal

- 1.1 Brook Farm is located in the countryside approximately 1km to the northern edge of the village of Marden six miles north of Hereford, and alongside the C1120 Road and Three Rivers Ride Recreational Route. The site is known principally for the growing, storage, packaging and distribution of soft fruit. The site extends to approximately 64 hectares, the majority of which is used for the agricultural processes. Buildings within the site include Brook Farm House (Grade II listed) and its adjacent stone barns. In addition there are the packing sheds associated with the agricultural business and the seasonal agricultural workers accommodation. There are a number of portacabins and temporary building within the site which accommodate the offices on site. Permission was granted in early 2018 (under application 163158/F) for a new headquarters and offices.
- 1.2 The site currently features a number of different plant items which are used to provide heating for existing operations. This includes 2 x 200kW biomass boilers, 2 x natural gas fired boilers and a combined heat and power (CHP) unit. The CHP unit containerised and is moveable; whilst the two existing gas boilers are housed in a pre-existing general purpose farm building which also houses the asparagus grading lines.
- 1.3 The CHP unit is operated all day, every day and supplies electricity to the Brook Farm site and heat to the polytunnels via the hot water storage tank. Previously this was done via diesel generators. The boilers currently provide all of the heat for the heated tunnels on site. Carbon dioxide from the burning of gas is also piped to the tunnels to promote plant growth. The two gas boilers each have a rated output of 6MW of heat. The boilers are currently operated much of the day during the winter months (November to April) and when needed during September and May.

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

- 1.4 This application seeks planning permission to modify an existing building and erect a new building to house a biomass boiler. The extract from the location plan, inserted below, details the siting of the proposed building in the red edge.



- 1.5 The biomass boiler, which will have a rated output of 10 MW, will significantly reduce the running hours of the gas boilers, however the planning statement advises that the applicant wishes to retain the gas boilers for times of very cold weather when there will be a need to run both. The majority of the time however the intention is to run the proposed biomass boiler only. As such, the application has been considered with this in mind. For ease of reference, a plan detailing the siting of the existing CHP unit, biomass and gas boilers and proposed biomass boiler is inserted below.

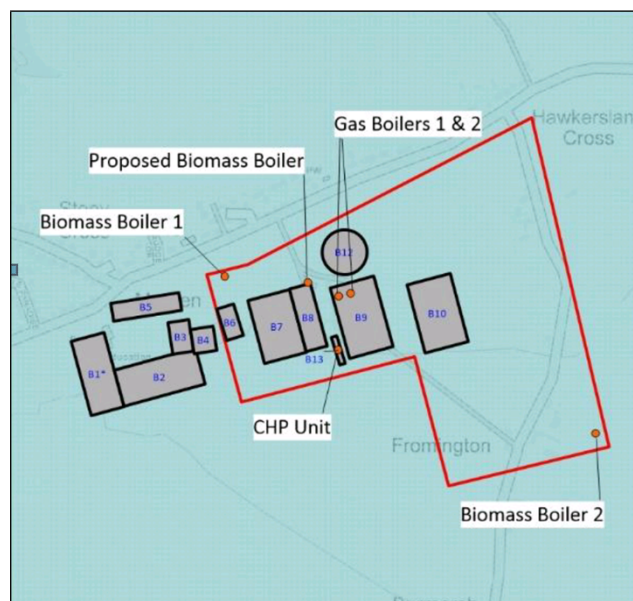
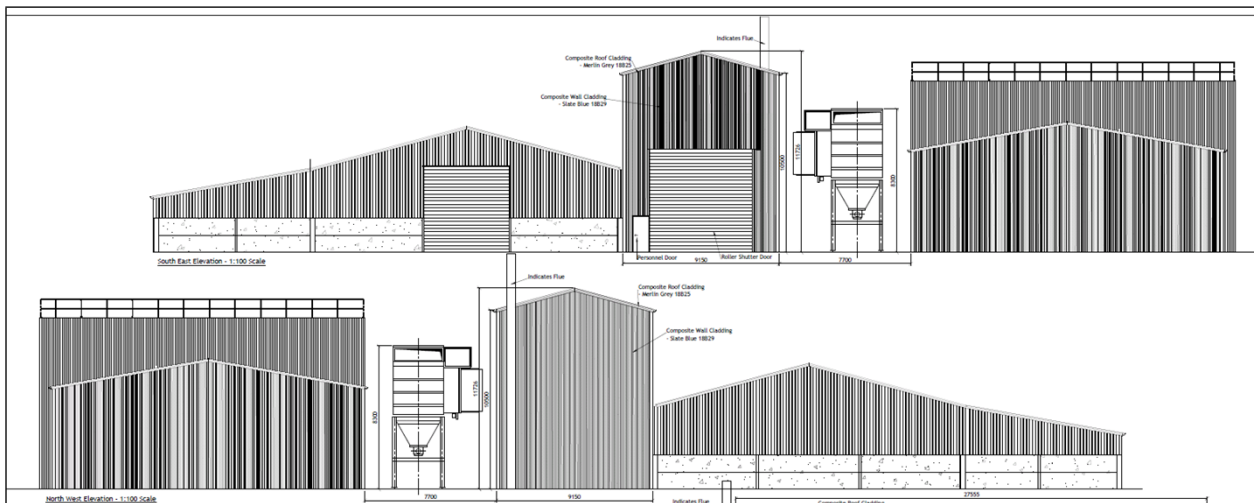


Figure 2 – ADMS-5-Inputs from the Air Quality Assessment October 2018

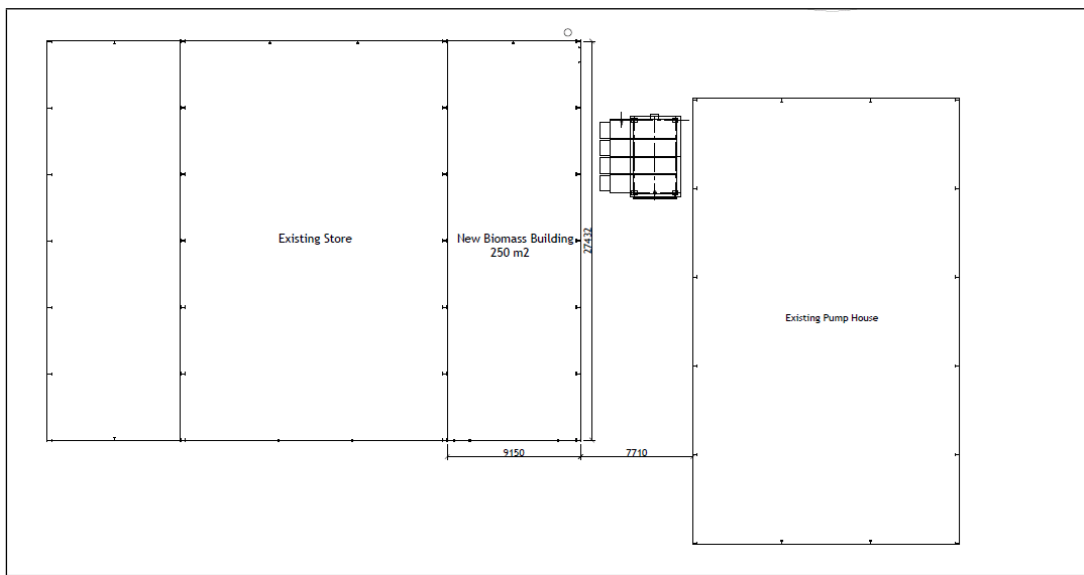
- 1.6 In order to accommodate the proposed new biomass boiler, the proposal is to modify one of the existing buildings and build a purpose built building to house the new boiler. The proposed building will be located on the northern edge of and within the yard area associated with the Brook Farm development, nestled between an adjacent open barn, and a modern steel portal frame building and storage tank. The Three Rivers Ride Recreational Route is located to the north of the development site and is separated from the service yards and polytunnels by a tall metal fence. New hedgerow shrubs have been planted alongside the fence, which will provide filtered views of the development at maturity. The development area is accessed through an

existing gate off the existing tarmac yard within the wider Brook Farm Site. The buildings can also be accessed from an access from the adjoining Three Rivers Ride Recreational Route.

- 1.7 The proposed building would have a footprint of 9.15m x 27.55m (252.08 m²) with eaves height of 10.5m and ridge height of 11.73m. The building incorporates an external flue which will be 2.07 metres above the ridge height of the proposed building, taking the overall height to 13.8 metres. Extract of the plans detailing the elevations and floor plans are inserted below. The elevations also detail the existing store building to the west, existing pump house to the west and the circular water tank to the north east of the proposed building providing contextual information for the proposed building.



New Biomass building – Proposed Elevations (Drg No PL02)



New Biomass building – Proposed Floor Plans (Drg No PL01)

- 1.8 Externally the walls of the building would be clad in slate blue composite panels and the roof in merlin grey, which matches the existing agricultural buildings on the site. The roof slopes are to incorporate GRP roof lights to allow natural light to enter the building. Other than a roller shutter door in the southeast elevation, there are no further openings proposed. Part of the scheme is the installation of filtration equipment which will process exhaust gases from the boiler prior to them reaching the flue. These are located outside of the proposed biomass building between the existing farm building and the proposal.

- 1.9 The proposed building is to occupy a footprint of 252.08sqm and would have an overall height of 11.72 metres. As can be seen on the plan above, the proposed flue is to extend beyond the ridge by a further 2 metres. The water tank is already in situ and has an overall height of 10 metres and is currently the highest building within this collection of buildings.
- 1.10 The development would be accessed into the site from the C1120, either as existing or as per the approved new access point and arrangement (Planning Permission 163168). The wood chip used to fuel the proposed boiler would arrive at the site already chipped. There would be no chipping of wood on the site. There would be up to 4 deliveries of woodchip per day between Monday and Friday in the winter months, outside of the fruit production season. The deliveries would be by articulated Lorries.
- 1.11 The application has been supported with a planning statement outlining the proposal and relevant policies; detailed plans; air quality assessment; and a noise impact assessment.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy

The policies that are of relevance to the determination of this application are considered to be as follows:

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA6	-	Rural Economy
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD2	-	Renewable and Low carbon energy
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality

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

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

2.2 Marden Neighbourhood Development Plan (MNDP)

Marden Neighbourhood Development Plan (MNDP) was made on the 6th October 2016 and forms part of the development plan.

The policies that are of relevance to the determination of this application are considered to be as follows:

Policy M3	–	General Design Principles
Policy M7	–	Supporting enhancing and protecting existing local employment –

Amongst other matters, this policy makes specific provision to:

- *Development being suitable in terms of size, layout, access, parking, design and landscaping;*
- *New development not harming the amenity of nearby occupiers;*
- *Protecting the character, appearance or environment of the site and its surroundings;*
- *Providing adequate access, or potential access, by a choice of transport modes;*
- *Includes mechanisms to improve environmental performance to that of current best practice standards*

Policy M10 – Landscape Character

All new development should show regard to the distinctive landscape character of the area.

2.3 National Planning Policy Framework (NPPF) 2019

The chapters that are of particular relevance to the determination of this application are considered to be as follows:

Introduction

Chapter 2	-	Achieving sustainable development
Chapter 4	-	Decision-making
Chapter 6	-	Building a strong competitive economy
Chapter 8	-	Promoting healthy and safe communities
Chapter 9	-	Promoting sustainable transport
Chapter 12	-	Achieving well-designed places
Chapter 14	-	Meeting the challenge of climate change, flooding and coastal change
Chapter 15	-	Conserving and enhancing the natural environment
Chapter 16	-	Conserving and enhancing the historic environment

2.4 National Planning Practice Guidance

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

The sections that are of particular relevance to the determination of this application are considered to be as follows:

- Air Quality Guidance - 6 March 2014
- Climate Change - 15th March 2019
- Noise - 6 March 2014
- Renewable and low carbon energy - 18 June 2015

3. Planning History

The site has a lengthy planning history that assists in understanding the wider sites operations and how it has evolved. For completeness, the planning history is detailed below.

- 3.1 184613/F - Proposed removal of condition 2 of application CW092985/F.... to permanently retain the caravans/mobile homes. Undetermined
- 3.2 183838/F - Application for variation of condition 2 of planning permission 163158 and additional information in relation to conditions 6, 8, 10, 13, 14, 17 & 18. Undetermined
- 3.3 174417 - Application for variation of condition 2 (to allow for tunnels to be covered 12 months of the year) of planning permission DCCW2009/0161/F, as varied by planning permissions S123499/F and 150178 – Approved 13th August 2018
- 3.4 172794/PA7 - Proposed building. Planning Permission required 15th August 2017

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

- 3.5 163158/F - Demolition and clearance of existing operational buildings and erection of new headquarters/administrative office building (UCO Class B1), including ancillary staff canteen/mess facilities, dedicated staff and visitor car parking and modifications to form two separate vehicular accesses (to the new offices and to the operational farmstead/warehouse). Approved 18th July 2018
- 3.6 163156/F - The phased clearance of the existing seasonal agricultural workers accommodation site (comprising caravans and demountable buildings granted planning permission under Ref. DMCW/092985/F, dated 17 March 2010) to provide 69 Houses in Multiple Occupation (Sui generis) for the accommodation of agricultural workers, together with ancillary facilities, a new vehicular access, private internal access roads, on-site parking, off-road footway, amenity open space, landscaping and a sustainable urban drainage system – Application Undetermined (held in abeyance awaiting information).
- 3.7 150178 - Removal of condition 1 of Planning Permission DCCW2009/0161/F. To remove time limit on poly-tunnels – Approved July 2015
- 3.8 143472 – Proposed extension to warehouse – Approved Jan 2015
- 3.9 130274 - Improvements to on-site access road, surface water balancing ponds and associated landscaping – Approved with Conditions
- 3.10 123499 - Variation of condition 2 of planning permission DCCW2009/0161/F requiring polythene to be removed from polytunnels by 31st October each year and not replaced until or after the 1st March in the following year – Approved with conditions March 2013
- 3.11 111237 - Proposed variation of planning condition 3 attached to planning permission DMCW/092985/F dated 17th March 2010 for the change of use of land from agricultural to a site for the accommodation of seasonal agricultural workers in caravans and demountable portable buildings etc. Variation of the specified numbers of caravans and demountable buildings – Approved August 2011
- 3.12 CW092985F – Change of use of land from agriculture to a site for the accommodation of seasonal agricultural workers in caravans/mobile homes stationed continuously on the site. Retention of demountable portable buildings used in connection with and strictly ancillary accommodation used respectively as a dormitory block, staff operations centre, health and fitness centre, staff shop, kitchen units, social units (services) shower and toilet units (retrospective) – Approved with conditions
- 3.13 DCCW2009/0161/F - Application (part retrospective) to erect fixed (non rotating) Spanish polytunnels over arable (soft fruit) crops grown on table tops – Approved May 2009
- 3.14 DCCW2009/0160/F - Change of use of land from agriculture to a site for the accommodation of seasonal agricultural workers in mobile homes and demountable portable buildings stationed continuously on the site and not removed at the end of the agricultural season (retrospective) – Refused May 2009
- 3.15 DCCW2007/2806/F - Continued use of land as a caravan site and retention of accommodation block for seasonal agricultural workers – Refused Nov 2007 (appeal Withdrawn)
- 3.16 DCCW2006/2534/F - Retention of polytunnels in connection with raised-bed strawberry production – Refused and dismissed on appeal (April 2007)
- 3.17 DCCW2006/2749/F - New administration centre staff amenities and enhancements to site traffic handling demolition of existing offices workshop and outbuildings – Withdrawn

Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

- 3.18 DCCW2004/3295/F - New maintenance facility and associated hardstandings – Approved with Conditions
- 3.19 DCCW2004/2770/F – Proposed Packing Store – Approved May 2005 (not built)
- 3.20 DCCW2003/3749/F – Permanent toilet facilities to replace portacabin facilities – Approved with conditions
- 3.21 DCCW2003/1927/F - Staff operations centre – approved August 2003
- 3.22 DCCW2003/0290/F – Accommodation block for Seasonal Agricultural workers – Approved with conditions – April 2003
- 3.23 DCCW2003/0130/F – Siting of caravans for seasonal workers – Approved with Conditions
- 3.24 CW2000/2826/F – Use of land for the siting of caravans - Approved with conditions (and Section 106)
- 3.25 CW1999/2613/F - Use of land for the siting of caravans – Refused - 21 June 2000
- 3.26 SC990121FZ – Proposed new access road
- 3.27 SH971145PF – Covered Rear Yard and dispatch area, Demolition of existing building and erection of new farm office and associated utilities
- 3.28 EN950014ZZ (Enforcement Notice Appeal) – July 1997

The breach of planning control alleged is that “without planning permission, change of use of the land and buildings From use as agricultural to a mixed use of the land and buildings thereon for the commercial storage of potatoes and as a potato processing and distribution plant.

In summary, I have considerable sympathy for local residents, who feel they have been caused nuisance in recent years by lorries associated with the site. However, the evidence is to my mind convincing that the change of use of the site, which the council alleges, took place more than 10 year before the enforcement notice was issued. That being so, the appeal on ground D must succeed.

As the appeal succeed on ground d, the notice will be quashed. The appeals on grounds a and g and the application deems to have been made under Section 177(5) do not therefore need to be considered.

- 3.29 SH951239EZ – Storage of Potatoes and Grain and grading and packing of potatoes (CLEUD) – Refused Dec 1995
- 3.30 SH940736 – Part dismantling existing G P Building and conversion of balance to farm office and weighbridge – Refused
- 3.31 SH940684PF – Extensions and modifications to existing potato storage and grading buildings – Refused Jan 1995
- 3.32 SH920621PF - Proposed extension to existing potato store – Approved with Conditions
- 3.33 SH9111156 – Proposed permanent farm office accommodation - Approved

- 3.34 SH891354PF– Agricultural Storage Buildings
- 3.35 SH890589PF – Erection of an agricultural storage building
- 3.36 SH894710 – Agricultural Storage Building – Approved August 1989
- 3.37 SH870589PF – Erection of an agricultural Storage Building – Approved July 1987
- 3.38 SH870210PF – Erection of an Agricultural Storage Building - Withdrawn

4. Consultation Summary

Statutory Consultations

4.1 Environment Agency: No Comment

Looking at the details we would not provide a comment as the boiler is under the threshold for regulation under the Environmental Permitting Regs. Brook Farm is not regulated for the associated activities so the boiler would not be captured under an existing permit. I would therefore recommend you seeking the views of your EHO's which, looking online, I note you have

4.2 Natural England: No Comment

Natural England has no comments to make on this application.

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

Internal Council Consultations

4.3 Public Rights of Way Manager: No objection

4.4 Environmental Health Manager (Noise and nuisance): No objection subject to conditions

Initial comments received 1/2/2018

My comments are with regard to potential noise and nuisance issues that might arise from development.

Currently we are unable to respond to the consultation regarding the proposed biomass boiler as there is insufficient information provided with the application.

The applicant is requested to supply a full set of details of the biomass boiler (Appendix 1 details are not shown) including all associated activities eg conveyor belt/loading and is likely to be requested to undertake a BS4142 assessment of the noise levels generated by this proposal.

Further comments received on the 22/3/2018

My comments are with regard to potential noise and nuisance issues that might arise from development.

I understand that it has been requested that the existing gas boilers and CHP plant at this site be included within this current proposal.

The affects what is being measured in terms of noise impacts as the BS4142 assessment should assess the impact of all plant within the current planning proposal. I would be grateful if the applicant could be so advised.

Further comments received on the 31/10/2018

I am in receipt of a revised noise assessment dated October 2018 supplied by the applicant's noise consultants. I had previously requested that the background sound levels be measured without the gas boilers and CHP being switched on as these contribute when functioning to the background sound levels. Further noise monitoring has now taken place at the site but some distance away from these two noise generating activities so that background sound levels measured are representative of the ambient sound levels when the gas boilers and CHP are not operating.

The updated noise assessment predicts the noise levels from the flue to the biomass and the noise breakout from the biomass boiler building at the closest sensitive receptors – Ditton Green, receptors at Nine Well to the north east and receptors to the north of Marden village and also predicts daytime delivery noise to the biomass. This is compared to typical background sound levels at each property. The BS4142 assessment finds that there is no excess of noise over the background sound levels at Nine Well nor the closest receptors at Marden neither during the day nor at night. There is the potential for significant adverse impacts at the very closest property Ditton Green during the daytime and at night time.

The BS4142 assessment also considers the context of the noise. Although there is an exceedance of the rating level over the background sound levels at Ditton Green, in the daytime this is large due to noise from deliveries and significant adverse impacts from the biomass itself are not anticipated in the daytime. At night time, there will be a sound reduction of between 10 and 15dB through a particularly open window leading to lower predicted noise levels within the biomass facing rooms at Ditton Green bringing the noise levels within the desirable standards set out in BS8233 for noise sensitive rooms. The report concludes that in the context of the noise source, the plant would not be expected to cause any significant adverse impacts on the nearest noise sensitive receptors and is therefore likely to be acceptable. For these reasons on noise and nuisance grounds I would have no objections to this proposal.

I recommend a condition however which restricts the hours of delivery of woodchip to the site such that no deliveries take place outside the hours of 07:30 and 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. No deliveries to take place on Sundays or Bank Holidays.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31

4.5 Environmental Health Manager (Air Quality): No objection subject to conditions

Initial response received 06/02/2018

I refer to the above application consultation which includes proposals to install a 10,000kW biomass boiler and I would make the following comments in relation to air quality.

The plant is quite substantial in size i.e. 10 MW, there is a receptor approximately 50m from the biomass plant. Therefore it is important that the potential impacts of emissions are adequately considered.

The applicant has submitted the biomass information form which is useful, but due to the size of the plant and the proximity of potential receptors, it is considered that an air quality assessment should be undertaken to demonstrate compliance with air quality standards to ensure Nitrogen dioxide (NO₂) and particulates (PM_{10/2.5}) Air Quality Standards are not being exceeded at the nearest receptors, this also includes residential dwellings associated with the business.

I also have concerns regarding the height of the stack and whether it would allow adequate dispersion of pollutants, especially due to the elevation/location of nearby buildings which could impact on dispersion from the stack. The air quality assessment should determine the appropriate stack height.

I am not aware of other potential emission sources in the vicinity of the application site, however should there be relevant emission sources the cumulative impact should be considered.

The fuel is detailed as untreated wood chips, please could further detailed information be provided as to whether the chips will be virgin or non virgin timber. (non virgin timber can include untreated timber)

Further comments received on the 17/08/2018

I refer to the Syntegra Consulting Air Quality Assessment dated June 2018 for the above planning application. I have a few questions regarding this application which is stated below and I would be grateful for further clarification on these issues.

The stack diameter and exhaust gas efflux velocity vary slightly from the details outlined on the 'Biomass Boiler Information' located on the planning application 174269. Please could you identify the correct parameters and if the figures used in the dispersion modelling are incorrect would this make a significant difference to the outcome in the dispersion modelling?

Table 13 'Building Geometries' details that B7 has a width of 8.7m, I have calculated this using the drawings provided on the planning web page which didn't correlate with your readings. Could you confirm the width of this building and again if the figures used in the dispersion modelling are incorrect would this make a significant difference to the outcome in the dispersion modelling?

Also although I am aware that this would not impact on the assessment I did discover a few small errors on Table 13 'Monitoring Results'. This includes the figure for 2015 being incorrectly inputted as the figure is 24.63 not 24.42 and the last figure in the table (20.7) is from the year 2017 not 2016.

Further comments received on the 27/3/2019

I refer to the Air Quality Assessment conducted by Syntegra Consulting dated October 2018 for the site Brook Farm, Marden (planning application 174269).

In the Air Quality Assessment dispersion modelling was undertaken to predict pollutant concentrations as a result of emissions from the site.

I note that the assessment identified an exceedance of the Air Quality Objective for the annual and 1-hour mean of NO₂. This exceedance was for the maximum predicted pollutant concentrations, as such would occur when both the biomass boiler and the CHP are in operation. It is also observed that the exceedance was within the immediate vicinity of the CHP.

Further as detailed in the guidance Local Air Quality Management Technical Guidance (TG16), receptors for Air Quality Assessment should generally not apply to sites where public would not be expected to have regular access. As such I understand that the HSE would be the regulatory body with regard to workers exposure.

As concluded in the Air Quality Assessment, the results indicated that the Air Quality Objectives will not be exceeded at any sensitive receptor locations. As such on the basis of the supplied information I have no adverse comments to make in relation to air quality.

I note that in the Air Quality Assessment it details information in relation to the existing biomass boilers, gas boilers and the proposed boiler. We have requested the agent supplies us with additional details of the two natural gas fired boilers, the combined heat and power unit including the make, model and thermal input of these. However, we are still awaiting this information.

I would recommend a suitable condition is considered to ensure the stack height is as detailed in Syntegra Consulting Air Quality Assessment.

Should you require any further information please do not hesitate to contact myself in regards to the matter.

4.6 **The Service Manager Built and Natural Environment (Ecology):** No objection

Having reviewed supplied information I can see no ecology related concerns or comments related to this application.

4.7 **Transportation Manager:** No objection subject to conditions

The proposed application will result in a number of HGV movements through the winter period to the site but that addition would not be classed as 'severe'.

There would be significant benefit to the village of Marden if HGV deliveries to the biomass boiler could be scheduled so as to not coincide with school drop off and pick up periods which are when there is an increased traffic flow in the village.

In the event that this can be conditioned highways would not object to these proposals.

5. **Representations**

5.1 **Marden Parish Council:** Objection

Initial response:

1. The following comments are made on behalf of Marden Parish Council in response P174269/N - Waste, Brook Farm, Marden, HR1 3ET, Proposed modification to existing agricultural building to accommodate a biomass boiler, including flue.
2. Sequential numbering is used in this response, for ease of reading and reference. References to the applicant's documents are given in brackets where appropriate.
3. Marden Parish Council (hereinafter 'the PC) OBJECTS to this application on the following grounds: appropriateness of the proposal next to a residential area due to noise and other detrimental effects including additional traffic delivering to and exiting from the site. A further concern involves the inconsistencies of details between various documents.

4. The PC considers that this is not an appropriate site for an industrial biomass boiler, increasing the industrialisation of the applicant's site on the edge of Marden village (Landscape & Visual Report, para. 3.1).
5. The applicant, S&A, has asserted many times over a number of years that the concern is 'agricultural'. Therefore, it is disingenuous to now state that this site is 'within the established industrial context of this part of the farm' (Landscape & Visual Report, para. 3.1).
6. Issues of noise from elements of the S&A complex are well-known and well-documented, although the cause is still not understood or agreed. Additional noise from the proposed biomass boiler would be an unacceptable intrusion into the lives of local residents. Given the construction of the boiler with conveyors moving material through the unit (Applicant's Appendix 1 document), extra noise pollution from the proposed site seems unavoidable.
7. The PC notes that emissions from the boiler exhaust stack will be filtered and the nearest building The Manor, which is owned by the applicant, is 60 metres away (Biomass Boiler Information Request Form, paras. 4r and 6gg). However, no data are available on the effect of emissions on local residents in adverse weather or wind directions. It is also difficult to understand how greenhouse gas emissions will be reduced (Planning Statement, para. 5.15).
8. The boiler exhaust stack is significantly higher than the surrounding farm buildings (Landscape & Visual Report, para. 1.5). The PC disputes the assertion that 'any potential impact on landscape and visual receptors will be localised with minimal impact' (Landscape & Visual Report, para. 3.4). The proposal would affect the amenity of parishioners and would be in non-conformity with Marden NDP policy M7 and Herefordshire Council's Core Strategy (hereinafter 'the Core Strategy') policy RA6.
9. The PC considers that the application will have an adverse impact on the amenity of nearby occupiers and therefore does not conform to Marden NDP policy M7 and Core Strategy policy RA6.
10. Problems with traffic from the whole Brook Farm/S&A site have been documented in many previous planning responses - see for example 163157. The C1120 road past the application site is narrow with limited passing places for large vehicles. It is already used by HGVs and large agricultural vehicles going to, amongst other destinations, the tip at The Vern and Berrington Water and various farms further north on the C1120.
11. The additional 3-4 HGV deliveries of woodchip (Planning Statement, para. 6.7) every weekday during the winter months can only increase the risk to other traffic users.
12. The applicant states (Planning Statement, para. 6.7) that the deliveries 'would occur during the winter months, outside of the production season'. It is anticipated that heating the tunnels will allow fruit to develop earlier in the season. However, there is concern that the heating may well be used later in the year should weather conditions deteriorate to the point where additional warmth is needed. Should this situation occur, then it would exacerbate the traffic, noise and pollution problems in the parish.
13. Adequate justification is needed to support the use of a biomass boiler in this situation.
14. The applicant states that access into the site 'is served from Orchard Green (Planning Statement, para. 6.7). It is unclear whether the applicant means that all traffic entering the site arrives via the C1122, over Leystone Bridge and then onto the C1120 to reach the site or that it arrives on the C1120 through Moreton on Lugg and on to the site.

15. In fact, S&A traffic uses all routes to exit the village, affecting the amenity of householders on a regular basis. Traffic movements by HGVs have been logged by parishioners on a regular basis late at night and early in the morning, completely out of acceptable work hours.
16. Therefore, if the application is permitted, the PC would expect to receive absolute assurance that the HGV movements associated with the proposed boiler would only be within reasonable working hours.
17. It is stated that the Three Rivers Recreational Ride bridleway MR20 is separated from the development site by a tall metal fence (Planning Statement, para. 6.4). However, the Landscape and Visual Report (para. 1.2) states that the 'development area is accessed through an existing gate off an existing tarmac stretch of the Three Rivers Recreational Route, the route of which also provides access to the wider Brook Farm Site'.
18. The PC considers the use of MR20 by HGVs is unacceptable and dangerous to horse riders and therefore the application should be refused, as the application does not conform to Core Strategy policy MTI, specifically point 5.
19. The application 133109/S (Planning Statement, para. 3.2) is not recognised by the PC and requires further explanation.
20. It is notable that the submitted documents do not include any assessment of what acreage of polytunnels could be heated by a biomass boiler with the output of 10,000KW per hour (Biomass Boiler Information Request Form, para. 2g). Although the Planning Statement (paras. 5.8-5.18) uses many parts of the NPPF to justify the application, there is a significant lack of suitable data.
21. No doubt the applicant has sized the proposed biomass boiler to meet the heating requirements for the majority of tunnels on the site. The application appears to have been made on the presumption that the concurrent application, 174417, will be permitted.
22. However, without adequate data it is not even possible to evaluate whether this proposal will achieve a real reduction in the applicant's carbon footprint.
23. The PC is greatly concerned that the proposed biomass boiler with the concurrent application (174417), to extend the polytunnels on the whole site to all year use, will inevitably lead to further industrialisation at this commercial complex, which given the proximity to the village of Marden, is unsuitable and does not provide 'sustainable growth' for the local rural economy, as required by the NPPF (para. 28).
24. The PC believes that the application does not conform to the NPPF, the Core Strategy, or to the Marden NDP and should therefore be refused.

5.2 Marden Parish Council response (5th November 2019)

At its meeting on 5 November, Marden Parish Council resolved to make the following comment: The submitted documents have not changed the council's view on application 174269 and its previous comments on the application stand.

5.3 17 Letters of representation have been received the content of which can be summarised as follows:

Detrimental to character of landscape and settlement

- The proposal adds to the industrialisation of Marden Village to the detriment of all
- The facility would be visible within the wider landscape including Dinmore Hill and would be detrimental to the landscape.
- Flues will produce emissions into the air which will be detrimental to the rural landscape character
- Detrimental to the enjoyment of the adjoining bridle path and PROW in the local area

Detrimental Impact on amenity of existing residential properties

- Noise and air pollution will adversely affect the wider village depending on wind and weather conditions.
- The development will generate pollutants in the exhaust vented from the flue which will harm the amenity and health of surrounding existing residents.
- Concerns over noise at night as boilers are to run 24 hours
- Already noise issues from the existing gas boilers on site which the proposed biomass will only add to with no mitigation proposed.
- Noise and vibration from lorries impact upon the enjoyment of residents' homes

Impact on Highway Safety and Capacity

- The additional heavy lorry traffic required to fuel the facility simply adds to the increasing number of heavy lorries which this, and other enterprises nearby, burden the village with.
- Any additional heavy lorry traffic, in, out and through the village at any time of the day or night is simply unacceptable to residents, particularly those who live along side the C1120 road.
- Existing road network around the site is too narrow for the HGVs to access the site and represents a risk with regards to highway safety.
- The vehicles generated will be a nuisance to surrounding residents
- Concerns over speed of existing lorries and the risk to pedestrians and horse riders.
- Access has poor visibility and is unsuitable for HGV use
- The development will increase production of strawberries and therefore increase vehicle movements transporting the strawberries.
- Local roads continue to deteriorate and are in need of repair, this development will add to an ongoing problem.

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=174269&search=174269

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

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

6. Officer's Appraisal

6.1 The applicant operates an established soft fruit business, which primarily consists of table top strawberries grown under polytunnels. The application site at Brook Farm Marden is the main operational site for the growing, packing and administration of S&A Davies, and also accommodates 890 seasonal workers. The site falls within the parish of Marden and lies to the north of the village, outside of the settlement boundary.

6.2 The applicant is seeking planning permission for the installation of a 10MW hot water biomass boiler to provide heat for the existing polytunnels across the site during the winter months. The boiler will burn untreated wood chip and will be linked to a large heat storage tank which is already in situ. The proposed development consists of a new building with a floorspace of

252.08m². The new building is to have a height to the ridge of 11.73m, with the flue an additional 2.07m above the ridge, giving an overall height of 13.8m.

- 6.3 For clarification 'Biomass' is defined as any organic matter recently derived from plants or animals and can be produced by farming, land management and forestry sectors and can be used for the generation of renewable energy. Biomass fuels are those that can be converted into energy and therefore can be regarded as a renewable energy. In this case the fuel is wood chip that is burned to generate heat to be consumed on the site. The wood chip in this case will arrive at the site already chipped.

Policy context and Principle of Development

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

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

- 6.5 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The site falls within the Marden Neighbourhood Area, which published a made Neighbourhood Development Plan (MNDP) on the 6th October 2016 and therefore forms part of the development plan. The National Planning Policy Framework (NPPF) is also a significant material consideration.

- 6.6 Other material considerations include the National Planning Policy Framework (NPPF) and the published National Planning Practice Guidance (NPPG). The NPPF (2019) sets out the Government's planning policies for England and how these are expected to be applied. The revised NPPF is a material consideration in planning decisions and should be read as a whole (including its footnotes and annexes).

- 6.7 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- An **economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- A **social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being, and
- An **environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

- 6.8 These objectives should be delivered through the preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding

development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

- 6.9 So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 11 of the NPPF applies. For decision making this means:
- Approving development proposals that accord with an up-to-date development plan without delay; or
 - Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. The application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.10 The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. The relevant sections within the NPPF which have been considered and are relevant to the determination of this planning application are identified under section 2.2 above.
- 6.11 The NPPF at chapter 6 seeks to promote strong rural economies through the sustainable growth and expansion of business in rural areas and the development and diversification of agricultural and other land based rural businesses. Paragraph 80 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt, with significant weight given to the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 6.12 Chapter 14 of the NPPF outlines the need to for the planning system to meet the challenge of climate change. Paragraph 148 of the NPPF states that "the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure".
- 6.13 Paragraph 154 of the NPPF states that "when determining planning applications for renewable and low carbon development, local planning authorities should:
- a) Not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
 - b) Approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas".

- 6.14 The preamble to Policy SS7 of the Core Strategy acknowledges that tackling climate change in Herefordshire will be a difficult challenge in that the predominantly rural character of the area means a reliance on the private motor car. In identifying the challenges the policy acknowledges the necessity to facilitate the increased use of renewable and low carbon energy sources. Acknowledging that this proposal is regarded as renewable energy this policy seeks to promote the use of renewable or low carbon energy where appropriate. However, physical and environmental constraints must be taken into account as explored below.
- 6.15 Policy SD2 of the CS deals specifically with renewable and low carbon energy generation. The policy recognises that the overarching principle of the planning system is to support the transition to a low carbon future and a significant means of achieving this goal is through the use of renewable energy sources. Development proposals which seek to deliver renewable and low carbon energy will be supported where they do not adversely impact upon international and national designated natural and heritage assets; they do not adversely affect residential amenity; they do not result in any significant detrimental impact upon the character of the landscape and historic environment.
- 6.16 The Marden NDP does not have any specific policies for renewable or low carbon energy. However, under its sixth objective the plan welcomes expansion or change to businesses within the parish which are sympathetic to the environment and residential amenity. Within Policy M7 of the MNDP, development that would lead to the expansion or improvement of existing business premises will be permitted where it:
- Is suitable in terms of size, layout, access, parking, design and landscaping;
 - Does not harm the amenity of nearby occupiers;
 - Does not harm the character, appearance or environment of the site and its surroundings;
 - Has adequate access, or potential access, by a choice of transport modes;
 - Retains and enhances any built and natural features/areas that contribute to the amenity or biodiversity of the area;
 - Includes mechanisms to improve environmental performance to that of current best practice standards; and
 - ensures that any likely significant effect on the River Wye Special Area of Conservation (SAC) is avoided or adequately mitigated.
- 6.17 From the evidence which has been submitted and within the planning history of the site, it is clear that the soft fruit growing business is a long established and thriving use across the site. This application is aimed at reducing the farms carbon footprint by providing heat to the numerous polytunnels on the site during winter, which currently is provided through gas boilers, and therefore representative of sustainable development. The principle of the development of a large biomass boiler on site, to meet the needs of the business, in principle is not considered to conflict with the aims and objectives of the CS which is supportive of the transition to low carbon energy. The principle of the proposal is also not considered to conflict with the aims and objectives of the MNDP, which is supportive of the improvement of existing businesses through mechanisms to improve environmental performance.
- 6.18 The NPPF makes it clear that the purpose of the planning system is to contribute to the achievement of sustainable development. Both the NPPF and NPPG recognise that the increasing amount of energy from renewable and low carbon technologies will help to ensure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. The planning system has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable. The principle of the development of a biomass boiler is considered to be acceptable, however there are a number of environmental considerations which need to be considered.

- 6.19 The following sections will go on to consider whether there are any other material considerations of such weight and magnitude that might lead to a conclusion that the proposal represents an unsustainable form of development. The main material planning issues which need to be considered are:
- The impact the proposal has on air quality;
 - The impact the proposal has on the amenity of neighbouring residential properties with regards to noise and nuisance;
 - The impact the development has on the landscape character and visual impacts; and
 - The impact upon the local highways;

Impact on air quality

- 6.20 An Air Quality Assessment has been submitted in support of the application. The assessment focusses on the impact of the development and the potential changes in pollution levels as a result of the installation. The proposed development has the potential to cause air quality impacts as a result of atmospheric emissions during normal operations. Emissions associated with the combustion of wood within the proposed biomass plant have the potential to cause increase in pollution concentrations in the vicinity of the site. The assessment therefore identifies the existing emissions from the plant/site and then used dispersion modelling techniques to predict the pollutant levels as a result of emissions from the proposed development.
- 6.21 A number of representations received, as well as the Parish Council have highlighted concerns with regards to emissions and the impacts that these could have on the amenity and health of nearby residents. There is no specific policy within the MNDP which deals specifically with air quality issues, although under Policy M6 that supports the enhancement and expansion of local employment should not harm the amenity of nearby occupiers. Policy M7 also highlights that development which would result to an expansion or improvement of an existing business should not harm the amenity of nearby occupiers.
- 6.22 CS policy SD1 requires that all development proposals ensure that new development does not contribute to, or suffer from, adverse impacts arising from air contamination. The burning of wood in heating appliances results in the release of pollution emissions that can have an impact on air quality, with the principal pollutants of concern being Nitrogen Dioxide and particulates. The actual levels of emissions in the flue gases depend on the biomass boiler design, the fuel characteristics and how the boiler is operated. The impact of emissions on the environment, in particular local receptors, is related to the dispersion of emissions influenced by the height of the boiler exhaust stack.
- 6.23 The submitted air quality assessment concludes that the results of the modelling carried out indicated that the operation of the existing gas boilers and proposed biomass plant were not predicted to result in exceedances of the relevant Air Quality Objectives (AQOs) at any of the sensitive receptors locations within the vicinity of the site. As such the assessment concluded that the impacts are not considered to be significant.
- 6.24 The Environmental Health Officer who deals specifically with Air Quality agreed with the findings and assessment and the predicted pollutant concentrations from the site. The officer highlights that in accordance with the guidance Local Air Quality Management Technical Guidance (TG16), receptors for Air Quality Assessment should generally not apply to sites where the public would not be expected to have regular access. It is Officers understanding that it would be the Health and Safety Executive which would be the regulatory body with regard to workers exposure.

- 6.25 On the basis of the supplied information the application is not considered to conflict with policy SD1 in the CS with regards to air quality. A condition is recommended to ensure that the stack height is as detailed in the submitted Air Quality Assessment.

Impacts upon residential amenity – noise and nuisance

- 6.26 CS policy SD1 requires, amongst other things, that all development proposals safeguard the residential amenity or living conditions of existing residents and that they do not contribute to adverse impacts arising from noise. Whilst policies within the MNDP do not specifically mention noise and nuisance, both Policies M3 and M7 highlight the need to ensure that new development does not harm the amenity of existing residents. Similarly, paragraph 127 of the NPPF recognises that planning policies and decisions should ensure that development functions well within their surroundings. Whilst paragraph 180 recognises that planning policies and decisions should ensure that development is appropriate for its location by mitigating and reducing to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impact on health and the quality of life.
- 6.27 Biomass facilities can operate on a 24 hour, 7 day a week basis. The biomass boilers are considered to be one source of noise on the site, however it's the Wood Chipper used for the chipping of wood which is the significant generator of noise, as well as the movement of vehicles to and from the site. The applicants have confirmed that the chipping of the wood will not take place on the site, with all wood arriving at the site already chipped. A number of the representations submitted have raised concerns with regards to the noise generated by the business, specifically from vehicle movements on and off the site in the early hours.
- 6.28 The Parish Council and the local residents have highlighted that issues of noise from elements of the S & A complex are well-known and well-documented. Concerns are raised over additional noise from the proposed biomass boiler and the possible intrusion into the lives of local residents.
- 6.29 The submitted noise assessment focuses on the noise generated for the proposed biomass and associated activity and the impact upon the noise sensitive receptors. The report worked on the basis that the boiler would be running between mid September till mid May, with 4 deliveries to sites per day, Monday to Friday. A detailed noise measurement survey was carried out in order to obtain the background noise levels at the site, with plant and activity noise data obtained from manufacturer's data and previous noise measurements. The assessment concludes that the predicted noise levels, are not to be excessively high and a consideration of the context of the noise has demonstrated that significant adverse impacts are unlikely, even at night with windows open.
- 6.30 The Environmental Health Officer has assessed and considered the findings of the assessment and concluded that from noise and nuisance grounds there would be no objection so the proposal. However, it is recommended that a condition restricts the hours of delivery of woodchip to the site such that no deliveries take place outside the hours of 07:30 and 18:00 Monday to Friday to protect the amenity of occupiers of nearby properties.
- 6.31 It is considered that subject to appropriate conditions relating to the delivery of the wood chip, and that the development is carried out in accordance with that outlined in the noise impact assessment, that noise from the proposed plant and associated activities is unlikely to give rise to significant adverse impacts on the health or quality of life of nearby noise sensitive receptors and therefore the proposal is capable of being compliant with policies SD1 and SD2 of the CS in relation to noise and nuisance.

Landscape and Visual amenity

- 6.32 A number of representations have been received objecting to the proposal on the grounds of visual impact as a result of the proposal being out of character and scale with its rural location. Concerns over the visual impact upon the Three Rivers Recreational Route Bridle path have also been raised due to the close proximity. The new building is to have a height to the ridge of 11.73m, with the flue an additional 2.07m above the ridge, giving an overall height of 13.8m.
- 6.33 The NPPF in section 15 emphasises the importance planning policies and decisions have in contributing to and enhancing the natural and local environment. This is achieved by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils. It can also be achieved by recognising the intrinsic character and beauty of the countryside.
- 6.34 Policy LD1 in the CS requires all development proposals to demonstrate that the character of the landscape and townscape has positively influenced the design, scale, and nature and site selection. It also requires proposals to conserve and enhance the natural, historic and scenic beauty of important landscape and features and incorporate new landscaping schemes and their management to ensure development integrates appropriately into its surroundings.
- 6.35 Policy D2 states that proposals should be supported where they do not result in any significant detrimental impact upon the character of the landscape and the building or historic environment.
- 6.36 Policy M10 within the MNDP requires new development not to have an unacceptable detrimental impact on the distinctive landscape character of the area. The policy requires development outside of the settlement to retain the development form of scattered hamlets and farmsteads; using appropriate local building materials; retaining existing field patterns and boundaries; and protect and enhance areas of woodland.
- 6.37 The application has been supported with a Landscape and Visual appraisal which focusses on the impact of the proposal on the landscape character and visual amenity. The appraisal concludes that views of the development area are largely obscured by dense mature hedgerows on boundaries and that no mitigation planting is required.
- 6.38 The proposed development is considered to be well contained with the existing working yard area and is to be surrounded by buildings of similar appearance and construction. The wider site has a relatively flat topography and is rural and agricultural in character, with extensive mature hedgerows and trees which filters views into the site from public vantage points.
- 6.39 The footprint of the building will not be any larger than that which is currently on site in the development area. Although the building is to be taller than the existing buildings which it is replacing, it is considered that given the context and nature of the wider site, there will not be any harm to the landscape character and wider visual amenity.
- 6.40 The proposed development is considered to be well contained with the existing established soft fruit growing business and will not impact upon the landscape character or visual amenity of the area. Officers have visited the site and surrounds and taken into account the information submitted and context of the site and would conclude that the proposed biomass boiler and associated building will not have any significant detrimental impact upon the character and appearance of the local area and therefore no conflict with policies SD2 and LD1 of the Core Strategy or policies M7 and M10 of the MNDP has been identified.

Impact on the local highway network

- 6.41 Traffic generation arising from the proposed biomass boiler will be in connection with the delivery of wood chip. This is a key issue and an important one for local people, with a concern that the proposed biomass will lead to an increase in vehicle movements, with a potential for an

increase in production with longer growing seasons. However, the tunnels are already heated by the gas boilers, therefore there will be no increase in production above that which already exists. The use of heating is necessary to promote plant growth and frost protection both early and late in the seasons. There are currently no vehicle movements associated with the use of gas boilers as these are connected to the mains supply.

- 6.42 The woodchip is to be delivered from the Brierley site just south of Leominster. The applicant has confirmed that although the route from the Brierley site will depend upon road conditions, assuming the road is open the C1122 will be used to deliver woodchip to the Marden site. Deliveries of woodchip will take place, predominantly, during weekdays between the hours of 07:30am and 18:00pm. The applicant has confirmed that it will as far as possible avoid school drop off/pick up times.
- 6.43 Policy MT1 of the CS requires all new development to demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network. Policies M7 and M3 of the MNDP all require that new development has adequate access, is located close to existing highways and does not have an unacceptable impact on traffic.
- 6.44 The Council's Highways Officer has been to site and has confirmed that the visibility is good in both directions out of the entrance and that there are no records of any accidents recorded in the vicinity. The Officer has also confirmed that although the development will generate up to 4 HGV movements per weekday through the winter months, this would not be classed as 'severe'. Therefore, on the proviso that deliveries are conditioned to avoid school drop off and pick up, the officer raises no objections. The Highways Officer does not believe that the vehicle movements generated by the proposed biomass boiler present any adverse impact on highway safety and that the local highway network can safely accommodate the increase in movements. Officers would therefore conclude that there is no conflict with Core Strategy Policy MT1 of the CS or Policies M3 and M7 of the MNDP and that the proposals would comply with the guidance contained within the NPPF with particular reference to paragraphs 108 and 109.

Other issues considered

- 6.45 Consideration has been given to the ecology and biodiversity impacts. Policy LD2 of the CS requires development proposals to conserve restore and enhance the biodiversity and geodiversity assets of Herefordshire through ensuring new development does not reduce the coherence and effectiveness of the ecological networks of sites and through the restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological network. The Council's Planning Ecologist and Natural England has raised no objections to the proposal and identified no conflict with policies SD2 and LD2 of the CS.
- 6.46 In relation to Habitat Regulations the proposal falls under the trigger identified in Natural England's Impact Risk zone (under 50MW) and therefore no assessment is required.
- 6.47 Consideration has also been given to surface water drainage. The site is not within an identified flood zone 2 or 3 and the development is to replace an existing building, therefore not increasing hardstanding. In accordance with policy SD3 of the CS, the development is not considered to increase any flooding across the site, with the development to be connected to the existing drainage system.

Conclusion

- 6.48 The proposed development seeks permission to install a 10MW biomass boiler to provide heat to the authorised polytunnel development during winter months. In principle the use of biomass as a renewable source will replace the need to burn fossil fuel to provide equivalent heat, thus

supporting a transition to a low carbon future in accordance with the aims of policy SS7 and the National Planning Policy Framework.

- 6.49 Taking into consideration the context of the site and its surroundings, the scale and design of the proposed new building, including the flue, are considered to be acceptable. The resultant scheme would not have significant detrimental impact upon the character and appearance of the landscape and would therefore comply with the requirements of policies SD2 and LD1 of the Herefordshire Local Plan – Core Strategy, policies M7 and M10 of the MNDP and guidance contained within the NPPF.
- 6.50 The proposal has been carefully considered in respect of the potential adverse impacts on residential amenity and impact upon the character of the local area. Officers conclude that, subject to appropriate conditions’ the resultant development would not give rise to adverse impacts to residential amenity or the surrounding environment from either noise or emissions. As such, the proposals would comply with the policies SD1 and SD2 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.
- 6.51 The impact of the proposed development on highway safety and network capacity have been explored and considered. It is concluded that, in accordance with the requirements of policy MT1 of the Core Strategy and the guidance contained within the NPPF the development would not result in an unacceptable or severe impact upon traffic or highway safety.
- 6.52 Whilst the wider environmental benefits of renewable energy sources are supported by policies SS7 and SD2, the development has also been considered having regard to other environmental effects such as the water environment and in respect of biodiversity. As detailed above, officers are satisfied that, subject to the imposition of appropriate conditions as detailed below, the proposals would comply with the requirements of policies LD2 and SD3 of the Core Strategy and with the guidance contained within the NPPF.
- 6.53 Taking all of the above into account, Officers are content that there are no other matters of such material weight that would justify withholding planning permission. The proposal in terms of its location, design, scale and other associated impacts is considered to represent a sustainable form of development which complies with the relevant policies. On this basis the proposal is compliant with the Herefordshire Local Plan – Core Strategy, Marden Neighbourhood Development Plan and the National Planning Policy Framework and officers would recommend that planning permission be granted, subject to the conditions detailed below.

RECOMMENDATION

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

- 1. A01 Time limit for commencement (full permission)**
- 2. C06 – Development in accordance with the approved plans**
- 3. At no time shall wood be chipped on the application site.**

Reason: To protect the amenity of local residents and to comply with the requirements of Policy SD1 of the Herefordshire Local Plan- Core Strategy (2015), Policy M3 of the Marden Neighbourhood Development plan (2016) and the National Planning Policy Framework.

- 4. The hours during which the delivery of wood chip to the site will take place shall be restricted to 0730 to 1800 Monday to Friday, and at no times on a Saturday, Sunday or Bank / Public Holiday.**

Reason: To protect the amenity of local residents and in the interests of highways safety in accordance with Policies MT1 and SD1 of the Herefordshire Local Plan – Core Strategy (2015), Policies M3 and M7 of the Marden Group Neighbourhood Development Plan (2017) and the National Planning Policy Framework

- 5. **The Biomass Boiler hereby approved shall not be operated until the stack height as detailed in Syntegra Consulting Air Quality Assessment Ref:18-4034 has been installed. The details and colour shall be agreed with the Local Planning Authority prior to its installation and shall subsequently be carried out in accordance with the approved details.**

Reason: To prevent air contamination to local receptors and to comply with Policy SD1 of the Herefordshire Local Plan (2015), Policy M3 of the Marden Group Neighbourhood Development Plan (2016) and National Planning Policy Framework.

- 6. **The Biomass Boiler hereby approved shall not be operated between the 15th May and 15th September in any one calendar year.**

Reason: To clarify the terms of this permission that has been assessed and considered on the above basis, having regard to the potential impacts upon highway safety having regard to the requirements of Policy MT1 of the Herefordshire Local Plan – Core Strategy (2015), Policy M7 of the Marden Group Neighbourhood Plan and the National Planning Policy Framework

- 7. **CC1- Details of external lighting**

INFORMATIVE:

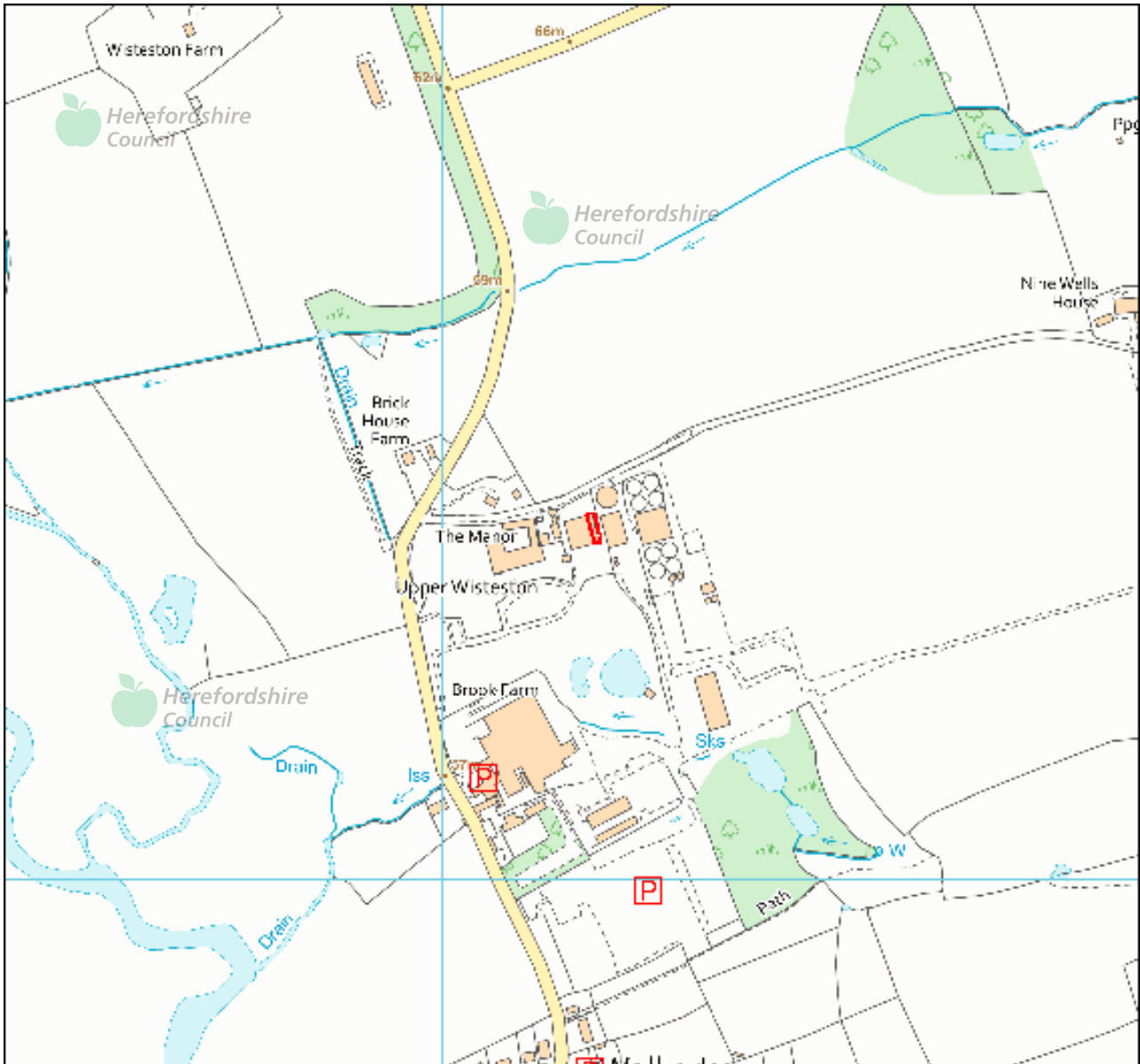
- 1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 174269

SITE ADDRESS : BROOK FARM, MARDEN, HEREFORDSHIRE, HR1 3ET

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Further information on the subject of this report is available from Ms Rebecca Jenman on 01432 261961

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	19 JUNE 2019
TITLE OF REPORT:	<p>182628 – APPLICATION FOR APPROVAL OF 1ST PHASE RESERVED MATTERS FOR THE ERECTION OF 275 DWELLINGS WITH APPEARANCE, LANDSCAPING, LAYOUT AND SCALE TO BE CONSIDERED ONLY AT LAND TO THE SOUTH OF LEADON WAY, LEDBURY, HEREFORDSHIRE</p> <p>For: Mr Elliot per Mr Mark Elliot, 60 Whitehall Road, Halesowen, B63 3JS</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182628&search=182628
Reason Application submitted to Committee – Strategic application	

Date Received: 16 July 2018

Ward: Ledbury South

Grid Ref: 370734,236527

Expiry Date: 16 June 2019

Local Member: Councillor H l'Anson

1. Site Description and Proposal

- 1.1 The site to which this application relates occupies an area of 13.33 hectares and is located to the south of Ledbury and to the immediate south of the A417 (Leadon Way). The road acts as a bypass for the town and confines residential development to the north. The site is therefore at the urban fringe of Ledbury and currently represents its transition from the built up area of the town to countryside. However, this is tempered to some degree by the presence of development further to the west where it is bounded by the B4216, along which are located a number of buildings including Hazel Farm; a Grade II listed property whose associated buildings have been converted from their former agricultural use to residential, and an area of commercial development which includes the premises of Ornu (cheese factory). The character of the land further to the south and east is very much agricultural with irregularly shaped fields generally defined by hedgerows and small areas of woodland.
- 1.2 The land was originally agricultural/pastoral use and is divided into two fields with an established hedgerow defining the two areas. Hedgerows also define the roadside boundaries to the north and west, and the eastern boundary with an adjoining field, whilst the southern boundary is open and defined by a post and wire fence. Currently, the site is partially developed with road and drainage infrastructure partially built and completed including main access road and attenuation ponds. Three dwellings are in a state of partial completion, however works have ceased on site following the High Court decision and are on hold pending determination of this application.

Further information on the subject of this report is available from Mr C Brace on 01432 261947

- 1.3 The site is located within an undulating landscape. Within the western field levels rise across it from west to east and south to north to a high point at its centre, with levels continuing to rise across the eastern field steadily to a high point at its south eastern corner.
- 1.4 Outline planning permission was granted on appeal on 4 April 2016 following a Public Inquiry, for the erection of up to 321 no. residential dwellings. The details of access to the site were agreed as part of the outline proposal with all other matters reserved for future consideration. Accordingly the appeal decision includes a suite of conditions which relate to matters including the provision of 40% affordable housing, habitat enhancement, landscaping, construction management, phasing of development, noise mitigation and the provision of sustainable drainage.
- 1.5 The application now to be considered is one for Reserved Matters and follows a successful High Court challenge against Reserved Matters approved under reference 164078/RM. The scheme comprises a residential development of 275 dwellings, comprising 110 affordable units and 165 units for the open market. Approval is sought for the details of a) appearance, b) landscaping, c) layout, and d) scale, i.e. the reserved matters, in order to satisfy the requirements of Condition 1 of the outline permission. The access from Leadon Way was approved as part of the outline permission in the form of a roundabout access. The application site and proposed layout is shown below.



- 1.6 The application has been amended since its original submission to take account of comments submitted during the consultation phase and to ensure consistency with the original Outline permission and Section 106 agreement. This has related particularly to ensuring a policy compliant delivery of affordable housing based upon the reduced number of total units proposed (275 reduced from 321). Furthermore, the proposal omits a section of the overall site which has outline planning permission from development under this reserved matters proposal. This land, as shown on the above plan as the greyed out section, is that located nearest to Ornuia (cheese factory) and is, on the plans submitted, labelled as being for a future Phase 2 of development. This Phase 2 would come forward if and when noise impact from the factory can be successfully mitigated.

2. Policies

2.1 Herefordshire Core Strategy

SS1	–	Presumption in favour of sustainable development
SS2	–	Delivering new homes
SS3	–	Releasing land for residential development
SS4	–	Movement and transportation
SS6	–	Environmental quality and local distinctiveness
SS7	–	Addressing climate change
LB1	–	Development in Ledbury
H1	–	Affordable housing – thresholds and targets
H3	–	Ensuring an appropriate range and mix of housing
OS1	–	Requirement for open space, sport and recreation
OS2	–	Meeting open space, sport and recreation needs
MT1	–	Traffic management, highway safety and promoting active travel
LD1	–	Landscape and townscape
LD2	–	Biodiversity and geodiversity
LD3	–	Green infrastructure
LD4	–	Historic environment and heritage assets
SD1	–	Sustainable design and energy efficiency
SD3	–	Sustainable water management and water resources
SD4	–	Waste water treatment and river water quality

The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:- https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

2.2 Neighbourhood Development Plan

The Ledbury Neighbourhood Development Plan was made on 11 January 2019. It now forms part of the Development Plan for Herefordshire.

The application site is referenced and acknowledged within the NDP which states when combined with two other large scale housing sites – *'together amount to commitments of over 1,000 homes which the LNDP supports'*.

2.3 National Planning Policy Framework – NPPF

The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The National Planning Policy Framework has been considered in the assessment of this application. The following sections are considered particularly relevant:

- 2. Achieving sustainable development
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

3. Planning History

- 3.1 143116/O – Proposed outline planning permission for the erection of up to 321 residential dwellings (including up to 35% affordable housing, structural planting and landscaping, informal public open space, children's play area, surface water attenuation, vehicular access point from

Further information on the subject of this report is available from Mr C Brace on 01432 261947

Leadon Way and associated ancillary works. All matters reserved with the exception of the main site access – Refused, then Allowed on appeal 4 April 2016.

150884/O – Proposed outline permission for erection of up to 321 residential dwellings (including up to 35% affordable housing), structural planting and landscaping, informal public open space, children's play area, surface water attenuation, vehicular access point from Leadon Way and associated ancillary works. All matters reserved with the exception of the main site access – Refused 26 June 2015

164078 – Application for approval of reserved matters following outline approval P143116/O for 321 residential dwellings – Approved w/conditions on 21 December 2017. A legal challenge followed and the decision was quashed in the High Court on a technical matter relating to noise on 23 August 2018.

164107 – Application for variation of conditions 14 and 17 of planning permission P143116/O – Approved with a Deed of Variation to the original Section 106 Agreement. *Note, Condition 1 of this permission references the plans approved under the quashed permission 164078 and as such this permission can not be implemented in its current guise.*

170075 – Application for approval of details reserved by conditions 6 – *Habitat Enhancement Plan*, 7 – *Arboricultural Method Statement*, 8 – *Method Statement for Nesting Birds*, and 23 – *Scheme for an Archaeological Watching Brief*, of planning permission 143116, all discharged 14 February 2017

173302 – Application for approval of details reserved by conditions 4 – Phasing, 11 – Levels, 13 – Construction Method, and 22 – Drainage, attached to planning permission 143116 – Undetermined

190874 – Application for approval of details reserved by condition 2 & 12 and part discharge of conditions 7 8 9 19 & 20 attached to planning permission 164107 – *Undetermined as references plans approved under the quashed permission 164078 and as such this permission can not be implemented in its current guise.*

4. Consultation Summary

4.1 Statutory Consultations

Welsh Water comments *The following response is based on a review of the potable water network only as Welsh Water do not provide sewerage services in this area –*

We have previously undertaken a Hydraulic Modelling Assessment and identified a suitable point of connection which can serve the entire development. We seek your cooperation to impose a planning condition that enables suitable control to ensure that the connection point is directed towards a point of adequacy. Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

Condition – A potable water connection shall only be made to the 110mm HPPE main on Villa Way at approximate grid reference 370607, 236731. The agreed scheme shall be constructed and completed in full prior to the occupation of any dwelling hereby approved.

Reason: To ensure the site is served by a suitable potable water supply.

4.2 Internal Council Consultations

Transportation Manager comments on the amended and updated plans and details received 14 May 2019 as follows –

Further to our previous comment we would reiterate our preference for the unutilised junction mouth accessing the future application site to be omitted at this stage and built in as part of the indicated future application.

The previous highways comment identified the status of the Section 38 Agreement for the site layout and that remains unchanged.

Previous comments dated 18 April 2019 stated *The layout matches the approved Section 38 Agreement so there are no highways objections to the matters considered as part of this application.*

We would request that the 'stub' that feeds the future application site be omitted as part of this development and the footway runs straight across the proposed road serving the future application site so that the potential for an undesirable junction mouth being left is removed.

Service Manager Built and Natural Environment comments:
(Building Conservation Officer)

With regards to further amended plans and further supporting details dated 28 May 2019 comments as follows –

Recommendations:

The 3m bund and fence would be an alien feature in close proximity to the listed and curtilage listed buildings at Hazel Farm. Whilst these buildings are screened when viewed from the NE, an aspect of the setting of these building which contributes to their significance is the way in which the immediate landscape form is understood. As such it is felt that the bund would cause less than substantial harm and at the lower end of the scale. This harm should be weighed up against any public benefits of the scheme in accordance with s196 of the revised NPPF. We are mindful that the vegetation cover will change and whilst this will not mitigate the harm, it will lesson by some degree over time. If this can be taken into consideration is a matter for the planning case officer to advise on, as we are aware that there may or may not be control over these trees remaining insitu.

Background to Recommendations:

Hazel Farm Hazel Farm, previously Hazle Manor, is a grade 2 listed building (ref 1082603) which is a C17 timber framed farmhouse and a grade 2 listed Granary (ref1224716). From the property the wider agricultural setting is important to the understanding of the site as a Farmstead even though that functional relationship between the site and the landscape has to some degree lapsed. Hearth tax from 1665 assessed the Hazle at £200 with 10 hearths (Pinches Sylvia, 2009, Ledbury: a market town and its Tudor Heritage p68). Notwithstanding the intricacies of C17 tax considerations, the current building on the site has far fewer fireplaces than this which strongly suggests that in the late C17 a much larger manor house was in existence. It has not been able to determine if there was a larger property on the site what date it was built or when it was demolished. The setting of Hazel Farmhouse is mostly screened when viewed from the NE. However, whilst the impact upon those aspects of the setting of the building which contribute to its significance would not be harmed to any extent by the wider development, it is felt that the alien land form introduced some 120m to the N of the buildings would harm the appreciation and understanding of the buildings in their context. The landscape in the immediate vicinity is predominantly flat, with views across to the Malvern Hills AONB. The

3m high bund with a fence, would be clearly visible from the south in the context of the buildings. It is felt that separation of a lower bund from the road, with an increased landscape buffer would offer a more optimal solution to noise reduction, whilst mitigating any potential harm to the setting of heritage assets.

With regards to amended plans and details dated 14 May 2019 states *We would broadly re-iterate Nick Joyce's Comments on the previous scheme for the site, although we note that the revised NPPF is now in force and that acoustic measures may be proposed, in which we would ask to be reconsulted:*

- Hazel Farm Hazel Farm, previously Hazle Manor, is a grade 2 listed building (ref 1082603) which is a C17 timber framed farmhouse and a grade 2 listed Granary (ref1224716). From the property the wider agricultural setting is important to the understanding of the site as a Farmstead even though that functional relationship between the site and the landscape has to some degree lapsed. Hearth tax from 1665 assessed the Hazle at £200 with 10 hearths (Pinches Sylvia, 2009, Ledbury: a market town and its Tudor Heritage p68). Notwithstanding the intricacies of C17 tax considerations, the current building on the site has far fewer fireplaces than this which strongly suggests that in the late C17 a much larger manor house was in existence. It has not been able to determine if there was a larger property on the site what date it was built or when it was demolished. The setting of Hazel Farmhouse, as outlined by Nick Joyce in his comments, is mostly screened when viewed from the NE. As such the impact upon those aspects of the setting of the building which contribute to its significance would not be harmed to any extent which would trigger s196 of the NPPF.
- It is felt that any subsequent application for the area to the West of the site has an opportunity for forming a buffer zone allowing for mitigation of any potential less than substantial harm to the setting of Hazel Farm by creating a transition between the wider rural setting of Hazel Farm and the more suburban housing design.
- We would re-iterate Nick Joyce's comments about reinforcing local distinctiveness and would draw your attention to sections 127 and 130 of the NPPF.
- If noise mitigation is proposed to the West of the site, such as bunds or acoustic fencing we would note that this would have the potential for being visually overt and harming the setting of buildings at Hazel Farm. If such features are proposed we would ask to be re-consulted.

Previous comments dated 8 March 2019 stated *We would not have any comments relating to building conservation on the application.* These were preceded by original comments dated 25 July 2018 which were –

We would broadly re-iterate Nick Joyce's Comments on the previous scheme for the site, although we note that the revised NPPF is now in force:

- Hazel Farm Hazel Farm, previously Hazle Manor, is a grade 2 listed building (ref 1082603) which is a C17 timber framed farmhouse and a grade 2 listed Granary (ref1224716). From the property the wider agricultural setting is important to the understanding of the site as a Farmstead even though that functional relationship between the site and the landscape has to some degree lapsed. Hearth tax from 1665 assessed the Hazle at £200 with 10 hearths (Pinches Sylvia, 2009, Ledbury: a market town and its Tudor Heritage p68). Notwithstanding the intricacies of C17 tax considerations, the current building on the site has far fewer fireplaces than this which strongly suggests that in the late C17 a much larger manor house was in existence. It has not been able to determine if there was a larger property on the site what date it was built or when it was demolished. The setting of Hazel Farmhouse, as outlined by Nick

Joyce in his comments, is mostly screened when viewed from the NE. As such the impact upon those aspects of the setting of the building which contribute to its significance would not be harmed to any extent which would trigger s196 of the NPPF.

- It is felt that any subsequent application for the area to the West of the site has an opportunity for forming a buffer zone allowing for mitigation of any potential less than substantial harm to the setting of Hazel Farm by creating a transition between the wider rural setting of Hazel Farm and the more suburban housing design.
- We would re-iterate Nick Joyce's comments about reinforcing local distinctiveness and would draw your attention to sections 127 and 130 of the NPPF.

Service Manager Built and Natural Environment comments:
(Archaeology)

No objections or further comments.

Service Manager Built and Natural Environment comments:
(Landscape)

Comments on plans and details received 28 May 2019 –

I note the submission of further information to align RM and DOC applications.

I am not aware that my earlier queries have been addressed, accordingly there are no further landscape comments.

With regards to amended plans and details dated 8 April 2019 states *I have read the landscape section within the submitted Design and Access Statement which sets out the strategy for the open space. I have also viewed the plans for phase 1 for both the open space and within the plots.*

In respect of the way the landscape information has been presented it would be helpful to have an overall landscape plan submitted which then links to the individual detailed drawings, this would aid understanding of what is in essentially a complex site.

Cross referencing between plot layouts and open space layouts for various parcels of the site is not helpful, neither is showing retained and removed trees in a similar graphical form. The landscape architect is welcome to contact me directly to discuss the most useful format in which to present the information.

In terms of the open space and planting shown I have the following comments to make:

- I am content with the defined areas of open space within the site, which appear to be logically laid out and well spaced within the development.
- I am also pleased to extensive planting along the southern boundary of the site which should be retained as green infrastructure, regardless of whether future adjacent development takes place.
- Within the areas of open space to the west and east of the sites, instead of linear planting of trees which is out of character with this landscape type, I would like to see planting which addresses the transition from open countryside to residential. This should be achieved by tree planting which does not create a barrier but instead a planting across the site which filters views and species selection which progresses from larger native species such as oak inwards into the site to smaller ornamental species (as identified in the tree officers comments).
- Currently I am concerned that there is insufficient space given over to the area surrounding the attenuation basin, the resulting affect is an over engineered attenuation basin with potentially a row of trees placed in an attempt to hide it. This is not a

satisfactory approach to landscape and does nothing to enhance either the entrance to the site or the setting of Ledbury town. I would recommend seeking the opportunity to plant outside of the red line to the west of the site.

- Further tree planting is also recommend along the hedgerow boundary of Leadon Way to soften views of what will be prominent built form as well as at the entrance to the housing development.
- I note some street tree planting is proposed along the main spine road, it is essential that this planting is continued in order to link with the defined open spaces in order to provide ecological corridors for wildlife.
- I am disappointed to note that sections of existing hedgerow are shown to be removed – this fragments these corridors and negates any biodiversity benefits, I would recommend retention of existing hedgerow and trees where possible in line with local policy LD1 of the Core Strategy.

Service Manager Built and Natural Environment comments:
(Ecology)

Following further amended plans and additional details provided on 28 May 2019 the following comments were made –

Ecological protection & enhancement: The advice and guidance provided within the EDP Enhancement Plan (December 2016) and FPCR Ecological Assessment (March 2015) should be followed, including biodiversity enhancements.

Lighting: The provided lighting scheme, Murwell Consulting Engineers Ltd (dated 11/05/2018) is appropriate and provides low-level lighting to minimise environmental impacts.

Site drainage: The letter of confirmation from Georisk Management (dated 01/02/2019) confirms that surface runoff will be maintained and that the application site is on higher ground to that surrounding to the south and west, thus concerns regarding sustained ground water supply to an offsite Great Crested Newt pond/population can be reassured that there will be no negative impacts.

With regards to amended plans and details dated 14 May 2019 states *There are no additional ecology comments.*

Previous comments provided on 28 February 2019 stated *I note that Rob Widdicombe has previously commented (10/10/2018) in relation to Conditions 6 & 22 – Ecology Enhancement and surface water drainage and Bats and Lighting (Cond 10). The Ecology Mitigation and Enhancement Plan (EDP dated December 2016) is relevant and appropriate, although omits detail in relation to the off-site Great Crested Newt population (Cond 6 and 22), and Lighting (Cond 10).*

There are 3 off-site ponds to the south-west (west of Leadon Way) that support a known great crested newt population. The results of the GCN survey carried out for the land adjacent to the south, Dymock Road, Ledbury (FPCR, Oct 2018), shows that 2 of the 3 ponds support 'medium' GCN populations. Reassurance that the proposed housing development will not affect natural drainage that feeds these ponds is required.

The drainage scheme provided here (Development Design Solutions, dated 03/04/17) indicates that drainage from the west of the site will flow to the east and towards the large SUDs pond to the north of the development. Any loss of newt breeding ponds and consequent impacts on the newt population will need to be mitigated under NE licence.

Additionally in relation to Condition 10, details of the proposed lighting scheme for the development have not yet been supplied. No external lighting should illuminate any of the

enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative (DEFRA-NPPF 2013/18).

The referenced comments dated 10 October 2018 from Rob Widdicombe, previous Council Ecologist, stated –

I have read the document submitted for Condition 6 – Ecology Enhancement Plan. This is broadly acceptable. However, there is an outstanding issue regarding the impact of the control of surface water drainage on nearby great crested newt ponds

I still await confirmation from the developers relating to Condition 22 on drainage, that it will not affect the natural drainage from the site to these great crested newt ponds. Consequently, I would not recommend discharging either condition until this issue is resolved.

Condition 10 also requires a lighting plan sensitive to the needs of bats. I do not find any lighting plan in the documentation for this application or for 173302.

Service Manager Built and Natural Environment comments:
(Arboriculture)

Having read and viewed the soft landscaping proposal I have a short number of requests which would be beneficial to the long term landscape value of the site:

The species selection around the perimeter of the green space east of the site will predominately consist of trees which are medium in size; Birch, Cherry and Rowan, all three species are arguably short lived.

The larger, prominent species which are longer lived like Oak, Lime and Hornbeam are less prominent and are proposed to be located on the edges.

Taking into account the location of the site on the outer edge of Ledbury and the open countryside which abuts it I think it would be prudent to plant more of the larger species at extra heavy standards, especially Oak and use the smaller species as complimentary for features such as spring flowers and autumn colour. The eastern aspect of the site will mean that there will not be a large amount of shade on properties closest to the trees.

Tree species P6 *Betula pendula* 'Fastigiata'. It appears a large proportion this species is proposed for road side trees and I'm of the opinion that it doesn't offer much to the street scene. Other parts of the sites roadside trees are *Betula utilis* 'jacqmontii' which I regard as a more attractive example of the genus but there does seem to be an excessive amount of *Betula*. A little more variation should be considered, the green space in drawing P16-0793_06-D contains Liquidambar which could be used in place of P6 or other species such as Turkish hazel or Hop hornbeam which are both hardy species suited to roadside conditions.

Maintenance – It is proposed that a Landscape contractor will maintain and water the trees for 12 months after the trees have been planted. Generally trees need 3-5years depending on conditions to become established. Is it possible to extend this period to ensure that trees have the opportunity to become established.

Strategic Housing Manager comments –

Comments following receipt of further amended plans and details dated 28 May 2019 are –

With regards to the affordable housing mix I can confirm that this now complies with policy and I am satisfied with the mix outlined.

With regards to the open market mix, I am aware of the sites' history and if I was reviewing this application afresh then I would be looking for the mix to be 6 x1 beds, 43 x 2 beds, 78 x 3 and 38 x 4 beds. However, this is not the case and whilst the Local Housing Market Assessment 2013 (LHMA) refers to meeting identified needs, the range of house types provided across the county will be monitored to ensure an appropriate mix of housing. I can confirm that with the sites that have achieved planning in Ledbury a good and appropriate mix will and can be achieved.

Previous comments provided –

I have reviewed the amended plans 16066-5008 Rev B, letter dated 14th May 2019 and the Design and Access Statement. There seems to be a contradiction between these documents and as such I seek clarification as to which is correct. On the revised plan and letter it appears to confirm an affordable housing requirement of 107 units however, this is not reflected within the design and access statement.

In addition to this my comments regarding the open market mix not being in line with the Herefordshire Local Housing Market Assessment still stand in that there appears to be an over supply of four plus beds.

Therefore in my opinion it does not meet policy and I am unable to remove my objection.

Previous comments dated 7 March 2019 stated *I refer to my comments of 20th August 2018 and would add that an approval of phase 1 would not meet the developer's obligation with regards to the affordable housing requirement and appropriate open market mix. In addition to this there are no guarantees that a phase 2 reserved matters application on the remaining area of the site would be approved.*

Referenced comments from 20 August 2018 stated –

I refer to the above reserved matters for 247 dwellings and would advise that I am not in support of this application in its current format. Whilst I appreciate that this application is a partial resubmission of the reserved matters approval should the Courts decide to quash the extant reserved matters the developer is not providing the affordable housing requirement. In addition to this the loss of plots 5-78 will see a reduction in much needed two and three bed open market accommodation

If the original reserved matters approval is quashed and this application goes ahead then the developer will not have met their obligation with regards to the affordable housing requirement and appropriate open market mix. In addition to this there are no guarantees that any future reserved matters application on the remaining area of the site would be approved.

Environmental Health Officer (Noise and Nuisance) comments –

Background

With regard to this site and application there has been previous extensive correspondence, meetings and site visits to discuss concerns over environmental noise concerns in the area and the likely impact on the proposed dwellings. The proposed development site is located on the outskirts of Ledbury, on a greenfield site identified as a predominantly rural setting, however, in close proximity to two main noise sources; traffic noise (Leadon Way bypass) to the north and 24/7 Ornuia factory noise to the west. The reserved matters proposal for 275 houses omits 46 houses closest to the factory included in the proposed layout of the outline application.

Our department has been asked to comment on the noise constraints and proposed mitigation. In general terms when examining the impact of noise on residential development, we refer to

BS8233: 2014 Guidance on sound insulation and noise reduction for buildings and BS4142:2014 Methods for rating and assessing industrial and commercial sound as well as the associated planning policy framework and guidance including the Noise Policy Statement for England, Planning Practice Guidance – Noise, National Planning Policy Framework (NPPF) and the ProPG Guidance.

Road traffic noise

Noise monitoring adjacent to Leadon Way gave an arithmetic average of 64.3dB LAeq day and 62.3 LAeq at night in 2014. The applicants noise assessment report dated March 2019 (Wardell Armstrong) proposes road traffic noise mitigation along the northern section of the site to protect proposed dwellings immediately to the south of Leadon Way.

These include:

- a) A reduction in the speed limit on Leadon Way from 60 to 40mph on the approach to the new roundabout (half way along the northern side of the development).
- b) A 3.00m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m² to the eastern section of the northern boundary to the site.
- c) A 2.1m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m² to the western part of the northern site boundary.
- d) A 1.8m high close boarded fence around all remaining gardens areas.

Figures 2, 3 and 4 of the applicant's March 2019 noise report (Wardell Armstrong) give the results of road traffic noise modelling at the proposed dwellings across the site with the above mitigation in place.

External amenity

All the gardens to the northern side of the site after mitigation will be exposed to daytime road traffic noise of between 50 and 55dB LAeq. This is slightly higher than the desirable standard for external amenity areas of 50dB but less than 55dB considered to be the upper guideline value for noisier environments. We are of the opinion that this greenfield site is not a 'noisy environment'. However it is recognised that the proposal incorporates close by recreational space further away from Leadon Way which is considerable quieter and less than 50dB which provides for some mitigation in accordance with the ProPG guidance.* So in this context we do not think that the amenity noise levels for the dwellings closest to Leadon Way are unacceptable.

Internal noise levels

Daytime road traffic noise at the facades of the first floor of the proposed dwellings closest to the road are, however, predicted to be above 60dB LAeq, These exposure levels are higher than the desirable external standard of 50dB at the façade which would enable the achievement of desirable internal noise levels with the windows open. Therefore the north facing elevations of the proposed dwellings and some of the side elevations would have, without mitigation, internal noise levels with partially open windows above the desirable bedroom daytime standard of 35dB.

The applicant's noise report therefore proposes the following mitigation:

- e) Two different higher glazing specifications and acoustic vents in the dwellings shown in Figure 3 of the noise specification report. The applicant has been requested to install the higher

Further information on the subject of this report is available from Mr C Brace on 01432 261947

of the two glazing specifications in all the identified properties i.e. 10/12/6 glazing with acoustic vents and this has been agreed.

Windows on the impacted elevations will need to be kept closed during the daytime to ensure desirable daytime noise standards in bedrooms. Of the properties impacted, the majority will have south facing elevations where desirable bedroom daytime noises can be achieved with the windows open as facades away from the road will have noise level of less than 50dB. However, there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, our department does not object to this proposal as noise mitigation is possible in the majority of impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation.

Figure 4 of the report models road traffic noise impacts at night time where BS8233 specifies a desirable standard of 30dB in bedrooms. Noise levels at the worst impacted facades are predicted to be greater than 55dB with a number of properties with noise exposure levels between 45 and 55dB. The mitigation discussion in e) above equally applies to night time road traffic noise impacts. In other words bedroom windows for some north facing dwellings that about the road will be required to have their windows closed and mitigation proposed in e) above will apply.

NB Day and night time noise monitoring undertaken by Ornu's noise consultant December 2017 to establish background noise levels used the same monitoring location as the applicant's location for road traffic noise. This gave readings of 50-55dB and not as high as the applicants' measurements.

Factory noise from the Ornu cheese factory

The Ornu cheese factory noise runs 24/7 generating an audible constant low frequency sound (hum) in close proximity to the factory. Unlike the passing traffic noise the factory noise source is in a fixed location so creating an audible directional point source at the north west area of the proposed development site. Road traffic noise from Leadon Way and to a degree Dymock Road is dominant during the daytime, however during the night (23:00 – 07:00), at the south western section of the proposed site the factory noise becomes the main dominant audible sound.

There has been extensive correspondence on this issue and subsequently noise mitigation work at the factory has taken place and further noise mitigation is proposed:

- The noise mitigation works were undertaken in early 2019 on the factory site included the removal of the green box extract, the acoustic enclosure of the pump motor and additional silencer to the yellow extractor. Officers from the local authority have verified subsequently that the low frequency tonal element of the noise was reduced so audibly less intrusive, however measurements of the overall volume of the factory sound was found not to be reduced.
- The applicant has removed the most adversely impacted proposed dwellings from this site proposal, increasing the distance of the now proposed dwellings from the factory (Phase 1) as the matter to be addressed in this application.

f) A 3 m high noise barrier sited on top of a physical bund 75m in length maintaining a height of AOD 55m to the north west corner of the site closes to the Ornu cheese factory is proposed.

Factory noise

It is not disputed by the representatives of the Ornu factory that the noise from the Ornu site is generally continuous and steady during the noise sensitive night-time hours (23:00-07:00),

where the local authority's main concerns have been raised with regards to the factory noise at this proposed site.

Background noise level

Central to the BS4142 assessment of the impact of the factory noise on the proposed dwellings is the establishment of a representative background sound level i.e. what is typical in context to the area. The methodology is not simply to ascertain what the lowest background sound level as is suggested by the Hayes McKenzie report of the 4th April but to identify a general, most frequently occurring representative value.

Ornua's noise consultants (Hayes McKenzie) have argued the quietest background noise levels (between 4-5 am) are lower than the typical background noise levels of 33/34dB for a proportion of the time therefore it is more appropriate to refer to background noise levels of 27dB. With factory noise significantly above the 27dB level at the facades at the closest dwellings they contend that this might lead to complaints. Our department does not disagree that background noise levels will fluctuate and that therefore the steady continuous noise from the factory may be more audible at the lowest background sound level, however the methodology to be used is BS4142 relies on the use of a typical background sound level, in context to the area being assessed.

We would concur with the applicant's noise report (Wardell Armstrong) that given the range of findings of background sound levels found that the selection of a representative background for use in the assessment of 33-34dB (LA90) night time and 41-44dB daytime is appropriate. These levels take into account that traffic movements will be through the night although to a much reduced level than in the day time. Also the presence of the factory needs to be considered as it is a well-established industrial unit in the area. The lowest measured background reading (27dB L90) would be more representative of a fully rural, green site area. The 33-44dB (LA90) background reading is more representative and in context with the development site being on the outskirts of Ledbury town where rural meets a small market town divided by a by-pass road.

Character correction and tonality

Noise which is tonal, impulsive and /or intermittent can be more intrusive and the BS4142 methodology awards penalties for the character of the noise. The initial noise report undertaken in 2014 found that there was a clearly audible tonal element to the noise and our own readings initially found that the noise had a low frequency characteristic. Ornua's noise consultants in December 2017 also identified a tonal element to the factory noise which they concluded would lead to a character correction of the noise by 6dB

The noise mitigation undertaken at the factory site in early 2019 has been found by the applicant's noise consultants not to have led to an overall reduction in the loudness of the factory noise. However, the distinctive tonal element of the noise previously identified has been eliminated and therefore in the March 2019 applicant's noise report no character corrections or penalties have been applied to the BS4142 rating. Local authority officers in spring 2019 subsequent to the mitigation works have been able to verify that the tonal element to the noise is no longer present.

The predicted factory noise has been modelled in the applicant's report such that it is expected that the rating level i.e. the specific noise level at the façade of the closest proposed dwelling will now be 43dB LAeq at first floor bedroom window height. Ornua's noise consultants in their response of 5th April 2019 argue that this is worse than what was initially predicted by Barratts consultants of 37dB LAeq in their earlier modelling in 2018 but this is addressed in Barrett's noise consultant's response to EHO questions on 25th April.

The BS4142 assessment however also requires the assessment of the industrial noise in a context. The absolute background sound levels are low and there would be noise mitigation through the structure of the proposed dwelling allowing for a 10-15dB reduction through an open window.

The outcome of the Wardell Armstrong report is that predicted noise levels across the site from the cheese factory is shown in figure 5. Their BS4142 initial assessment finds that at night time when background noise levels are lower there will be at the very closest houses a moderate adverse impact although we would advise that a difference of 9 or 10dB. The BS4142 methodology advises 'a difference of +5dB is likely to be an indication of an adverse' and 'a difference of +10 dB or more is likely to be an indication of a significant adverse impact *depending on the context*'.

Factors that the local authority has taken into consideration when considering the assessments findings in the context include a judgement that a night-time background noise level of 33-34dB is relatively low, there is still the bund and acoustic fence as mitigation to be undertaken and real-time overnight noise monitoring inside the worst impacted dwellings which are constructed show houses has been found to have desirable (BS8233) internal noise levels.

g) The March 2019 report proposes enhanced glazing and acoustic vents to the properties as set out in Figure 3 and Figure 4 to address road traffic noise impacts from Dymock Road. These will provide mitigation also for the factory noise.

Real time noise monitoring assessment

Two dwellings have been constructed in early 2018 as show houses for the site. (These are nos 1 SH and 2 SH shown on the amended site layout plans drawings 5000B and 5001B Feb 2019 which are the same plots 1 and 2 as shown on the drawings 1000AM and 1001AM submitted in September 2016 164078). This has enabled the concerns regarding the adverse impacts at the properties closest to the factory presented in the Wardell Armstrong report which anticipated moderate adverse impacts to be verified in practice.

These sites have been visited twice by Officers from the local authority during the daytime subsequent to the Ornuá site mitigation. On both occasions road traffic noise was found to be dominant as expected for this time of day.

Wardell Armstrong have undertaken overnight noise monitoring to verify the impact of the mitigation at the factory. The findings of overnight monitoring undertaken on 29th March 2019 find that without the proposed mitigation bund and fence in place, factory noise levels dropped to below the BS8233 desirable internal noise level of 30dB inside the factory facing bedrooms. On 4th April 2019 Wardell Armstrong set up further night time noise monitoring in plots 1 and 2 closest to the factory with partially open windows (approximately 10 - 12cm) witnessed by local authority officers when overnight noise monitoring set up was taking place. These measurements were undertaken in rooms without soft furnishings and curtains.

The BS4142:2014 guidance no longer addresses the likelihood of complaints referred to in the Hayes McKenzie report. Whilst our findings are that within the most sensitive dwellings there may be occasions where at night time in the bedrooms facing the factory the factory noise is audible (due to fluctuations in background noise levels) with the windows open, it is unlikely to be intrusive.

Ornuá's noise consultants Hayes McKenzie contend that complaints may also occur regarding factory noise in gardens leading to complaints (there will be no attenuation through the fabric of a building). Whilst factory noise may be audible in gardens (again due to fluctuating background noise levels), the dominant noise during daytime and early evening when gardens may be in use will be road traffic noise.

Conclusion

Ornua's representative's argue that the revised NPPF (the relevant section published 24th July 2018) (reserved matters application received 18th July 2018) places an onus on the developer (the 'agent of change') such that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. This application eliminates a substantial number of proposed dwellings in close proximity to the factory and creates a distance buffer between the factory and the proposed dwellings. There are no planning controls on the factory to ensure that factory noise is not increased by for example additional plant, more intensive use of equipment or plant maintenance failure and we cannot say for certain therefore whether complaints from future occupants may or may not arise in the future.

We are of the view that substantial mitigation has been proposed by the applicant which renders the majority of the site to fall below the Lowest Observable Adverse Effect Level (LOAEL) as set out in the Noise Policy Statement for England (NPSE) and the perimeter to the north and factory facing as being above the LOAEL but below the SOAEL (Significant Observed Adverse Effect Level). The proposed dwellings in these localities would be categorised by the classification of the noise having an Observed Adverse Effect Level which could lead to small changes in behaviour or attitude and having to keep close windows for some of the time because of noise. The objective to which would be to mitigate and reduce to a minimum. The Noise Policy Statement for England (NPSE) concludes that where the noise impacts fall between the LOAEL and SOAEL 'all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development.' The second objective of the NPSE (after the avoidance of significant adverse effects).

Our department therefore takes the view that it does not object to the details of the reserved matters scheme as it relates to the noise constraints and challenges on the site providing that the noise mitigation specified in a) to g) above is conditioned.

**Pro PG Planning & Noise: Professional Practice Guidance on Planning & Noise (Acoustics and Noise Consultants, Institute of Acoustics, Chartered Institute of Environmental Health)*

Land Drainage Engineer comments –

In previous responses we have requested that the following information is provided by the applicant prior to the discharge of condition 20 regarding the sustainable management of surface water runoff:

- The drainage calculations indicated that surcharging of the onsite drainage system may occur in the 1 year event, and that flooding of the on-site drainage system may occur in the 30 year event.
- The drainage calculations did not appear to have been run for any storm durations longer than 240 mins (and not longer than 180 mins for the 1 year and 30 year storms).
- The drainage calculations did not address previous comments in which we asked the Applicant to provide confirmation of how the volume and rate of runoff that currently discharges to the culverted watercourse to the north-west of the site compares to the volume and rate currently discharged to this culvert.
- The Applicant used an FSR model rather than FEH (which is the current best practice). Reference was also made to IH124 but it was not clear how this model has been used.
- The Applicant assumed that pipes and manholes outside of their model will provide an additional storage volume 20m³/ha for the 100 year calculations but not the others. They did not explain how this was calculated.
- The CCTV footage showed some siltation (S18 – upstream headwall) which was not modelled.

- The layout of the development appears to have changed slightly since the previous submission, however no amended calculations have been submitted.
- The drainage layout shows the key carrier drains. Prior to the approval of the reserved matters application we would want to see a more detailed layout of all drainage infrastructure serving the development.
- A high level overflow has been installed upstream of the proposed attenuation pond, with direct unattenuated discharge to the downstream existing sewer network. No explanation of this system has been provided.
- No details of the proposed attenuation pond have been provided, including cross sections through the pond and details of inlet and outlet structures.
- The pond does not appear to include a high level overflow which we recommended is located 100mm below the top of the pond and at the 100yr+40%CC flood level.

This response is in regard to the points raised above, with information obtained from the following sources:

- Statement on Surface Water Run-Off, prepared by Georisk Management, dated 01/02/2019;
- Response to Drainage Strategy Comments by Balfour Beatty, prepared by DDS, dated 07/03/2019;
- Drainage Strategy Sheet 1 of 2, drawing ref: 0058_3_F.
- Drainage Strategy Sheet 2 of 2, drawing ref: 0058_4_E.

Each of the points raised above are discussed below.

The drainage calculations indicated that surcharging of the onsite drainage system may occur in the 1 year event, and that flooding of the on-site drainage system may occur in the 30 year event.

In the Response to Drainage Strategy Comments document the applicant clarifies that the surcharging of the network indicated under the 1 year return period at nodes 62 and 103 represent the pond and Hydrobrake flow control chamber respectively, and are designed to fill to some extent even on lower return periods. The applicant clarifies that no flooding is predicted during the 30 year return period, highlighting that there are nodes that are marked as 'flood risk' however this is an indication of when the water level at the node is within 300mm of the cover level. We agree with the explanation provided by the applicant, although highlight that (as discussed below) revised drainage calculations are required to support the amended site layout and drainage layout.

The drainage calculations did not appear to have been run for any storm durations longer than 240 mins (and not longer than 180 mins for the 1 year and 30 year storms).

In the Response to Drainage Strategy Comments document the applicant clarifies that storm durations between 15 and 1440 minutes have been modelled but only results for the critical events for each node have been reported. We agree with the explanation provided by the applicant, although highlight that (as discussed below) revised drainage calculations are required to support the amended site layout and drainage layout.

The drainage calculations did not address previous comments in which we asked the Applicant to provide confirmation of how the volume and rate of runoff that currently discharges to the culverted watercourse to the north-west of the site compares to the volume and rate currently discharged to this culvert.

In the Response to Drainage Strategy Comments document the applicant states that the discharge rate from the development has been set in accordance with the approved Flood Risk Assessment addendum by Banners Gate, which acknowledges the existing ground levels are

split into northern and southern parcels. The applicant states that this has been approved by Hereford Council in July 2017, although our own review of previous correspondence indicates that Herefordshire Council have continued to request analysis of the existing discharge rates and volumes that would naturally flow to the culverted watercourse to the north-west of the site.

Whilst the principles to limit discharge to the equivalent greenfield rates for the 1 year, 30 year and 100 year events is acceptable, the applicant has not yet confirmed what these existing rates would be for the current drainage catchment.

We recommend that the Council requests clarification of how the volume and rate of runoff that currently discharges to the culverted watercourse to the north-west of the site compares to the volume and rate currently discharged to this culvert and amends the submitted drainage strategy accordingly.

Further analysis of the drainage calculations submitted previously (dated December 2016) indicates that drainage from the attenuation pond will be limited to the equivalent greenfield rates for the 1 year, 30 year and 100 year events although it is not clear how this will be achieved. We note that the Drainage Strategy drawing states that flows will be limited to 64 l/s but assumed this is a maximum discharge rate that would only occur during the 100 year event. The applicant must clarify how discharge rates will be limited to lower values during smaller events.

We recommend that the Council requests further clarification of how discharge rates will be limited to the equivalent 1 year, 30 year and 100 year events.

The Applicant used an FSR model rather than FEH (which is the current best practice). Reference was also made to IH124 but it was not clear how this model has been used.

In the Response to Drainage Strategy Comments document the applicant states that whilst it is acknowledged that FEH could be considered best practice for rainfall methodology, FSR is still a widely used and accepted methodology. Whilst FSR may still be widely accepted by other local authorities, in Herefordshire the Council promote the use of FEH data as recommended by

The SuDS Manual published in 2015 and as requested in our response dated November 2017. We appreciate, however, that the use of FEH data was not specifically requested prior to the submission of the drainage calculations dated December 2016 and therefore approve of the use of FSR in this instance. The applicant also clarified that the reference to IH124 was made in error.

The Applicant assumed that pipes and manholes outside of their model will provide an additional storage volume 20m³/ha for the 100 year calculations but not the others. They did not explain how this was calculated.

In the Response to Drainage Strategy Comments document the applicant states that the additional storage of 20m³/ha approximates the volume of storage available within the private drainage serving the dwellings across the development. The applicant goes on to state that it is generally accepted that under the 100 year plus climate change return period that this small volume can be included within the simulation, and that the additional storage is not considered when simulating the 30 year return period. Consultation with our in-house drainage team suggests that the volume of storage available in the network should be based on network calculations (not including predicted flooding from the network during extreme events) and not a generalised figure of 20m³/ha, although we would welcome a reference to the industry-recognised document where this allowance is stated.

We recommend that the Council requests calculations of the available storage volume within the network during the 100 year event, or reference to the document where this allowance is stated.

The CCTV footage showed some siltation (S18 – upstream headwall) which was not modelled. In the Response to Drainage Strategy Comments document the applicant states the siltation / debris between manhole S18 and the headwall to the ditch course is noted, however the applicant states that it is reasonable to assume that this would have little to no effect on the 'main run' of the surface water network i.e. S105 > S18 > S14A along which the discharge from the proposed development would travel. As such the condition of this particular run has not been considered within the applicants submitted calculations. We approve of the approach.

The layout of the development appears to have changed slightly since the previous submission, however no amended calculations have been submitted.

No further information has been provided. We recommend that the Council requests updated calculations that reflect the amended development layout and drainage layout as presented in the submitted Drainage Strategy drawings.

The drainage layout shows the key carrier drains. Prior to the approval of the reserved matters application we would want to see a more detailed layout of all drainage infrastructure serving the development.

No further information has been provided. We recommend that the Council requests updated plans that illustrate all drainage infrastructure serving the development.

A high level overflow has been installed upstream of the proposed attenuation pond, with direct unattenuated discharge to the downstream existing sewer network. No explanation of this system has been provided.

No further information has been provided. We recommend that the Council requests confirmation of how this overflow is proposed to operate and supporting calculations.

We stress that discharge from the site must not exceed equivalent greenfield rates and volumes up to the 1 in 100 year plus climate change event and that all site-generated surface water runoff up to the 1 in 100 year plus climate change event must be retained within the site boundary, with exceedance flows directed towards the proposed attenuation pond or other areas of low vulnerability for temporary storage. We note that the drainage calculations indicate flooding from certain areas of the network during the modelled 100 year event. Whilst this is acceptable, we highlight that exceedance flows should be managed within the site up to the 100 year plus climate change event and not discharged off site.

No details of the proposed attenuation pond have been provided, including cross sections through the pond and details of inlet and outlet structures.

No further information has been provided. We recommend that the Council requests this information prior to discharging the condition.

The pond does not appear to include a high level overflow which we recommended is located 100mm below the top of the pond and at the 100yr+40%CC flood level.

No further information has been provided. We recommend that the Council requests this information prior to discharging the condition.

The above was preceded by the following comments dated 24 October 2018 –

We have reviewed the amended drawings provided for this development (182628) (Drawing Ref 0058_3_E Drainage Strategy Sheet 1 of 2, and Drawing Ref 0058_4_D Drainage Strategy Sheet 2 of 2) and cannot see any differences to the previously submitted drainage strategy. I also do not believe that any further information relevant to drainage has been provided. We

therefore have no further comments to make and our previous comments (attached) are still valid.

Open Spaces Manager commented on amended and updated plans and details received 28 and 14 May 2019 –

I can see that the overall layout has not changed in respect of Public Open Space (POS) and Play.

POS: The details for POS as shown on drawing no. 5011B are acceptable as per my previous comments

Children's Play: The details for the proposed LEAP have not changed. Drawing no. P16 - 793_08-B is the same plan as previously submitted. Therefore my comments remain largely the same.

More detail is required and the applicant needs to demonstrate that provision is made for all ages for a site of this size: infants, juniors and teenagers. The central area provides opportunity to do this but as the proposal stands this is not evident.

The only comment I would make is that my previous comments indicate a value of £220,000 which is based on the total number of houses of 321. Given that the development is now to be undertaken in phases, for phase 1 only and 275 houses on a pro rata basis the value would be approximately £188,500.

If we took this approach the play provision would need to be designed to accommodate the requirements arising from both phase 1 and phase 2 on the understanding approximately £31,500 of this could come forward at a the phase 2 stage. This could be as additional equipment on the central open space play area or could be natural play opportunities on the POS to the west of the site for example.

For comparison I attach the approved scheme for RM 182712 Holmer West Hereford (phase 1 and 2) total no. housing 380 and cost for play provision £290,000. Bloors produced an excellent scheme which does have some similarities with Leodon Way given the central POS and opportunities to incorporate natural play equipment along the POS.

Previously referenced comments from the Open Spaces Manager stated –

On Site POS/Play

Core Strategy Policies OS1 and OS2 apply.

It is noted that previously 164078 RM following outline approval 143116/O for 321 houses was approved for the full site. This application also follows outline approval 143116/O but for 247 houses only.

The layout and on-site POS is the same as 164078 RM with the exception of the houses proposed along the western edge. My previous comments in relation to POS and children's play still stand.

In summary on-site POS is well located, provides connectivity from both within and outside the site and is above the minimum policy requirement as detailed previously.

The submitted LEAP plan: ref: D/16-0793_08_B is the same plan as previously submitted under 164078/RM and I have the same issues. It does not demonstrate that the policy requirements

for a site of this size have been met as follows. To note this is calculated and based on the full number of houses (321) being delivered on site.

Size: As required by policy the formal play element should be a minimum 1800sq m.

Location: Play could be provided both on the central area as formal play equipment and some more natural play opportunities such as play trails in the other areas of POS if preferred by the applicant.

A detailed schedule including:

- Provision for particular age groups: infants, juniors and teenagers, to include a kick-about which should be a flat area.
- Equipment list (with suppliers and part numbers), details of safety fencing (if applicable), safety surfacing, information on signage, seating and litter bins to be included
- Costs of providing and installing the equipment. I previously gave a value of £220,000 which includes equipment, bins, benches, surfacing, pathways, installation, landscaping costs etc. This is based on the SPD on planning obligations play tariffs (development costs only) and is comparable to other developments in the county.
- Maintenance schedule. A 15 year maintenance schedule which will include safety surfacing repair/replacement, regular safety checks and the recommended annual ROSPA standard independent safety inspection.

It is noted that the applicant has chosen to use a maintenance company.

If details are not forthcoming then as previously, I would ask that the play area details are conditioned as before:

164078/RM: Land south of Leaddon Way: application for approval of reserved matters following outline approval P143116/O for 321 residential dwellings:

Condition 2: no development shall be undertaken to commence details of the play areas including equipment, surfacing, landscaping, means of enclosure and provision of seating, litter bins and the phasing of their provision until plans have been submitted and approved in writing by the Local Planning Authority. The play areas shall be constructed in accordance with the approved details and thereafter retained.

Reason: in order to comply with the requirements of the Policies OS1 and OS2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

Waste Manager commented on amended plans received 14 and 28 May 2019 –

Whilst the new plan did address my primary concerns, there are still just a couple of small tweaks that could be made that would reduce the likelihood of future problems. A prior to occupancy condition securing appropriate details is considered acceptable to address the remaining points and secure appropriate refuse collection facilities over the whole site, which are –

- Plots 116-188 – the distance the crew would need to walk to collect the bins I have measured as being over 25 metres.
- I noticed on the main site plan part of this private road is marked as being constructed to commercial vehicle standard, however it does look like it might be too tight for the vehicle to travel this, so the collection point needs to be within a 25 metre walking distance from the road.
- Shared collection points next to parking spaces aren't ideal, as you have a situation where multiple bins are being put directly next to someone's car – for plots 156-158 there could be another collection point

Amended plans received 14 and 28 May 2019 responded to the following comments dated 29 March 2019 –

Collection points all appear to be too large – bins are collected on an alternate weekly basis, therefore only need to be large enough for one bin from each premise

It is not clear which roads it is expected the refuse collection vehicle (RCV) will travel. Therefore comments on collection points assume the RCV will not travel what appear to be shared private drives / roads. *Please see refer to comments below regarding refuse collections from private roads.*

Collection point opposite plot 207 on LEAP area. This collection point is not acceptable. The distance some residents would be required to take bins is over 30 metres. The number of bins at the collection point, the visibility and accessibility from the LEAP area would increase the likelihood of more rubbish being deposited alongside the bins. This would have a visual impact on the houses opposite and may result in an accumulation of rubbish.

There is a turning head on this private road, could this be upgraded as far as is indicated on the site layout plan (drawing no. 1000AK & 1001AK) to a standard that would be suitable for the RCV to travel? This would remove the need for both the collection points located on the edge of the LEAP area.

Collection point adjacent to 207 – this collection point would be better located on the opposite side of the private drive to limit the impact of the collection point on future occupants of plot 207
Collection point near plot 116 is not acceptable – this is over the 25 metre carry distance from the highway

Plots 263, 264, 313 and 314 are located over 25 metres from the highway, along a private drive. A bin collection point is required.

Plots 269, 311 & 312 are located over 25 metres from the highway, along a private drive. A bin collection point is required.

Plots 244 – 251 are located over 25 metres from the highway, along a private drive. A bin collection point is required.

Plot 120 is located over 25 metres from the highway, along a private drive. A bin collection point is required.

Plot 147 and 146 are located over 25 metres from the highway, along a private drive. A bin collection point is required.

Plot 319 is located over 25 metres from the highway, along a private drive. A bin collection point is required.

Private roads

In the event that the roads within this development do not become adopted by Herefordshire Council:

- The council will only agree to travel private roads for the purposes of waste collection if:
- The council and its contractor determine that collections can be carried out safely;
- The council receive written confirmation from the landowner/developer that the roads over which the RCV will travel are built to a suitable specification for this type of vehicle to travel over on a frequent basis; and
- The council and its contractor are indemnified against damage to property and general wear and tear, other than that caused through negligence.

The council and/or its contractor will assess the safety of collections at the development via the completion of a risk assessment which will take into consideration the access and suitability of the road surface, width, obstructions and turning areas for a 26 tonne RCV.

If a private road is not suitable for the RCV to travel or an indemnity is not signed by the landowner, the collection point for rubbish and recycling will be at a point adjacent to the nearest public highway, as determined by Herefordshire Council.

The council and its contractor reserve the right to cease collections from private roads if the roads or entrance are not maintained to a standard suitable for the RCV or there are any obstructions in place

Planning Obligations Manager comments –

The revised plans now accords with our discussion with representatives of Barratt West Midlands in respect of the policy requirement for affordable housing. The plans propose 40% affordable housing which is in accordance with the original outline permission.

5. Representations

5.1 Ledbury Town Council commented on the first tranche of amended plans on 8 March 2019 –

At the meeting of Ledbury Town Council's Economic Development and Planning Committee held on Thursday 8 March 2019, members resolved NOT TO SUPPORT planning consultation reference 182628 on grounds previously stated, with the additional comments:

- continuing concern ref noise abatement;
- uncertainty about adequacy of SUDS system;
- and reassurance needed that the social mix remains the same.

Comments from the Town Council dated 8 August 2018 stated –

At the meeting of Ledbury Town Council's Economic Development and Planning Committee on 2 August 2018, Members Resolved Not to Support due to the following:

1. Lack of clarity in visual plans on market mix, suggesting the mix of affordable housing may now be below the level previously agreed.
2. Lack of proper impact assessment.
3. Potential drainage problem due to surface attenuation pond not being at lowest of development.
4. Potential impact on off-site pond, which is a breeding ground for great crested newts.
5. Lack of a suitable plan for the vacant area in the now vacant western part of the site, beyond spur roads to facilitate future development.

Six **letters of objection** have been received from local residents. Comments received are summarised as –

- The road building particularly serving the second phase of development is premature. If the second phase is not approved it will leave an inappropriate eyesore detrimental to the surroundings
- The mix of houses has changed, the percentage of affordable dwellings and smaller homes now proposed is inappropriate
- Changes to housing mix are by stealth and to give greater profitability to the detriment of Ledbury
- The technical noise appraisal does not form part of the Reserved Matters application
- Impact of proposed surface water drainage plans on a third party pond which is a Great Crested Newt habitat
- This site is going to be blighted for ever by the factory noise and the developers should plan to accept it

- The phase 2 area should be a substantial planted landscaping area to mitigate noise
- The bund and acoustic fence by their combined size, are inappropriate to the area and will dominate and 'tower' over the hedgerows
- It is noted there is potential for the site to serve access to an adjoining field and proposed development, all of which would be served by a single access on to Leadon Way
- It is not possible to make substantive comments with phase 2 area omitted
- Future residents will have adverse amenity due to proximity to industrial premises
- Social housing located nearest industrial premises mean these homes are 'sacrificial' acting as a noise barrier
- Insufficient details regarding green spaces
- No services or facilities on the site, which is an out of town satellite settlement. A convenience store should be included

Following consultation on amended plans dated 28 May 2019 local residents have commented as follows –

- Pleased some consideration has been made regarding landscaping, essential as this is after all a bund plus barrier almost 20 feet high highly visible as one enters the Dymock Road and open countryside
- Requested that the following conditions be included:- 1) Materials used including colour etc for sound attenuation barrier to be approved prior to installation. 2) Tree landscaping to be: full length of bund; minimum 3 metres high on planting; x 4 trees deep on each side of barrier; spacing along length to be similar; species to be advised. Overall high density planting required albeit with some consideration required of future growth.
- The proposed amended layout and inclusion of a sound barrier bund do not go far enough in terms of mitigating the noise exposure from the existing cheese factory.
- One cannot look at this Application in isolation from the 'future application' section of the overall site.
- The phase 2 of the site is integral to the overall layout and workings of this new estate and must therefore be understood alongside this Application to be correctly and fairly approved or not.
- The location of affordable properties remains unchanged: next to the main roads and closest to the industrial premises i.e. affordable housing being used as an acoustic barrier.
- A second access route into the site should be included: there are simply too many properties proposed for a single access.
- It appears that the 'solution' to noise nuisance from the former Meadow Cheese plant is to create a 2 metre high bund with a further 3 metre high fence on top. this 'solution' as being a wholly unwarranted intrusion into the existing 'natural' landscape of the surrounding area.
- Why cannot a solution be sought to reduce the noise, to acceptable levels, at source, ie within the plant's own machinery, buildings
- If the bund plus fence 'solution' is approved there must be full living screening on both sides of the eyesore.

Ornua Ingredients UK Limited (Ornua) objects to the proposed reserved matters application as set out in below –

The additional following comments were received 16 May 2019 –

1. In respect of the email below from Wardell Armstrong (enclosing x2 notes), dated 8 April 2019

There is no indication where the Plots 1 and 2 show homes are on any of the plans provided by the Applicant. The Council should be provided with this information.

It would have been helpful for the Applicant to provide photos of the proposed or assessed measurement locations / situations of the open window; particularly the openness of the windows. It is not clear specifically what assumption was used.

The two notes are explicit that a slightly open window attenuates noise by 15 dBA. However, the guidance provides that open window attenuation is generally 10-15 dB (see for instance in BS8233, which WA do refer to but they do not provide the range of attenuation, they simply use the upper range cited in the guidance with no justification for doing so). The notes are of course based on predicted noise level outside and measured noise level inside. My client's consultant considers that it would have been more helpful if the Applicant had measured inside and out – it is not clear what the purpose of the measurements in the gateway were.

The Applicant's argument seems to boil down to the fact that people will have to shut their windows because of the traffic noise so, in turn, the factory noise will not be an issue. However, my client's consultant does not consider that this will stop people complaining of noise from the Cheese Factory because the noise emission (i.e. potential nuisance from the Cheese Factory) is outside. Ornuva has never disputed the fact that internal noise levels will be below the BS8233 guidance (which apply to 'anonymous' noise); the issue is BS4142 and the likelihood of complaints based on significant impact (externally).

In that regard, these submissions do not change the thrust of Ornuva's original objection.

2. In respect of the [Wardell Armstrong Letter dated 11 April 2019, titled *Response to Hayes McKenzie Comments 4th April 2019*], sent to Ornuva on 12 April 2019

Ornuva still has outstanding concerns following WA's response of 11th April but at this stage Ornuva does not propose submitting any further substantive response given the points it has raised to date.

The headline point is that windows will need to remain closed to mitigate the noise impact from the factory, which is assessed as significant adverse even without tonal components (see Ornuva's original objection). The inclusion of facade insulation / double glazing can only be seen as a contextualising factor noted by BS4142 as affecting (reducing) the sensitivity of the receptor to the assessed level of impact. Ornuva does not consider that this will prevent complaints, or even minimise them for the proposed layout, at the predicted level of noise.

3. Noise barrier

I am still unclear under what planning consent the Applicant is proposing to develop the acoustic barrier. I cannot see that it is authorised by the outline consent. Has the Applicant discussed this with you please?

Next steps

Clearly, my client's consultants still consider that there are gaps and insufficient detail in the responses provided by Barratt. I would be grateful if you could ensure that these comments are taken into account by the Council and passed on to your Environmental Health Officer for review. I would also be grateful if you could please provide me with your EHO's response once you receive it as my client would like the opportunity to review these points and comment on them accordingly.

The following objection and comments were received 5 April 2019 –

Background

Ornua is the owner and operator of the Meadow Cheese Factory, located opposite the proposed development site. Ornua successfully challenged the grant of the original reserved matters application (ref: 164078) which was quashed by the High Court. It is now with the Council for redetermination. We understand that this application, whilst live, is not being pursued by Barratt as they would prefer to focus attention on ref: 182628.

Application ref: 164078 was quashed because the Council did not take into account a representation submitted by Ornua which demonstrated that the noise levels to be experienced at a number of the proposed houses would be too high, causing detriment to the occupiers of those properties and potential nuisance issues which could affect the operation of the Cheese Factory. Ornua was clear that granting consent for the layout before discharging the noise condition could prejudice the outcome of the proposed noise mitigation. Ornua also contested that the methodology used by Barratt in assessing noise impacts was flawed on a number of points, one of which was that it did not take into consideration tonal emissions which attract a 6dB penalty under BS4142:2014.

RMA 182628 now seeks approval of what is known as Phase 1 i.e. the first 275 units consented by the original outline consent (which granted consent for a total of 321 units). The remaining 46 units will, we understand, be brought forward by Barratt as part of a future planning application (presumably known as Phase 2). Phase 2 is being delayed due to the greater noise issues that will be experienced by future occupiers of this part of the site because it is in even greater proximity to the Cheese Factory. As such, we understand that Barratt will bring Phase 2 forward once it has worked out how it can secure adequate noise mitigation for this part of the site which Ornua considers would need to be more extensive here compared to elsewhere.

Ornua and Barratt has separately sought to reduce noise emissions from the Cheese Factory and agreed a noise limit at the closest properties to the Cheese Factory which includes a correction for any tonal components. As part of this agreement Ornua gave Barratt the opportunity to undertake mitigation works to the Cheese Factory to lower the noise levels. Unfortunately, these works have not succeeded and the overall noise levels emitted from the factory have not reduced, as Wardell Armstrong note in their report on p.9, para. 2.2.31 – see the first bullet point. Barratt is now predicting significantly higher noise levels than previously stated, including a predicted noise level of 43dB at the boundary of the current Phase 1 properties.

Considering noise as part of the RMA

Ornua appreciates that Barratt has submitted a separate condition discharge application to the Council under ref: 190874 for Phase 1 and it has been explained (in the Council's letter to Ornua of 13 March 2019) that noise will be dealt with through this application and not through the RMA 182628.

However, Barratt has submitted its noise report (prepared by Wardell Armstrong, dated March 2019) in support of the RMA ref: 182628 (see the Wardell Armstrong letter of 22 February 2019 and the March 2019 report itself). EHO comments in respect of this application also express concern with the noise being emitted from the Cheese Factory, which is a 24/h operation, and the need to engage Ornua on both of these applications. As such, we come back to the principle discussed in the High Court case about the interaction between the layout of the site and how, in Ornua's view, approving the layout before the discharge of condition 19/21 will prejudice the mitigation that can be provided. The Court was clear that the Council, having considered noise as part of the RMA, should have considered it fully and properly. The same is true of the applications currently before the Council.

Further information on the subject of this report is available from Mr C Brace on 01432 261947

Admittedly, we are in a different position today than we were in December 2017 because at that stage Barratt had not submitted any detail concerning the discharge of the noise condition. Today we have this detail but, for the reasons noted below, it is inadequate. Given that application ref: 182628 has now been submitted to the Council and given the importance of ensuring that the information in both applications is consistent, Ornuva considers that both applications (refs: 182628 (Phase 1 RMA) and 190874 (Condition 19 discharge for Phase 1)) should be considered at the same time by the Council once sufficient explanation and information in respect of the layout and proposed mitigation has been provided by Barratt and been considered by the Council, in agreement with Ornuva. As mentioned, this is a principle that Ornuva put forward in the High Court and one it maintains.

Objection to ref: 182628

Ornuva's noise consultants, Hayes McKenzie, has produced the attached note on the noise report submitted by Barratt in support of both applications. This notes a number of points which the Council should take into consideration. In headline terms, it is of great concern to Ornuva that:

- the predicted noise levels to be experienced at the Phase 1 properties closest to the Cheese Factory have increased from less than 37dB LAeq (assessed in June 2018 by Wardell Armstrong) to 43 dB dB LAeq. No comment on this is made in the report and no explanation is provided as to why this level has increased so significantly;
- the report states that no tonal content correction has been included in Barratt's assessment but no data is provided to support this assumption. As mentioned above, tonal emissions require a tonal penalty of up to 6dB to be applied to the overall results and this then requires more adequate mitigation measures to be applied;
- due to the high noise levels that will be experienced by the occupiers of these properties, notwithstanding the measures proposed, occupiers are likely to complain about noise from the Cheese Factory if they are required to keep windows closed to prevent noise impact internally; and
- there a number of questions and inconsistencies raised in Barratt's noise report which should be clarified with them, as per the attached note.

Clearly therefore the current layout of the site means that those Phase 1 properties in closest proximity to the Cheese Factory will experience unacceptable noise levels which is likely to cause issues for Ornuva in the future.

As an aside, the Hayes McKenzie review of Wardell Armstrong's March 2019 report does not cover the detail submitted on behalf of Barratt in the 22nd February 2019 letter from Wardell Armstrong. This also states that it is submitted in support of the noise condition discharge application and the reserved matters application. The letter refers to the various guidance documents, also referred to in the report, and the proposed mitigation measures, but notes the adverse noise impact predicted at the nearest receptors. It is notable that the predicted noise levels from the Ornuva premises, shown at Figure 5 in the WA letter, include the properties now noted to form Phase 2 of the development with levels which would be judged to have a significant adverse impact, using Wardell Armstrong's own assessment methodology.

It is also arguable that the predicted levels at the closest of the properties which now form Phase 1 would also be judged to have a significant adverse impact (see the Hayes McKenzie review of WA report). WA argue that this will be resolved through facade insulation but note in their conclusions that '*windows of proposed dwellings closest to and facing the cheese factory will need to be kept closed, to achieve internal guideline noise levels in bedrooms during the night-time*'. Ornuva does not therefore consider that the noise from the Cheese Factory can be considered negligible, as suggested in WA's conclusions, when assessed in accordance with BS4142:2014 which very specifically uses '*outdoor sound levels to assess the likely effects of*

sound on people who might be inside or outside a dwelling'. Ornuia also considers that complaints about noise from the Cheese Factory will be very likely if this layout is approved and are not resolved through the mitigation measures secured through the noise condition discharge.

Next steps

The layout of the proposed Phase 1 development should not be set before it is clear whether Barratt can deliver a noise mitigation scheme which adequately secures a reduction in the level of noise emitted from the Cheese Factory and secures the amenity of future residents. Currently, the March 2019 noise report does not adequately deal with this and needs more explanation because it proposes inadequate mitigation. Ornuia considers that the two applications should be considered together for the reasons detailed above and to ensure consistency in approach and flexibility.

Whilst Ornuia has been and remains willing to cooperate with Barratt to secure a mutually beneficial outcome it clearly wants to ensure that its current operation can run in the same manner as today. On this point, it is worth noting the protection afforded to existing businesses under the NPPF. Whilst the NPPF has always been clear that pre-existing businesses should be protected, and it is a well-established legal principle that decision makers should not promote land-use competition, the revised NPPF issued in July 2018 introduced the concept of 'agent of change'. Paragraph 182 seeks to ensure that decisions taken by local planning authorities should ensure that new development can be integrated effectively with existing businesses and that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. This requires that where existing businesses could have adverse effects on the new development, the applicant (or agent of change) of the new development should be required to secure suitable mitigation. This is a material consideration in the assessment of both of the applications before the Council. And, at this stage, Ornuia does not consider that Barratt has proposed adequate noise mitigation for the reasons noted above and maintain that the proposed layout could effectively prejudice the noise mitigation to be secured.

The **Campaign to Protect Rural England** (CPRE) objected on 23 August 2018 as follows –

- The ratio of affordable to open market housing is not as per the approved reserved matters application P164078/RM and is well below the 'up to 40%' outlined in the planning inspectors report.
- The application shows a reduction in the percentage of open market 2 and 3 bedroom houses, these are the type of houses needed in Ledbury and Herefordshire as a whole
- The site seems to have been designed assuming that development of the western part of the site will eventually go ahead as per the original submission P143116/O. However should that not be the case the spur roads to the west of the site will be redundant and ugly and there will be no real western boundary to the development. This part of the site could be used to plant a buffer of trees/hedges to help mitigate noise to the development.

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182628&search=182628

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

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

6. Officer's Appraisal

Policy context and Principle of Development

Legislation

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."* The development plan is the Herefordshire Core Strategy.
- 6.2 Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 state the following respectively:-

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

"In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."

Herefordshire Local Plan – Core Strategy

- 6.3 Policy LB1 – *Development in Ledbury* states Ledbury will accommodate a minimum of 800 new homes balanced with a minimum of 15 hectares of new employment land during the plan period. The majority of new housing development will be focussed to the north of the town as set out in Policy LB2 and the strategic location for new employment of around 12 hectares to the west of the town, south of Little Marcle Road. Further development will take place through the implementation of existing commitments, infill development, and sites allocated through a Neighbourhood Development Plan. A number of sites which have future potential for development have been identified in the Strategic Housing Land Availability Assessment (SHLAA).

Within Ledbury, new development proposals will be encouraged where they are relevant to this application:

- maintain and enhance the vitality and viability of the existing town centre.
- improve accessibility within Ledbury by walking, cycling and public transport, particularly where they enhance connectivity with, for example, local facilities, new employment areas and the town centre;
- contribute to addressing deficiencies in community facilities and/or allow for infrastructure improvements (including broadband) in the town, to promote sustainable development;
- reflect and enhance the characteristic built historic elements of Ledbury, such as its stone, brick and timber-framed buildings, medieval plan form, conservation areas and setting overlooking the Leadon Valley;
- protect and enhance its green infrastructure, including connections to the public right of way network and biodiversity, particularly the Malvern Hills Area of Outstanding Natural Beauty to the east and the Leadon valley to the west;
- protect and enhance the setting of the town from eastern and western viewpoints; and, where this is not possible, incorporate appropriate mitigation measures; and have demonstrated engagement and consultation with the community including the town council.

- 6.4 Policy H3 – *Ensuring an appropriate range and mix of housing* states Residential developments should provide a range and mix of housing units which can contribute to the creation of balanced and inclusive communities. Also, Policy H3 indicates that the latest *Local Housing Market Assessment* will provide evidence of the need for an appropriate mix and range of housing types and sizes. Whilst it is not in dispute these are policies for the supply of housing they also have wider implications in terms of ensuring the social benefits of providing a suitable mix of housing types.
- 6.5 The Herefordshire Local Housing Market Assessment (HLHMA) formed part of the evidence base for the CS, although it is now some five years old. However, it is specifically cited in CS Policy H3 and without any other substantive evidence in regard to housing need in this area significant weight is attached to this. For the Ledbury area the HLHMA indicated that the greatest demand was for two and three bedroom housing, which was estimated as providing 30.5% and 55.2% of open market housing needs, and 38.3% and 30% of affordable housing need with four bedroom or larger housing providing only 10% of the estimated open market and 4% of the affordable housing needs.
- 6.6 Core Strategy policy SS6 describes proposals *should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.*
- 6.7 Policy SS6 then states in its list of criteria states *Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.*
- 6.8 Core Strategy Policy SS7 – *Addressing climate change* states Development proposals will be required to include measures which will mitigate their impact on climate change. At a strategic level, this will include:
- focussing development to the most sustainable locations;
 - delivering development that seeks to reduce the need to travel by private car and which encourages sustainable travel options including walking, cycling and public transport;
 - designing developments to reduce carbon emissions and use resources more efficiently;
 - promoting the use of decentralised and renewable or low carbon energy where appropriate;
 - supporting affordable, local food production, processing and farming to reduce the county's contribution to food miles*;
 - protecting the best agricultural land where possible

Key considerations in terms of responses to climate change include:

- taking into account the known physical and environmental constraints when identifying locations for development;
- ensuring design approaches are resilient to climate change impacts, including the use of passive solar design for heating and cooling and tree planting for shading;
- minimising the risk of flooding and making use of sustainable drainage methods;
- reducing heat island effects (for example through the provision of open space and water, planting and green roofs);
- reduction, re-use and recycling of waste with particular emphasis on waste minimisation on development sites; and
- developments must demonstrate water efficiency measures to reduce demand on water resources.

- 6.9 Core Strategy policy LD1 – *Landscape and townscape* criteria requires new development must achieve the following:
- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;
 - conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management

- 6.10 Core Strategy policy LD4 – *Historic environment and heritage assets* sets out as relevant to this appeal that Development proposals affecting heritage assets and the wider historic environment should:

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

2. the conservation and enhancement of heritage assets and their settings through appropriate management, uses and sympathetic design. Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas

Neighbourhood Development Plan

- 6.11 The Ledbury Neighbourhood Development Plan was made on 11 January 2019. It now forms part of the Development Plan for Herefordshire.

The application site is referenced and acknowledged within the NDP which states when combined with two other large scale housing sites – *'together amount to commitments of over 1,000 homes which the LNDP supports'*.

The NDP with regards to housing delivery sets out *It is considered that these sites, in conjunction with the site allocated by the LNDP and windfall sites that will come forward within the settlement boundary, more than meet the needs of the town in terms of housing provision over the plan period.*

Policy HO2.2 – *Housing Density* requires The housing density of new development should respect its surroundings through good design which responds positively to local character. Housing densities should be within the range of 30 to 50 dwellings per hectare. In keeping with local character, housing densities should be at the higher end of this range towards and within the town centre and at the lower end of the range towards the edge of the settlement.

Policy HO4.1 – *Housing for Young People* – states Proposals for 1, 2 and 3 bedroom starter homes will be supported.

A key built environment objective of the NDP is To protect the transition from town centre to edge of town where it is more rural, so that any new 'edge of town' development maintains the character of the current settlement boundary.

Policy BE2.1 – *Edge of Town Transition* states The density of housing in the vicinity of the perimeter of the town should be appropriate to the location and type of housing that is required, and its environment. Whilst exceptions may be appropriate, buildings in the vicinity of the perimeter of the town should respect local character and not be more than 2.5 storeys in height. The protection and enhancement of existing, or establishing of new, hedgerows, woodland,

green spaces, landscape features and street trees will be supported. Development should respect the setting of the Malvern Hills AONB.

Policy BE1.1 – *Design* states Development should demonstrate that it is sympathetic to the character and appearance of Ledbury and where possible, that it contributes to the conservation and enhancement of the overall distinctiveness of the Neighbourhood Area. The use of design review is strongly supported.

National Planning Policy Framework

6.12 The NPPF has ‘sustainable development’ central to planning’s remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people’s quality of life. The National Planning Policy Framework has been considered in the assessment of this application. The following sections are considered particularly relevant:

- 2. Achieving sustainable development
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

6.13 Paragraph 7 sets out and defines sustainable development and of the three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, the social objective requires planning to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being.

6.14 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

6.15 NPPF Paragraph 124 states *The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.* Paragraph 127 outlines Planning decisions should ensure that developments:

- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

6.16 NPPF paragraph 180 states Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life

Assessment of Proposals

Sustainable Development and Addressing Climate Change

- 6.17 The site benefits from an outline planning permission for residential development and the application hereby assessed is for approval of reserved matters of layout, appearance, scale and landscaping relating to that permission. In accordance with the NPPF and Policy SS1 a *positive approach* must be taken by Herefordshire Council to reflect the presumption in favour of sustainable development. Furthermore the LPA through policy SS1 will be proactive wherever possible and to secure development that improves the social, economic and environmental conditions in Herefordshire.
- 6.18 The principle of residential development for up to 321 dwellings with an access from Leadon Way has been established by the outline planning permission. In accordance with Local and National Planning policy approval should be given unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. It is not considered that there any restrictive policies that are applicable in this instance as outline planning permission has already been established and as such the acceptability of the proposals is based on the assessment of both material and technical considerations. These matters are considered in the report below.
- 6.19 Policy SS7 is a strategic policy requiring focus on measures to address climate change. Reducing carbon footprint and CO2 emissions has been at the forefront of recent political and media discourse, receiving rightful prominent coverage. Herefordshire Council's Core Strategy has been 'ahead of the curve' in that regard with Policy SS7 in place and a requirement to be satisfied by development since October 2015.
- 6.20 The site is located on the edge of Ledbury, its location lends itself to the ability to walk or cycle to the town centre and other services and facilities nearby. Improved pedestrian linkages have been secured including new controlled crossing facilities on Leadon Way. The development also includes substantial open and recreational space within it. Accordingly, the proposal is located whereby many day to day functions and journeys by future occupiers can be undertaken without the need to use a private vehicle.
- 6.21 The development includes a substantial amount of new planting exceeding previous green coverage on the site with regards to trees. A comprehensive drainage plan and proposals are also incorporated.

- 6.22 With regards to built form and energy efficiency Barratt and David Wilson Homes set out their approach to addressing climate change through the design of their dwellings is delivered through a fabric first approach to CO₂ emission reduction includes the following:
- High levels of insulation
 - Higher performance windows and doors
 - Reduced air infiltration rates
 - Enhanced thermal bridging performance
 - Enhanced services
 - Maximisation of passive solar and metabolic gains

Under current Building Regulations Approved Document Part L 2013 there is a backstop fabric energy efficiency standard which the developers' standard specification exceeds.

- 6.23 On the basis of the above and in principle the proposal represents sustainable development. Given the Governments requirement to deliver a significant number of new homes during the plan period, on the broad basis outlined above, the development will within that balance of meeting housing need and addressing climate change, in principle contribute to meeting both objectives. As such Core Strategy policies SS1 and SS7 and the associated aims and objectives of the NPPF are satisfied.

Noise

Background and Context

- 6.24 The proposed development site is located on the outskirts of Ledbury, on a greenfield site identified as a predominantly rural setting, however, in close proximity to two main noise sources; traffic noise (Leadon Way bypass) to the north and 24/7 Ornuia factory noise to the west.
- 6.25 The Core Strategy notes the protection of residential and local amenity is essential to ensuring local communities are and remain sustainable. Amenity considerations include such issues as noise. Policy SD1, within its list of criteria for sustainable design requires new development does not contribute to, or suffer from, adverse impacts arising from noise.
- 6.26 The NPPF paragraph 170 (e) requires the decision making process should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Paragraph 180 requires development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 6.27 The Ornuia cheese factory noise runs 24/7 generating an audible constant low frequency sound (hum) in close proximity to the factory. Unlike the passing traffic noise the factory noise source is in a fixed location so creating an audible directional point source at the north west area of the proposed development site. Road traffic noise from Leadon Way and to a degree Dymock Road is dominant during the daytime, however during the night (23:00 – 07:00), at the south western section of the proposed site the factory noise becomes the main dominant audible sound.
- 6.28 Primary concern regarding noise and amenity relates to during the noise sensitive night-time hours (23:00-07:00), where the local authority's main concerns have been raised with regards to the factory noise at this proposed site.
- 6.29 It is noted there are no planning controls on the factory to ensure that factory noise is not increased by for example additional plant, more intensive use of equipment or plant

maintenance failure and we cannot say for certain therefore whether complaints from future occupants of the proposed development may or may not arise in the future.

- 6.30 As detailed above, a previous approved Reserved Matters application was subsequently quashed by the Courts. The claim proceeded on one ground only, that the council failed to take into account a material consideration in that it did not take account of representations made by Ornuu, including a report by acoustic engineers on its behalf which cast doubt on a conclusion reached by the council that it would in principle be possible to produce a scheme for mitigation of noise emitted by the cheese factory such that it would be reduced to acceptable levels at houses built to the proposed layout.
- 6.31 The Judge found *It follows in my judgment that an error of law was committed*. The error may be considered either as a failure by the planning authority to consider, either at the level of members or officers, a material factor in the form of the information provided by Ornuu, or as a failure by officers properly to exercise the delegated power they had been given by evaluating and coming to a conclusion on that information.
- 6.32 The result and Court judgement was the decision (planning permission) must be quashed and remitted to the planning authority for redetermination.

Assessment

- 6.33 The application is presented with a Noise Assessment Report which includes acoustic contour modelling based on real time noise recordings. The Council's Environmental Health Officers have visited the site on a number of occasions and undertaken their own readings. The application features noise mitigation proposed or already implemented as follows to address both noise from the cheese factory and noise from traffic on Leadon Way –
- The noise mitigation works undertaken on site at the cheese factory in early 2019 included –
 - the removal of the green box extract
 - the acoustic enclosure of the pump motor and
 - additional silencer to the yellow extractor
- 6.34 Environmental Health Officers have verified subsequently that the low frequency tonal element of the noise was reduced so audibly less intrusive, however measurements of the overall volume of the factory sound was found not to be reduced.
- The applicant has removed the most adversely impacted proposed dwellings from this site proposal (shown as *Phase 2* on the proposed site plans), increasing the distance of the now proposed dwellings from the factory to the dwellings proposed within this application.
 - A 3 metre high noise barrier sited on top of a physical bund 75 metres in length maintaining a height of AOD 55m to the north west corner of the site, closest to the Ornuu cheese factory.
 - A reduction in the speed limit on Leadon Way from 60 to 40mph on the approach to the new roundabout (half way along the northern side of the development).
 - A 3.00m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m² to the eastern section of the northern boundary to the site.
 - A 2.1m high barrier comprising of a close boarded fence constructed with a minimum density of 10kg/m² to the western part of the northern site boundary.

- A 1.8m high close boarded fence around all remaining gardens areas.

6.35 The following extract from Figure 3 of the *Noise Assessment Report* by Wardell Armstrong shows dwellings which are built with additional higher glazing specifications and acoustic vents.

- Green dots denotate elevations with standard glazing and ventilation via opening windows achieve guidance internal noise levels
- Yellow dots denotes standard glazing and alternative means of ventilation required to achieve guidance internal noise levels
- orange dots denote elevations with enhanced glazing and alternative means of ventilation required to achieve guidance internal noise levels

6.36 The applicant was requested and has agreed to install the higher of the two glazing specifications in all the identified properties (orange and yellow dots) shown below and this will be secured by condition. These glazing measures also contribute to mitigation from noise from the cheese factory along with mitigation against road noise, in particular the dwellings abutting Leadon Way.



Factory Noise

6.37 The starting point to the BS4142 assessment of the impact of the factory noise on the proposed dwellings is the establishment of a representative background sound level i.e. *what is typical in context to the area*. The methodology is not to ascertain what the lowest background sound level but to identify a general, most frequently occurring representative value.

6.38 Environmental Health Officers have considered both Wardell Armstrong's (applicant) and Hayes McKenzie's (objectors) positions on this and concluded given the range of findings of background sound levels found that the selection of a representative background for use in the assessment of 33-34dB (LA90) night time and 41-44dB daytime is appropriate. These levels take into account traffic movements will be through the night although to a much reduced level than in the day time. Also the presence of the factory needs to be considered as it is a well-established industrial unit in the area. The lowest measured background reading (27dB L90) would be more representative of a fully rural, green site area. The 33-44dB (LA90) background reading is more representative and in context with the development site being on the outskirts of Ledbury town where rural meets a small market town divided by a by-pass road.

6.39 Two dwellings were constructed in early 2018 as show houses for the site and has enabled the concerns regarding the adverse impacts at the properties closest to the factory presented in the

Wardell Armstrong report (which anticipated moderate adverse impacts) to be verified in practice. Noise readings have been taken internally from these dwellings.

- 6.40 These sites have been visited twice by Officers from the local authority during the daytime subsequent to the Ornuva site mitigation. On both occasions road traffic noise was found to be dominant as expected for this time of day.
- 6.41 Overnight noise monitoring has been carried out to verify the impact of the mitigation at the factory. The findings of overnight monitoring undertaken on 29th March 2019 find that without the proposed mitigation bund and fence in place, factory noise levels dropped to below the BS8233 desirable internal noise level of 30dB inside the factory facing bedrooms. On 4th April 2019 Wardell Armstrong set up further night time noise monitoring in the two built dwellings closest to the factory with partially open windows (approximately 10 - 12cm) witnessed by local authority officers when overnight noise monitoring set up was taking place. These measurements were undertaken in rooms without soft furnishings and curtains.
- 6.42 The findings are that within the most sensitive dwellings there may be occasions where at night time in the bedrooms facing the factory the factory noise is audible (due to fluctuations in background noise levels) with the windows open, however it is unlikely to be intrusive.
- 6.43 The noise mitigation undertaken at the factory site in early 2019 detailed above has been found by the applicant's noise consultants not to have led to an overall reduction in the loudness of the factory noise. However, the distinctive tonal element of the noise previously identified has been eliminated and therefore in the noise report no character corrections or penalties have been applied to the BS4142 rating. Local authority officers in spring 2019 subsequent to the mitigation works have been able to verify that the tonal element to the noise is no longer present.
- 6.44 Ornuva's further concerns are that complaints may also occur regarding factory noise in gardens leading to complaints. There will be no attenuation through the fabric of a building. Whilst factory noise may be audible in gardens (again due to fluctuating background noise levels), the dominant noise during daytime and early evening when gardens may be in use will be road traffic noise.

Road Noise

- 6.45 All the gardens to the northern side of the site after mitigation will be exposed to daytime road traffic noise of between 50 and 55dBLAeq which is slightly higher than the desirable standard for external amenity areas of 50dB but less than 55dB considered to be the upper guideline value for noisier environments. As the site is a greenfield site it is not by its nature a 'noisy environment'. However it is recognised that the proposal incorporates close by recreational space further away from Leadon Way which is considerable quieter and less than 50dB which provides for some mitigation in accordance with the ProPG guidance. Within this context Environmental Health Officers do not think that the amenity noise levels for the dwellings closest to Leadon Way are unacceptable.
- 6.46 With regards to internal areas, daytime road traffic noise at the facades of the first floor of the proposed dwellings closest to the road are predicted to be above 60dB LAeq, These exposure levels are higher than the desirable external standard of 50dB at the façade which would enable the achievement of desirable internal noise levels with the windows open. Therefore the north facing elevations of the proposed dwellings and some of the side elevations would have, without mitigation, internal noise levels with partially open windows above the desirable bedroom daytime standard of 35dB. As detailed above, combination of glazing and structural mitigation is proposed.

- 6.47 Windows on the impacted elevations directly facing Leadon Way will need to be kept closed during the daytime to ensure desirable daytime noise standards in bedrooms. Of the properties impacted, the majority will have south facing elevations where desirable bedroom daytime noises can be achieved with the windows open as facades away from the road will have noise level of less than 50dB. However, there are a handful of dwellings with facades facing east and west where this cannot be achieved. Although this is not ideal, Environmental Health Officers do not object to this proposal as noise mitigation is possible in the majority of impacted dwellings and satisfactory daytime internal noise levels at ground floor level can be achieved due to the fencing mitigation.

Conclusion

- 6.48 Ornu's position is the revised NPPF places an onus on the developer, the 'agent of change', such that existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. The application eliminates a substantial number of dwellings from the development as previously proposed, all of which are in close proximity to the factory and furthermore creates a distance buffer and increased separation between the factory and the nearest proposed dwellings.
- 6.49 Environmental Health Officers advise that on the basis of the substantial mitigation that has been proposed this renders the majority of the site to fall below the Lowest Observable Adverse Effect Level (LOAEL) as set out in the Noise Policy Statement for England (NPSE) and the perimeter to the north and factory facing as being above the LOAEL but below the SOAEL (Significant Observed Adverse Effect Level). The proposed dwellings in these localities would be categorised by the classification of the noise having an Observed Adverse Effect Level which could lead to small changes in behaviour or attitude and having to keep closed windows for some of the time because of noise. The objective to which would be to mitigate and reduce to a minimum. The Noise Policy Statement for England (NPSE) concludes that where the noise impacts fall between the LOAEL and SOAEL 'all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life while also taking into account the guiding principles of sustainable development.' The second objective of the NPSE (after the avoidance of significant adverse effects).
- 6.50 Environmental Health Officers therefore confirm they have no objection to the details of the reserved matters scheme as it relates to the noise constraints and challenges on the site providing that the noise mitigation specified above is implemented. On the basis that can be secured and implemented by the use of conditions as set out below, Core Strategy policies SS6 and SD1 and the relevant aims and objectives of the NPPF as relate to noise and associated amenity are satisfied.

Design

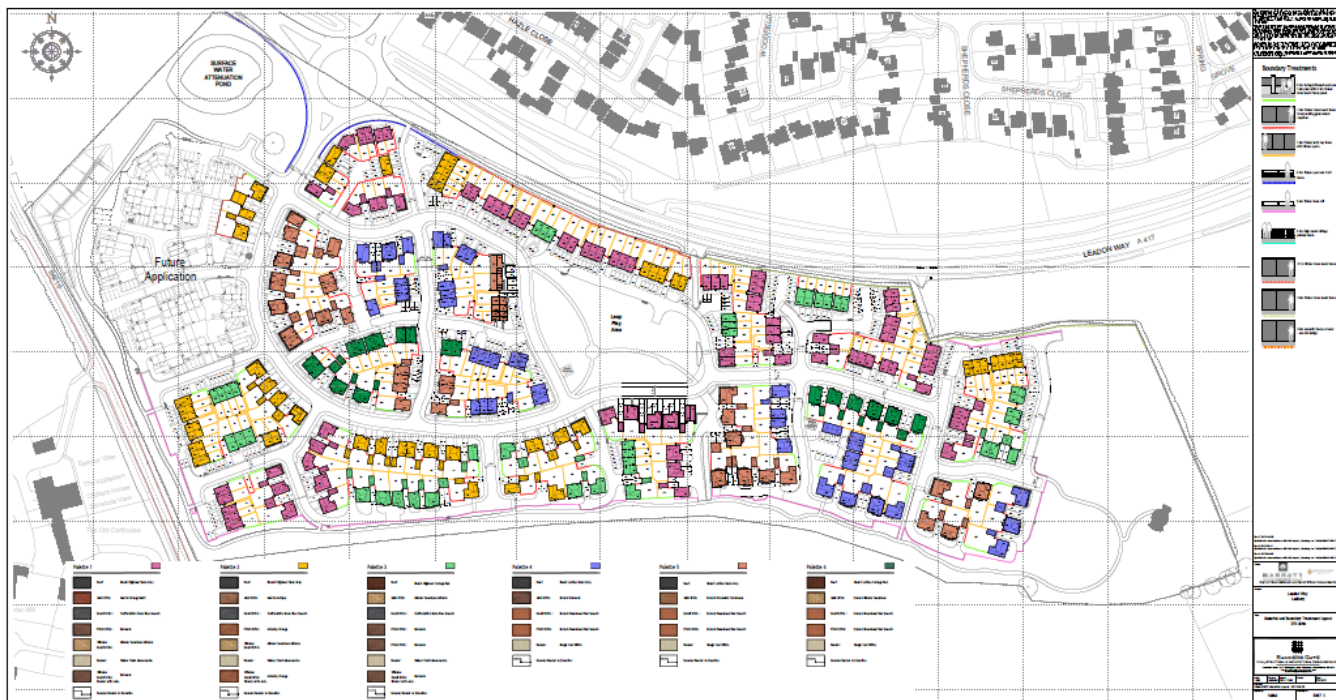
- 6.51 The detailed design approach is similar to that of the dwellings previously approved under the quashed reserved matters application with a number of subsequent updates and amendments to reflect the applicants new house types. In broad terms, however these changes are minimal and include the introduction of hipped roofs within the design portfolio so when viewed with traditional gabled designs, there will be reduced massing and greater variety within the streetscene. Proposed streetscenes are shown below –



6.52 Overall the development comprises 32 different designs of dwellings over the 275 units proposed on the site. Only 8 of those 32 individual designs feature ten or more times over the development. All except 5 units are two storey in extent, with 5 units being 2.5 storeys. All garages are single storey. Numerous design features which are also indicative to Ledbury and its surrounding area included within house types are –

- bay windows
- dormer windows
- Brick course detailing
- Feature gables
- Dormer windows
- Flat roofed open porches
- Symetrical principal elevation design

6.53 Further to the above, a mix of 6 materials palettes are used across the house types and a variety of boundary treatments also feature over the site to add variety and interest, reduce commanality and utilise design aspects from local vernacular as follows. Materials include a range of bricks utilising various shades of ‘red’ and sandstone, slate and red roof tiles, brick plinths and detailing of various contrasting colours and use of render. Fencing variation includes larch lap, close boarded, timber post and rail and painted metal railings to deliniate and enclose public and private spaces.



6.54 Overall the proposals draw on various elements of local character, ranging from materials to design features and detailing. The range and mix of house designs and materials provides visual interest and dilutes uniformity on what is a large housing development. This is welcomed and provides design merit and individuality to the development as a whole. Combined with the general landscaping proposals and heights of the proposed units all being 2 or 2.5 storeys in extent, it is considered the proposal represents an appropriate design response in respect of context and quality and as such Core Strategy policies SS6, LB1, LD1 and SD1, Ledbury Neighbourhood Plan policies BE1.1 and BE2.1, and the relevant design aims and objectives of the National Planning Policy Framework are satisfied.

Landscape

6.55 The landscape proposals generally conform to the details provided and approved by the Local Planning Authority under Reserved Matters application 160478 which also in turn were considered satisfactory to be able to discharge the relevant landscaping conditions attached to Outline permission 143116. Notably, the landscaping details omit the *Phase 2* area. With regards to the above, the Senior Landscape Officer commented at the time *The information submitted satisfies the requirements of the Reserved Matters and is approved by the Councils Landscape Officer.*

6.56 Whilst I attach considerable weight to that position, clearly there has been the passage of time since the assessment of those details was made and further to that, whilst there has been no change to Core Strategy policies, or changes to the relevant aims and objectives of the NPPF that would render the above position obsolete, the Neighbourhood Development Plan is now made and a material consideration. As such regard must be had and assessment made against NDP Policy BE1.1 – *Design* and BE2.1 – *Edge of Town Transition* in particular.

6.57 The overall layout affords areas of open space within the development and a significant amount of new landscape planting. This is indicative of and responds to the edge of settlement location and its function as a transitional area from town to countryside. Furthermore hard landscaping and structural elements create a sense of place and appropriateness to an edge of market town location.

6.58 It is undoubtable the bund, which has start/ end of 51.17 and 52.12 OAD with a highest part at 55.00 AOB upon which an acoustic fence itself measuring 3 metres tall is located, as shown on

Further information on the subject of this report is available from Mr C Brace on 01432 261947

the cross section below, creates and introduces a new, prominent feature within the streetscene and one which forms the setting and one of the approaches to Ledbury, however this would be read partially within a context and with views of the industrial estate opposite the site. It is noted substantial planting is proposed around the bund and acoustic fence, as part of wider green landscaping in the north east part of the site which includes an attenuation pond, which will have landscape and noise mitigation benefits along with biodiversity and drainage features. The approach utilised here replicates in many respects that used and approved at *Porthouse development site, Bromyard*. The detailed landscaping proposals around the bund and attenuation pond (Extract from Drawing titled *Public Open Space Detailed Landscape Proposals, Sheet 1 of 4*, Drawing Ref: P16_0793_04-L, Received 28 May 2019), along with sectional drawing (Extract from Drawing titled *Landscape Section to Earth Bund*, Drawing Ref: P16_0793_09-A) are shown below –



- 6.59 It is noted the site is not within the Malvern Hills AONB and although within its foreground, there is limited intervisibility between the two and in particular, from key viewpoints from the AONB, in particular the Hills themselves.
- 6.60 With regards to longer range views, the wooded nature of the slopes on this side of the Malvern Hills generally limits outward views from public vantage points towards the site. The site comprises a very minor component in a much larger landscape. With the landscape mitigation proposed and conditioned, there would be no material harm to views of the surrounding area from the AONB, on its overall setting, or its special qualities.
- 6.61 The site is barely perceptible in the much longer range views from Marcle Ridge, some 6.5 kilometres away to the west. Consequently, particularly when landscape mitigation is taken into account, the development proposed would, if noticeable at all given the distance involved,

represent a negligible change, with no material impact on views from the Ridge, or on its landscape setting.

- 6.62 The defined areas of open space within the site are logically laid out and well spaced within the development and extensive planting along the southern boundary of the site which should be retained as green infrastructure, regardless of whether future adjacent development takes place and can be protected by condition. Within the areas of open space to the west and east of the linear planting of trees proposed is out of character with this landscape type, and as such in landscape terms, planting which addresses the transition from open countryside to residential is recommended. This could be achieved by tree planting which does not create a barrier but instead a planting across the site which filters views and species selection which progresses from larger native species such as oak inwards into the site to smaller ornamental species as identified in the Arboriculturists comments. The over engineered attenuation basin with potentially a row of trees placed in an attempt to hide it is not a satisfactory approach to landscape and does not enhance either the entrance to the site or the setting of Ledbury Town. A more suitable solution to the attenuation pond area and other improvements can be secured by condition.
- 6.63 Generally, the Landscape and Arboriculturalist Officers have no objection however their comments identify areas where the landscaping and planting can be both improved and beneficial to the development and wider setting of Ledbury. Notwithstanding the previously agreed landscaping plan, and having regard to since then the Ledbury NDP is now a material consideration, conditions securing details to align with the comments received and ensure long term benefit and management of these features, particularly the southern boundary treatments and landscaping at the east of the site and around the acoustic fence, a landscaping condition is recommended. On this basis it is considered the landscaping criteria and policies of the Core Strategy, SS6, LD1, LD1 and SD1 are satisfied, along with the relevant policies of the Ledbury Neighbourhood Plan and landscape aims and objectives of the NPPF.

Heritage

- 6.64 The Planning (Listed Buildings and Conservation Areas) Act 1990 states *“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”*
- 6.65 When an authority finds that a proposed development would harm the setting of a listed building, it must give special attention to that harm with “considerable importance and weight”. Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.
- 6.66 While Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. As a result, and in order to properly consider the effects of development on heritage assets, recourse should be had to the NPPF in the first instance.
- 6.67 Paragraphs 193 – 196 of the NPPF (2018) deal with the approach to decision-making according to the significance of the heritage asset (this being the adjoining listed buildings) and the degree of harm arising as a consequence of development. Paragraph 193 confirms that great weight should be given to the conservation of designated heritage assets. Paragraph 195 is a restrictive policy and directs refusal where a proposed development will lead to substantial harm

to or total loss of significance of a designated heritage asset. Paragraph 196 explains the approach to decision-making where less than substantial harm to the significance of a designated heritage asset would arise. It states that such harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. 196 is thus also a restrictive policy.

- 6.68 Accordingly it is necessary for the decision-maker to judge, on the evidence before them and having particular regard to expert heritage advice, whether the proposal in this case represents substantial harm to the setting of listed buildings and their significance (in which case paragraph 195 directs refusal unless the scheme achieves substantial public benefits that outweigh the harm) or whether the harm falls within the purview of paragraph 196; in which case it is necessary to weigh the less than substantial harm against the public benefits in an unweighted planning balance. Even if harm is less than substantial, it is absolutely clear that such harm weighs heavily in the planning balance – the fact that it is not necessary to demonstrate that harm significantly and demonstrably outweighs the benefits gives weight to paragraph 196 as a restrictive policy.
- 6.69 The nearest heritage assets are located south west of the application site as shown below outlined blue. These buildings are the Grade II Hazel Farm farmhouse and associated Granary, Grade II listed in its own right.



- 6.70 Intervening distances from the development and Hazel Farm (130 metres) and the Granary (75 metres) to the nearest proposed dwellings. The setting of Hazel Farmhouse is mostly screened when viewed from the north east. However, whilst the impact upon those aspects of the setting of the building which contribute to its significance would not be harmed to any extent by the wider development.
- 6.71 The Council's historic advisors have considered the proposals and conclude that the acoustic fence and bund to the north of the buildings would harm the appreciation and understanding of the buildings in their context. The landscape in the immediate vicinity is predominantly flat, with views across to the Malvern Hills AONB. The bund with an acoustic fence, would be visible from the south in the context of the buildings and it will take a number of years for the proposed planting to establish and mitigate.

- 6.72 This is considered as less than substantial harm (para 196) Therefore such harm should be weighed against the public benefits of the proposal and this matter is considered in the conclusions below.
- 6.73 The edge of Ledbury Conservation Area lies approximately 0.72 kilometres to the north-east of the appeal site. The Conservation Area contains numerous listed buildings, including the grade I listed church of St Michael and All Angels. In as much as the bell-tower spire of the church can be seen, together with the roofs of other buildings, then the Conservation Area can be said to be experienced from the site. As a consequence, the site lies within its setting.
- 6.74 However, the site is separated from the Conservation Area by intervening post-war residential development (Martins Way estate) and the John Masefield High School, with the consequence that there is little, if any, awareness of the presence of these fields from within the Conservation Area. On that basis, I am not persuaded the site makes any contribution to the heritage significance of the Conservation Area which derives from its history as a market town and its architecture, including numerous listed buildings. As such I find no harm to significance of the Conservation Area.
- 6.75 As such the proposals are considered to result in less than substantial harm on designated heritage assets. When assessed against the requirements of the NPPF, the proposal is considered acceptable based on an assessment of the assets value and importance weighed against and considering the wider benefits of the proposal. It is concluded the proposal accord with policies SS6 and LD4 of the Herefordshire Core Strategy, heritage aims and objectives of the NPPF and Section 66 (1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Ecology

- 6.76 The comments of the Council's Ecologist and Natural England are noted as are concerns from an objector regarding protected species.
- 6.77 The lighting scheme has three different lights all of which feature LED banks and photo electric control units set to switch on at 35 lux and has been assessed by the Council's Ecologist. The provided lighting scheme is considered appropriate and provides low-level lighting to minimise environmental impacts and in particular impact upon bats.
- 6.78 Concerns regarding the impact of the drainage proposals on adjoining ponds on third party land and impact upon them as Great Crested Newt habitats has been reviewed by the Ecologist.
- 6.79 The landform of the site prior to development broadly comprised an elevated ridge broadly running east-west in the central portion of the site, with ground levels falling away primarily to the north/north west and to a lesser degree to the south. The application site is on higher ground to that surrounding to the south and west. This landform would encourage surface water to flow following the natural fall of the land. Additionally, any water seepage through the soils in this locality, including the development site and arable land to the south, is likely to be minimal and slow.
- 6.80 Therefore, in terms of the development, the potential for surface water run-off to surrounding areas is unlikely to be significantly affected and it is considered that there is a very low risk of the site contributing to a significantly reduced flow of water off-site.
- 6.81 It is concluded there will be no negative impacts on offsite Great Crested Newt ponds and populations or sustained ground water supply to them will be impaired to have such a detrimental impact.

6.82 It is noted Outline permission 143116 Condition 6 stated –

Development, including works of site clearance, shall not begin until a Habitat Enhancement Plan, including a timetable for implementation, based on the recommendations set out at Section 4 of the Ecological Appraisal (October 2014) submitted with the planning application and integrated with the landscaping scheme to be submitted pursuant to condition 1 above, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved Habitat Enhancement Plan.

6.83 The requirements of the condition were discharged under reference 170075 on 14 February 2017 on the basis of details contained within the submitted Mitigation, Enhancement and Management Plan prepared by The Environmental Dimension Partnership Ltd, received 12 January 2017.

6.84 Further to this the advice and guidance provided within the EDP Enhancement Plan (December 2016) and FPCR Ecological Assessment (March 2015) should be followed, including biodiversity enhancements and this is ensured by condition. On the basis of this and discharged condition 6 of Outline permission 143116 it is considered suitable biodiversity and habitat enhancements are secured and will be delivered.

6.85 As such the proposal satisfies Core Strategy policies LD2 and LD3 and the wider ecological and biodiversity aims and objectives of the NPPF.

Highways

6.86 It is noted access arrangements were approved under the original outline permission. The applicants propose to retain the spur and turning head referenced by the comments from the CPRE so to provide suitable access to the attenuation pond for maintenance purposes. The layout also matches the approved Section 38 Agreement so there are no highways objections to the matters considered as part of this application. The Transportation Manager confirms no objection on highway grounds to the proposals.

6.87 Dwellings are served by suitable levels of off road parking and garages which are of dimensions recommended within the Council's Highways Design Guide.

6.88 Amended plans received 14 and 28 May 2019 addressed most points raised by the Waste Manager with regards to refuse collection points and accessibility for refuse vehicles and a prior to occupation condition is considered suitable to address specific points raised within their response.

6.89 As such regarding highway safety and related technical matters the proposal accords with CS policies SS4 and MT1, Herefordshire Council's Highways Design Guide and the NPPF.

Drainage

6.90 Whilst precise drainage details have not yet been agreed, it is noted Condition 22 attached to the original outline permission states –

No development shall take place in any phase, including works of site clearance, until details of a sustainable surface water drainage scheme, based on the surface water drainage strategy set out in the Flood Risk Assessment and Surface Water Drainage Strategy dated October 2014 and the accompanying Drainage Strategy layout (Plan No 101 at Appendix E of the same) submitted with the planning application, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and

maintained in accordance with the approved details and timetable. The scheme to be submitted shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for implementation of the scheme in relation to each phase of the development; and,
- iii) provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.

6.91 This condition has not been discharged however details have been provided to support this application and are commented on by the Council's Drainage Engineer as set out above. Whilst unresolved, on the basis of this existing condition and previous assessment of drainage mitigation by the Appeal Inspection, the proposal accords with policies Core Strategy policies SD3 and SD4. It is emphasised conditions ensure surface water will be disposed off without adverse impact upon adjoining land uses and this position has been confirmed through the Inspector Decision and their appeal decision reference 143116 attached as to the Report.

Housing Mix

6.92 The 275 dwellings are made up of a mix of open market and affordable housing as follows:

Open Market – 165 Units

- 25 no. 2 bed units
- 70 no. 3 bed units
- 51 no. 4 bed units
- 19 no. 4/5 bed units

Affordable Housing – 110 units

- 10 no. 1 bed units
- 60 no. 2 bed units
- 35 no. 3 bed units
- 5 no. 4 bed units

6.93 The housing mix of open market and affordable housing within the development is shown on the plan below (Drawing Title *Tenure Layout*, Drawing No. 5008 C, Received 28 May 2019), open market units are coloured blue, affordable rented units green, and affordable intermediate units red.



- 6.94 The open market housing mix to strictly conform with policy would provide –
- 6 no. 1 bed units
 - 43 no. 2 bed units
 - 78 no. 3 bed units
 - 38 no. 4 bed units

However, quashed permission reference 164078 ‘approved’ an open market mix as a percentage of the total open market mix as follows –

- 2 bed units 10%
- 3 bed units 50%
- 4 bed units 40%

The open market mix now proposed, as percentages provides –

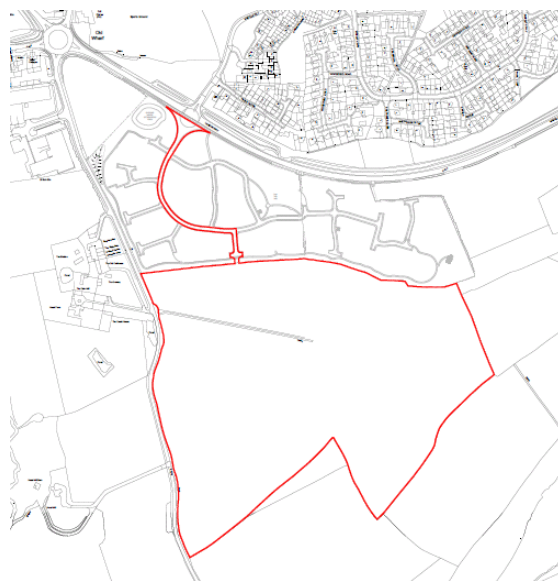
- 2 bed units 15%
- 3 bed units 42%
- 4 bed units 31%
- 4/5 bed units 12%

- 6.95 Whilst there has been a 3% increase in 4 and 4/5 units, the number of 2 bed units has also increased, by 5%. It is emphasised these figures are in regards to open market housing.
- 6.96 Further to the above, it is at the outline stage the housing mix should have been agreed. Article 2(1) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 includes definitions which provide a helpful starting point and a legal basis for determining what can and cannot be considered at the reserved matters stage. The phraseology used within the Order indicates the issues of scale and layout are principally concerned with the manner in which the buildings physically relate to one another and their surroundings and are not always appropriate for a mechanism for controlling the mix of housing.
- 6.97 Subsequent appeal decisions, including Appeal Ref: APP/Q3305/W/15/3137574 at *Land to the south of Longmead Close, Norton St. Philip, Frome BA2 7NS*, have considered the matter. Here Mendip Council refused to grant reserved matters approval on the basis that the mix of houses proposed, in terms of sizes/number of bedrooms, fails to reflect the identified local need within the sub-market housing area or the District as a whole.
- 6.98 The main issue in that appeal was whether this is material to the consideration of the application for reserved matters. The Inspector confirmed *the mix of housing in a development is a matter to be determined at the stage of granting planning permission.*

- 6.99 Noting the Council's previous position on a comparable open market mix, what is offered and the policy compliant affordable housing numbers it is considered the housing mix is acceptable.
- 6.100 The mix of 1, 2 and 3 bed units within the open market and affordable housing provision is considered to also meet the requirements of NDP Policy HO4.1 which supports such sized starter homes to help ensure young people can obtain suitable accommodation. This also reflects the areas of most need identified in the Housing Market Area Assessment.
- 6.101 On this basis The proposal will deliver an adequate suitable mix and numbers of housing and deliver much needed affordable housing compliant with Herefordshire Core Strategy policies SS2, SS3, H1 and H3 and relevant housing policies of the Ledbury Neighbourhood Plan and as such represents development that meets with regards to housing, the social objectives of the NPPF.

Other Matters

- 6.102 Objectors refer to a proposed adjoining development which would utilise the singular access to and from Leadon Way which serves the proposal subject to this report, and associated highway concerns from such a scenario.
- 6.103 An outline application for upto 420 dwellings with public open space, land for community facilities, landscaping and sustainable drainage system was made under reference 184032. The proposal has access for consideration within the application and would be as shown below utilising one of the main estate roads of the development under consideration in this report to then serve on and from Leadon Way via the new roundabout –



- 6.104 The application is subject to an Appeal which will be heard as a Public Inquiry with all dates regarding submission of statements, comments and the Public Inquiry itself still to be confirmed.
- 6.105 Comments have been made that Phase 2 should be considered and included within the reserved matters application to ensure appropriate assessment, however the applicant is not obliged to make a 'full area' application and phased approaches are not uncommon. In this situation the approach enables much needed housing to be delivered without delay whilst the area most impacted by noise is further assessed.

Section 106 Agreement / Planning Obligations and Conditions

6.106 On the basis of the 40% affordable housing proposed and as confirmed by the Planning Obligations Manager, the development is policy compliant with regards to Core Strategy policies and the completed Section 106 associated with the outline planning permission.

Summary and planning balance

6.107 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Core Strategy constitutes a spatial strategy and policies designed to achieve sustainable development under the three objectives; social, economic and environmental. The NPPF, a material consideration, also seeks sustainable development through the economic, social and environmental objectives for planning. To enable a conclusion to be reached on whether the application proposals are in accordance with the development plan and to take account of material considerations, I now consider the conflicts with the development plan alongside the benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn.

Turning to the three objectives of sustainable development;

Economic Objective

6.108 A key aspect of the economic role played by the planning system is to ensure that sufficient land of the right type is available in the right places and at the right time to support growth.

6.109 In this context, the proposals score, in economic terms at least, positively. The proposal could help to support economic growth arising from:

- employment and supply of associated materials, goods and services in the construction phase
- support to local services and facilities arising from the new resident population
- economic benefits to the Council through the payment of New Homes Bonus.

6.110 The positive economic benefits arising from the scheme are significant, however, not unique to this application proposal however on the basis of the scale of the development I attach significant weight to these benefits.

Social Objective

6.111 Planning's social role incorporates providing support to strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment.

6.112 The proposal delivers a mix and range of housing, including affordable housing, which helps meet identified local demand now and for the future along with providing on site recreation facilities. The delivery of these houses will also contribute to the social wellbeing of Ledbury through occupiers using and contributing to the the town's existing society and life.

6.113 As such the *social* objective is considered to be satisfied and I attribute significant weight to the benefits in community terms, particularly to establishing sustainable communities and a sense of place the development will secure.

Environmental objective

- 6.114 The environment objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy).
- 6.115 The proposal will enable more sustainable patterns of activity through providing new housing located where the town centre and other services and facilities are accessible by foot or bicycle from the new houses. It is however clear the noise mitigation measures, namely acoustic fence and bund, will introduce a prominent feature, particularly until green landscaping and planting has matured to mitigate and screen it and a less than substantial harm to heritage asset results.
- 6.116 Taking all of the above into account, officers consider that the public benefits arising from the scheme, as outlined above are positive. There is no evident harm arising in relation to other technical matters as discussed above, and officers do not feel that the impacts of the development should tip the planning balance in favour of refusal.

Conclusions and planning balance.

- 6.117 Policy SS1 of the CS reflects the presumption in favour of sustainable development in national policy and provides that planning applications that accord with the policies in the Core Strategy will be approved unless material considerations indicate otherwise.
- 6.118 The NPPF paragraph 11 provides the mechanism for the determination of the application stating:

For decision Making

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 6.119 As detailed above there is conformity with the housing and sustainable development policies of the development plan. These policies are consistent with the guidance contained within the NPPF.
- 6.120 The potential benefits that could be delivered by the scheme have also been considered above to which officers consider significant weight can be attributed.

RECOMMENDATION

That Approval of Reserved Matters be granted subject to the following conditions and any further conditions considered necessary by officers named in the scheme of delegation to officers.

- 1. The development hereby approved shall be carried out strictly in accordance with**

Further information on the subject of this report is available from Mr C Brace on 01432 261947

the approved plans and details.

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

2. Prior to the first occupation of the development hereby permitted details for the long term maintenance of the acoustic fence and structural noise mitigation adjoining Leadon Way as shown on the approved plans listed under Condition 1, shall be submitted to the Local Planning Authority for written approval. The maintenance of the fence and noise mitigation shall be undertaken in accordance with the agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the long term mitigation of noise and ensure adequate amenity to residents of the development hereby approved and to comply with Herefordshire Core Strategy policies SS6 and SD1 and the relevant aims and objectives of the National Planning Policy Framework as relate to noise and associated amenity are satisfied.

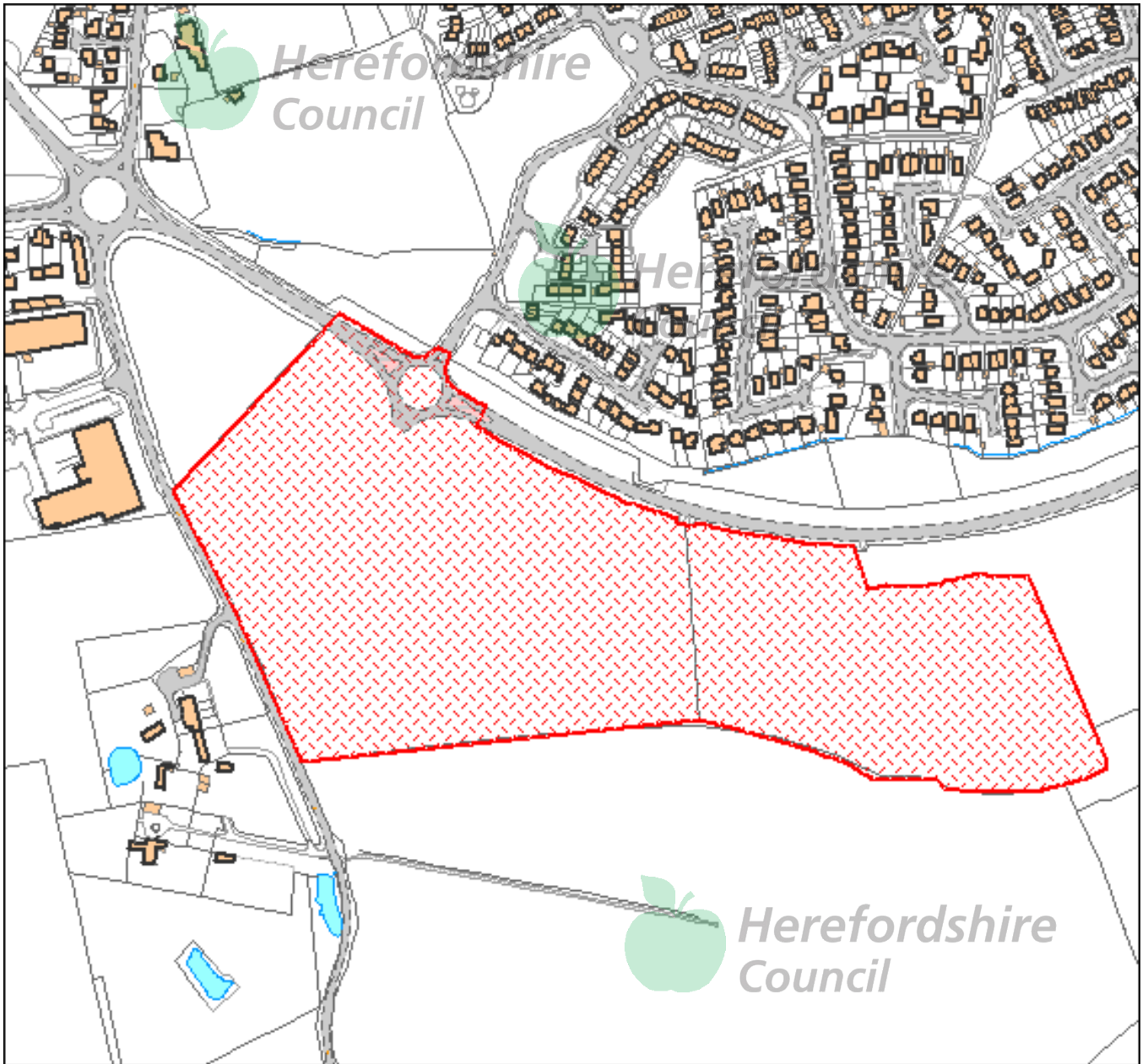
3. Prior to the first occupation of the development hereby permitted specifications and details of the play areas including equipment schedule for each element: LAP, LEAP, kick-about/MUGA, surfacing, landscaping, means of enclosure and provision of seating and litter bins shall be submitted to and approved in writing by the Local Planning Authority. The play areas shall be constructed in accordance with the approved details upon occupation of the 20th dwelling and thereafter retained.

Reason. In order to comply with the requirements of Policies OS1 and OS2 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

4. C96 – Landscaping Scheme
5. C97 – Landscaping Implementation
6. C99 – Tree Planting
7. CA1 – Landscaping Management, Maintenance and Monitoring
8. Maintenance condition for acoustic fence

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. Attention is drawn to the approved plans, details and conditions attached to Outline Planning Permission reference 143116/O which run concurrently with the Reserved Matters hereby approved.



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APPLICATION NO: 182628

SITE ADDRESS : LAND TO THE SOUTH OF LEADON WAY, LEDBURY

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	19 JUNE 2019
TITLE OF REPORT:	<p>182617 – PROPOSED RESIDENTIAL DEVELOPMENT OF 32 DWELLINGS OF WHICH 13 WILL BE AFFORDABLE HOMES, ECOLOGICAL CORRIDOR, SEPARATE PUBLIC OPEN SPACE AND PROVISION OF ACCESS ENHANCEMENTS TOGETHER WITH PARTIAL (ALMOST TOTAL) DEMOLITION OF FORMER RAILWAY BRIDGE AT LAND ADJACENT TO CAWDOR GARDENS, ROSS ON WYE, HEREFORDSHIRE.</p> <p>For: Mr Jones per Mrs Caroline Reeve, 6 De Salis Court, Hampton Lovett Industrial Estate, Droitwich Spa, WR9 0QE</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182617&search=182617
Reason Application submitted to Committee – Redirection	

Date Received: 16 July 2018
Expiry Date: 11 March 2019

Ward: Ross West

Grid Ref: 359850,224681

Local Member: Councillor LI Stark

Note: The application was referred to the planning and regulatory committee on 10 April 2019. Following the committee debate, as detailed in the published minutes from the meeting, members resolved to defer the application for determination to obtain the comments from Hereford and Worcester Fire and Rescue Service, which have now been received. The report has been updated accordingly.

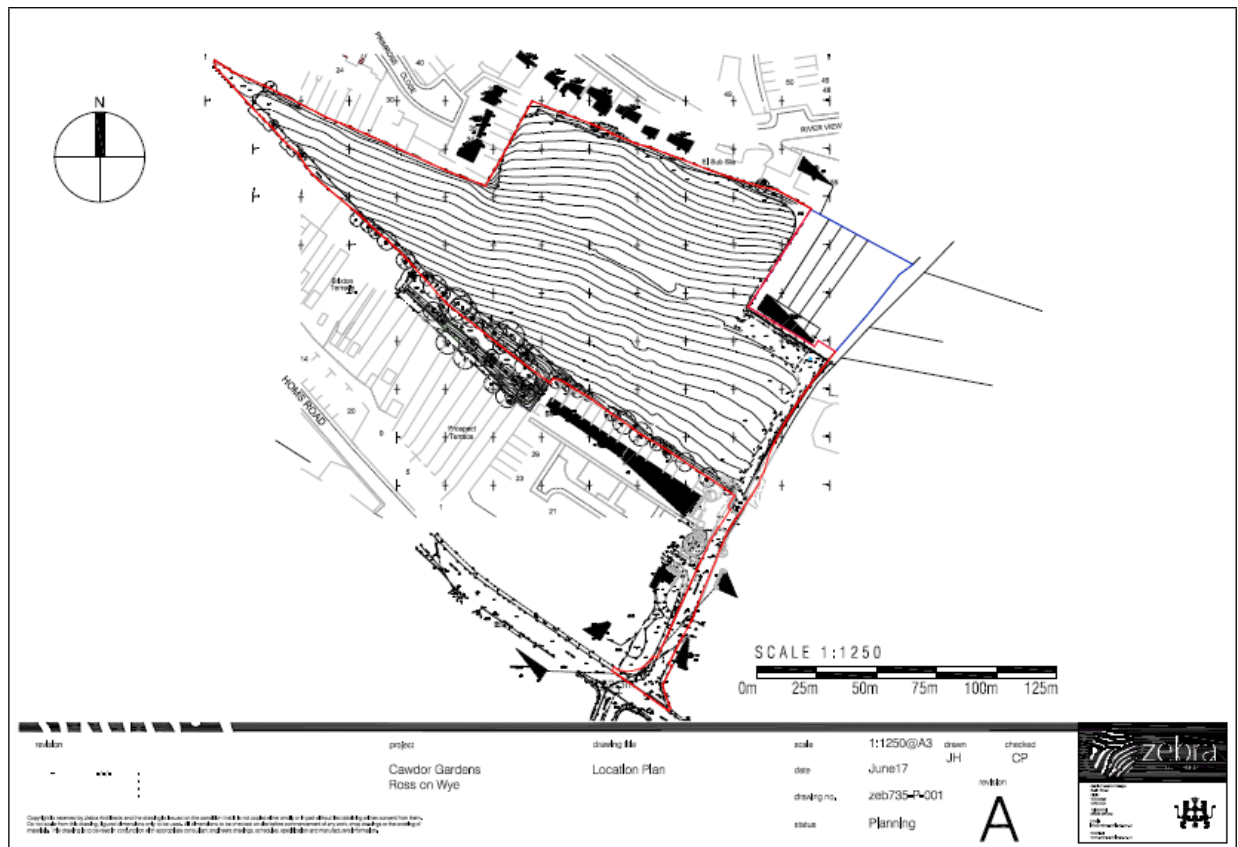
1. Site Description and Proposal

- 1.1 The application is a full application for residential development of 32 dwellings of which 13 will be affordable homes, ecological corridor, separate public open space and provision of access enhancements together with partial (almost total) demolition of former railway bridge.
- 1.2 Following receipt of consultation responses in response to the original proposed plans and details received on 16 July 2018, amended plans and details were received to address material and technical matters regarding highways, drainage and ecological matters and these were consulted upon. The application, in addition to detailed proposed plans, is accompanied by the following supporting evidence –
- Noise impact assessment
 - Transport assessment
 - Stage 1 Road safety audit

Further information on the subject of this report is available from Mr C Brace on 01432 261947

- Flood risk assessment
- Draft Heads of Terms
- Landscape Visual Impact Assessment
- Reptile survey report and translocation strategy
- Heritage statement
- Environmental report

1.3 The application site measures 1.8ha in area and is located within the main built-up area of Ross-on-Wye. Residential development adjoins on all sides of the site. The application site is located within the Wye Valley Area of Outstanding Natural Beauty and within Ross-on-Wye Conservation Area and is shown edged red on the plan below –



- 1.4 Access is currently gained directly from Cawdor Arch Road, a single-track road, which connects to Greytree Road and Homs Road. The application site gradually rises from the southern boundary by approximately 13m to the northern boundary.
- 1.5 No statutory listed buildings are adjacent or within close proximity to the application site. However, the site does contain Cawdor Arch Road Railway Bridge, considered to be a non-designated heritage asset. The application site is situated within Flood Zone 1, although a small proportion of the access road is within Flood Zone 2. A public right of way (ref: ZK5) runs along the existing single-track road adjacent to the eastern boundary and continues to the north connecting the application site to River View.
- 1.6 The proposal is a residential development of 32 dwellings of which 13 will be affordable homes, ecological corridor, separate public open space and provision of access enhancements together with partial almost total demolition of former railway bridge. On the basis of a site area of 1.8ha the proposal has a development density of 18dph.

1.7 The draft Heads of Terms can be viewed at –
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182617&search=182617

2. Policies

2.1 Herefordshire Core Strategy

SS1	–	Presumption in favour of sustainable development
SS2	–	Delivering new homes
SS3	–	Releasing land for residential development
SS4	–	Movement and transportation
SS6	–	Environmental quality and local distinctiveness
SS7	–	Addressing climate change
RW1	–	Development in Ross on Wye
H1	–	Affordable housing – thresholds and targets
H3	–	Ensuring an appropriate range and mix of housing
OS1	–	Requirement for open space, sport and recreation
OS2	–	Meeting open space, sport and recreation needs
MT1	–	Traffic management, highway safety and promoting active travel
LD1	–	Landscape and townscape
LD2	–	Biodiversity and geodiversity
LD3	–	Green infrastructure
LD4	–	Historic environment and heritage assets
SD1	–	Sustainable design and energy efficiency
SD3	–	Sustainable water management and water resources
SD4	–	Waste water treatment and river water quality

The Herefordshire Local Plan Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-
https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy

2.2 Neighbourhood Development Plan

The Neighbourhood Development Plan is at the Regulation 14 draft plan consultation stage. Ross-on-Wye Town Council submitted their draft Neighbourhood Development Plan to Herefordshire Council on 7 November 2018.

The Ross Neighbourhood Plan has reached draft plan stage under Regulation 14. The consultation was undertaken from 9 November to 21 December 2018.

The Draft NDP devises a settlement boundary that at present only identifies the current application site as being within the settlement boundary where NDP policy EN3 directs development. The Draft NDP proposes five allocated sites to deliver upto 87 new homes in Ross on Wye in addition to policy EN3.

The application site and this application is referenced within Section 4.11 of the Draft NDP without commentary of prejudice, however is also referenced under Policy SC3 – *Allotments*, which seeks to retain such facilities unless equivalent or improved provision is provided however at the same time notes *Those at Cawdor are soon to be closed (because of a potential development)*.

Relevant topic based draft policies include –

Policy EN1 – *Ross Design Policy* states The design of all new development within the town, while being clearly of its time, should demonstrate its relationship and applicability to its site, setting and context in terms of scale, materials, form, details, layout, public

realm and historic character. This is of particular importance within the Conservation Area and Town Centre.

Policy EN7 – *Landscape Setting* states Proposed developments of any type within the Wye Valley Area of Outstanding Natural Beauty will be subject to the controls in place within the Herefordshire Local Plan and the Wye Valley AONB Management plan.

NPPF Para 48 (the replacement for para 216) indicates that The Local Planning Authority may give weight to relevant policies in emerging plans according to:

- a) The stage the preparation of the emerging plan
- b) The extent to which there are unresolved objections
- c) The degree of consistence of relevant policies in the merging plan to this framework

At this stage Herefordshire Council has not had sight of the representations received during the draft plan consultation undertaken by the town council. Therefore as the decision makers are unable to evaluate the extent of any unresolved objections.

As part of the Regulation 14 consultation, the Strategic Planning team have confirmed that the plan as currently drafted is in general conformity with the adopted Herefordshire Core Strategy and the National Planning Policy Framework.

At this stage, with regards to para 48 of the NPPF, limited weight can be attributed to the neighbourhood plan.

The Neighbourhood Plan and its supporting documents can be viewed via the following link
https://www.herefordshire.gov.uk/directory_record/3094/pembridge_neighbourhood_development_plan

2.3 **Wye Valley AONB Management Plan**

The following policies are particularly applicable to this application –

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

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

2.4 **National Planning Policy Framework – NPPF**

The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The National Planning Policy Framework has been considered in the assessment of this application. The following sections are considered particularly relevant:

- 2. Achieving sustainable development
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

Further information on the subject of this report is available from Mr C Brace on 01432 261947

3. Planning History

- 3.1 173190 – Residential development of 32 dwellings of which 13 will be affordable homes, ecological corridor, separate public open space and provision of access enhancements – Withdrawn

4. Consultation Summary

Statutory Consultations

- 4.1 **Highways England** no objection.

- 4.2 **Natural England** comments

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

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

European site - River Wye SAC – No objection

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

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

River Wye SSSI – No objection

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

- 4.3 **Historic England** comments:

The proposed development of 32 dwellings is located in the northwest section of the Ross-on-Wye Conservation Area that was characterised by open fields at the time of designation but is now characterised by residential development of variable architectural quality. Historic features such as the line of the old railway and the more open setting of Ross on Wye's historic core have been lost. The principal contribution the area now makes to significance lies in the survival of the River Wye's low lying open flood meadows south of Homs Road.

Historic England considers the policy set out in Sections 12 and 16 of the new NPPF to be of relevance to this application. Paragraph 192 is clear that new development in conservation areas and in the historic context should make a positive contribution to local character and distinctiveness.

Historic England has no objection to the principle of residential development on this site but has in the past raised concerns regarding the design of an earlier application. In assessing the revised proposals we consider that the use of an entirely contemporary design approach is more likely to make a positive contribution to the character of the area as required by paragraph

192. It will, however, be heavily dependent on detailing and materials for its success both practically and visually; we therefore welcome the inclusion of a colour palette of materials but would urge you to secure design quality by requiring typical construction details either in advance of determination or by condition. These should cover: rainwater drainage, weathering at the junctions between one material and another, ventilation for kitchens and bathrooms, windows, doors etc.

Recommendation

Historic England has no objection to the application on heritage grounds. Your authority should take these representations into account in determining the application.

Note – Historic England had no comments on further amended plans and details they were consulted upon.

4.4 **Welsh Water** comments:

The proposed development would overload the existing Waste Water Treatment Works. However, improvements are planned for completion by 31/03/2020. We cannot support the communication of foul drainage to the public sewerage system in advance of these works.

We have reviewed the information submitted as part of this application with particular focus on the Surface and Foul Water Drainage Strategy included as part of the Flood Risk Assessment reference 5493/001/ROIA. The plan confirms that a full assessment to dispose of surface water via sustainable means has not yet been undertaken and therefore the drainage strategy is still in its infancy. Until these further tests are concluded there is not enough evidence to justify a public sewer connection.

Notwithstanding the above, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent safeguard our security of service to customers and the protection of the environment:

Conditions

No buildings on the application site shall be brought into beneficial use earlier than 31/03/2020, unless the upgrading of the Waste Water Treatment Works, into which the development shall drain, has been completed and written confirmation of this has been issued by the Local Planning Authority".

Reason: To prevent overloading of the Waste Water Treatment Works and pollution of the environment.

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

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

Internal Council Consultations

4.5 **Transportation Manager** comments:

Having reviewed the submitted e-mail (dated 24/8/18) the following comments can be agreed –

1. The removal of the walls of the bridge allows the carriageway to be widened and a full footway to be provided. Therefore there is an improvement from the original proposed alterations. As with all new highways infrastructure it will be subject to the S278 procedure and subject to technical approval for anything which affects the highways network.
2. The provision of the TRO through the S106 is agreed
3. The RSA stage 1 can be agreed with the applicant.

With the provision of the information supplied in the e-mail, if minded to approve, please condition as follows –

CAB – as shown on drawing number: - MID3986-015, CAE, CAH, CAH, CAJ, CAL, CAP, CAQ, CAR, CA2, CAT, CAX, CAZ, CAZ, CB1, CB2,
INformatives: I11, I09, I06, I45, I08, I08, I07, I05, I57, I49, I51, I47, I35

The above position was preceded by the following **comments dated 29 August 2018**: –

We need to require that the demolition works and conversion to a pair of retaining walls are controlled under the BD2-12 Approval of Highway Structures process, as these walls fall under S167 of the Highways Act. If permission is granted for the development can a Planning obligation be included that the these works are agreed in accordance with S167 Highways Act with the Highway Authority using the BD2-12 process in advance. An informative is not appropriate.

The proposal for the ‘details to be agreed onsite by a structural engineer’ as noted on the drawing are not acceptable, as this would need to be analysed in advance by a bridge/structures engineer. The details of the changes to the structure need to be agreed with the Highway Authority, to ensure that the structure does not collapse during or after the adjustments and block the highway.

We would expect to see retaining wall designs that demonstrate how the pair of walls can accommodate the loads they support and maintain the stability of the ground. We would also expect to see a method statement showing how the bridge will be safely demolished, without damaging the infrastructure that is to remain.

We’d note that we’d expect the retaining walls to remain a third party asset. We’d advise that the ownership and maintenance responsibility for the walls is clarified. If it is suggested that HC adopt these walls then we’d advise that you require them to be totally demolished and the ground levels adjusted to a safe angle of repose, thus removing the future maintenance liability.

1. Appendices haven’t been provided for the Transport statement
2. RSA stage 1 required to be done to HC agreed brief. The RSA which has been undertaken previously should be submitted
3. Pedestrians walking along the footway through the tunnel will block forward visibility through the tunnel for vehicles
4. No footway is shown on highways plan for the north western tactiles.

5. No restriction of parking has been provided. Parking is discussed in the TS, however the provision of parking will block the proposed forwards visibility for the priority give way. It will also restrict the visibility splay from the proposed crossing point. How are the development going to prevent parking around the junction of Homs Road, Cawdor Arch Road as the development will increase vehicles movements using this junction.
6. Priority give way signs are required to be illuminated as they are part of a street lighting system.
7. Driveway gradients 1:8, 1:12 vehicle crossing gradients should be shown on plan. Details should also be provided showing the gradients of the carriageway and footways.
8. Forwards visibility should be shown on the submitted through the development including where the proposed buildouts are shown.
9. Gradients of the new footway need to shown on plan (north)
10. Comments regarding the visibility splays state "This is the option shown in MID4986-SK015 rev B" however the submitted plan is Rev E, Is this different to Rev B?

Previous comments submitted for application number 173190 –

Parking south of the arch needs to be looked at as there is no TRO or highway to restrict parking. See above comments about parking

New footway provisions should not provide a lower standard of provision than what is existing.

Gradients should meet DDA compliance and the issues of security and visibility for pedestrians to see other pedestrians should be looked at. Parking also needs to be looked at to protect the junction of Cawdor Arch, Homs Road and Trenchard Street.

Footway should look to be provided adjacent to the public open space land to allow pedestrians a safe walking area from the public open space. The crossing point to the south eastern side should not be restricted by the arch.

4.6 **Public Rights of Way Manager** comments:

Public footpath ZK5 has been shown on plans (although it has been labelled ZK4). It is stated that the public right of way will not be altered in any way, although the Design and Access Statement also says, 'An area of PROW may have to be removed to allow the upgraded vehicular access route. If so, an alternative PROW access point will be provided adjacent to the proposed POS'. No work should be allowed to commence on the right of way, without PROW consent. If work close to the footpath endangers users, a temporary closure must be applied for.

4.7 **Service Manager Built and Natural Environment** comments: **(Building Conservation Officer)**

The loss of the bridge would be considered less than substantial harm to the significance of the conservation area and be weighed up against the benefits of the proposals.

We would be supportive of the wider proposals. If subsequently approved we would recommend conditions on:

- Roof Details to Scale (CG4)
- External Materials samples including a sample panel on site (CH3)
- Typical Joinery Details. (CH8)

- Landscaping scheme
- Building Recording to Level 2 for Bridge (CG1)

Comments:

To be read in conjunction with previous comments on the application.

In relation to the demolition of the bridge, Paragraph 201 of the NPPF would be appropriate in this instance: "Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole."

Given the contribution of the bridge both historically and visually to the Conservation Area as a heritage asset and its significance, we would view this as less than substantial harm (para 196). This does not down play the importance of this aspect of the Conservation Area, it is still, after all, harm. In determining the application and weighing up the benefits of the proposals, we would draw your attention to the 'special attention' required by Section 72 of the P(LB&CA) Act 1990 and para 193 of the NPPF.

Given the further loss proposed, I would recommend a recording condition if the application is subsequently approved.

Previous comments referenced above stated –

It is felt that overall the proposals would meet the requirements of policy 124 of the NPPF and that the less than substantial harm caused by the demolition of the bridge is at the lower end of the scale and should be weighed against the public benefits of the proposals.

We would recommend conditions relating to materials and detailing including:

- Roof details at 1:5
- Joinery details at 1:2 with a 1:20 schedule.
- Samples of external materials including a sample panel on site (for the duration of the works.)
- Landscaping.

The site is located within the Ross on Wye Conservation Area, section 72 of the Planning (Listed Building & Conservation Areas) Act 1990 requires LPA's to pay special attention to preserving or enhancing the character or appearance of such an area. This affords greater weight in planning decisions when considering the impact of harm.

Policy 124 of the revised 2018 NPPF makes clear the expectations for the design of proposals requiring consent: "The creation of high quality buildings and places is fundamental to what the planning and development process should achieve." Policies 127 and 131 reinforce this further.

The proposals would require demolition over the threshold for permitted development within a Conservation Area. As such this would be considered under policy 201 of the NPPF. In turn it is considered that the harm to the character and appearance of the conservation area would be less than substantial and should be weighed against the public benefits of the proposals. The railway bridge has significance in that it provides tangible evidence of the former use of part of the site and a architectural gateway to the area. It is not felt that the railway bridge in itself has strong historic significance as it is late, is not associated with a strong linear feature and is not

of an innovative or architecturally important design. However conversely the loss of the bridge reduces the visual evidence available of the railway line, reducing the signs allowing interpretation of the history of the site. It is felt that this loss of significance is less than substantial and should be weighed against the public benefits of the scheme by the LPA.

Policy 200 of the NPPF states that the LPA should treat applications which enhance a Conservation Area favourably. It is felt that the contemporary approach encouraged by the planning case officer would be an enhancement to the Conservation Area.

4.8 Service Manager Built and Natural Environment comments:
(Archaeology)

In the circumstances, no objections to works proposed on former railway bridge.

4.9 Service Manager Built and Natural Environment comments:
(Ecology)

Planning Obligations Manager working to secure the legal aspects of the off-site reptile translocation that is required. This 25 year legal security of off-site receptor areas is required – originally HWT sites were proposed so HWT will need to be party to legal agreement.

HRA Appropriate Assessment submitted to Natural England for their formal approval. Suggested conditions within the HRA AA.

I note from an ecology perspective that the same supporting information has been supplied as for the previously withdrawn application ref 173190 (ending May 2018).

Although the ecology report from 2015 could be considered out of date and as fauna is often mobile and opportunistic the original assessment is still sufficiently relevant for the LPA to make a determination against the three tests and the comments from the previous application are in essence still valid as the majority of the detail of mitigation and compensation will actually be managed through the protected species licensing system managed and enforced by Natural England. There is no reason to believe that the relevant protected species licence will not be obtainable should planning consent be granted. Any translocation site will be subject to a relevant ownership and management legal agreement or form part of the agreed s.106 agreement – whichever is relevant.

Updated comments and suggested conditions below:

Nature Conservation Protection

Before any work begins, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) shall be supplied to the planning authority for written approval.. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy, National Planning Policy Framework 2018 and NERC Act 2006

I note the ecological report and Reptile Translocation Strategy. These appear to be relevant and appropriate and should be subject to relevant conditions and any required protected species licences required. The Offsite reptile receptor sites should be subject to relevant legal agreements with the landowners to secure in perpetuity ownership and suitable management to maintain reptile friendly habitats. An initial 10 year legally secured Management Plan for the

receptor site is requested for approval. I would request that the Section 106 Agreement or other legally binding document includes all relevant legal agreements and plans in order to secure the safety of translocated Reptiles.

Nature Conservation – Ecology Protection and Mitigation

The ecological protection, mitigation and working methods scheme as recommended in the Ecological Report by HEC August 2015 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy, National Planning Policy Framework 2018 and NERC Act 2006

Nature Conservation – Reptile Translocation and Protection

The Reptile Translocation Plan as recommended by Wessex Ecological Consultancy dated May 2017 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority. Offsite Receptor sites must be subject to appropriate legal agreements and Management Plans such as to ensure the in perpetuity security of tenure and habitat quality of the receptor site. The final legal agreement and site management plan shall be approved by this planning authority.

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

Nature Conservation – Enhancement

In addition to required ecological mitigation and soft landscaping, prior to commencement of the development, a detailed habitat enhancement scheme including extensive provisions for bat roosting, bird nesting, pollinating insect houses, hedgehog homes and reptile-amphibian refugia should be submitted to and be approved in writing by the local planning authority, and the scheme shall be hereafter implemented and maintained as approved. No external lighting should illuminate any biodiversity enhancement, or ecological habitat.

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

Required Habitat Regulations Assessment: Under Habitat Regulations 2017 this application will have to be screened and an appropriate assessment carried out to ensure that all likely significant adverse effects on the River Wye SAC can be and are mitigated/implemented. The likely adverse effects are identified as:

- Foul water
- surface water
- construction process

Foul Water: It is noted that the response from Welsh Water has indicated that connection to the mains sewer is possible but that due to current capacity an active connection will not be possible before at least 2020 as it is subject to local upgrades and capacity increase. The applicant should advise how they wish to proceed but if a determination of this application is made then either an occupation condition should be included ensuring no occupation until an

active and acceptable connection to Welsh Water's mains sewage system has been achieved; or alternative foul water proposals submitted for consideration prior to determination.

Surface Water: Proposed SuDS system should be subject to approval through our drainage consultants and providing they are satisfied the final proposal should be made subject of a relevant implementation condition.

Construction impacts: The already requested CEMP made the subject of a pre-commencement condition is likely to be considered relevant mitigation

Once details of foul water have been confirmed the final HRA Appropriate assessment can be completed and submitted to Natural England for approval. This approval must be received prior to this application being determined.

4.10 Service Manager Built and Natural Environment comments **(Arboriculture)**

I do not have any objections to the proposed plans, there doesn't appear to be an abundance of trees where the plots are proposed to be located and the landscape plan indicates that new planting will mitigate for any losses.

Having looked at the landscaping plan I do have some concern that the *Tilia cordata* 'greenspire' will eventually grow to be too broad in the spaces between plots. They have a mature spread of approx. 5m which is similar to the spaces they will occupy; this could eventually lead to constraints and their removal. I would opt for a slightly smaller species.

The green corridor, at its widest, is approximately 20m, would it be worth considering planting larger specimen trees along here? Due the high topography of the site these trees, if they reach maturity, could be features on the skyline and adding the to the townscape.

4.11 Service Manager Built and Natural Environment comments: **(Landscapes)**

I have seen the proposed planting plan dated as received 13/8/18 and I have read the tree officer's comments.

I concur with his view apart from the planting along the northern boundary there is not a great deal proposed within the site. I recall in my original pre-application comments I advised that there should be substantial planting within the site in order to break up the mass of housing. The site provides a green break within the block of housing that extends up Brampton Hill. With this lost the view from Edde Cross Street will be altered offering little relief to the built form, planting within the development will reduce these effects.

I have spoken with the ecologist and he advises me that tree planting within the ecology buffer zone should also be encouraged as it offers habitat in addition to scrubland.

Previous comments (Sept 2018):

I have seen the proposed drawings ZLA-732-L010- B which appear to offer an illustrative layout showing a landscape buffer to the north of the site and a pocket of open space to the south west. I am not convinced that it offers enhancement to the development, however the layout is such that the scope is limited. The planting detail will be required via a condition and the case officer may wish to consider how best the landscape buffer to the north can be retained and not become subject to pressure for removal in the future.

Finally I note that the proposed removal of the railway arch is part of the proposed development, whilst it may not merit listing by Historic England, it should be considered as a feature within the landscape –its value as a heritage asset I leave to the HB officer to determine.

4.12 **Environmental Health Officer (Noise and Nuisance)** comments:

In my response of 31st October I commented on the use of French windows to provide daylight and ventilation to bedrooms. The applicant has supplied amended plans which show that these windows will have lockable 'tilt and turn' fittings enabling greater ventilation to the bedrooms whilst not compromising security. Our department has no objections to these proposals.

Comments from 31st October 2018 as referenced above stated –

The applicant has supplied a noise assessment which evaluates the impact of road traffic noise. The assessment considers daytime noise at 5 locations on the site and night time noise at 1 location.

The report concludes that because the noise risk assessment has found that the road traffic noise is low risk or negligible in accordance with the ProPG guidance there is no need for an acoustic design statement in accordance with stage 2 of the guidance and that no mitigation measures are necessary.

Our department does not concur with the conclusions of the report as set out. However there is sufficient information supplied to form the opinion that the predicted slight exceedances above the desirable internal and external noise levels set out in BS8233 can be mitigated. External noise levels measures are 51 to 54 dB LAeq across the site which is above the desirable external amenity standard of 50dB LAeq. This can be mitigated by a close boarded fence around each garden.

The report concludes that internal standards can be achieved with the windows closed whereas the ProPG guidance discusses the need for the internal noise standards to be achieved in as many dwellings as possible. Predicted internal noise levels with partially open windows will be in the range of 30 to 33dB LAeq at night time (as against a desirable standard of 30dB LAeq. However this is without mitigation by way of screening of the neighbouring houses once built. There will be a minimal number of dwellings where the desirable standard cannot be obtained with the windows partially open. Therefore our department has no objections on noise grounds.

Should the proposal be granted permission to safeguard the amenity of neighbouring residential premises I recommend a condition which restricts the hours of construction and delivery to site and also a further condition which requires a Construction Environmental Management Plan to be submitted prior to commencement of works.

I have examined the layout of the closest impacted houses to see if the noise sensitive rooms can be better orientated but this does not appear possible with this scheme. I did note, however, that some of the bedrooms on the site only have french windows or double doors as ventilation which I believe would be contrary to the Housing Health and Safety rating guidance for safety and security. Far preferable would be to have a section of these doors as a separate opening windows.

4.13 **Environmental Health Officer – (Housing)** comments –

- From the plans provided all of the plots currently provide a protected route in the event of a fire. However, if the floor layout changes then consideration should be made for fire escape windows from all bedrooms, if the only internal escape route in the event of fire is through a risk room i.e. kitchen, utility, living or dining room. If there is more than a 4.5 meter drop from bedroom windows (e.g. from the third floor), then an alternative layout

should be provided so that persons can exit the property from the bedroom without the need to go through a risk room.

- If the property is in a Radon affected area, suitable mitigation measures should be put in place.
- If any of the proposed dwellings are to be HMOs then they must comply with the council's amenity standards and particular attention must be made to the minimum bedroom size of 6.5m². The amenity standards can be found on the following link https://www.herefordshire.gov.uk/download/downloads/id/2075/amenity_and_facility_standards.pdf
- There should be sufficient and secure ventilation to the outside air from all living/dining and bedrooms as well as internal bathrooms.
- There are no points in relation to this specific application.

4.14 Land Drainage Engineer comments as follows –

This application was previously reviewed in July 2018 and we recommended that the following information is provided prior to the Council granting planning permission for this development:

1. Consideration of exceedance flows for events up to the 30 year event and 100 year event to ensure no increased risk to downhill properties.
2. Agreement in principle with Welsh Water regarding the proposed discharge of foul water from the development.
3. Confirmation of the authority responsible for the adoption and maintenance of the surface water and foul water drainage systems.

We also highlighted that if the results of infiltration testing indicate that infiltration will not provide a feasible means of managing surface water runoff, an alternative drainage strategy must be submitted to the Council for review and approval.

The Applicant submitted the following additional information in November 2018:

- Addendum to Flood Risk Assessment, ref. 5493/001/R02, November 2018;
- Location Plan;
- Surface & Foul Water Drainage Strategy, drawing ref. 100, rev P4.

Comments:

It is noted that the recently submitted proposed drainage strategy has been amended since the previous submission and surface water runoff is now proposed to be attenuated in three infiltration ponds connected via swales to promote water treatment and provide biodiversity benefits. We welcome the amended proposal. We maintain our previous comment, however, that if the results of infiltration testing indicate that infiltration will not provide a feasible means of managing surface water runoff, an alternative drainage strategy must be submitted to the Council for review and approval. Best practice SUDS techniques should be considered and we promote the use of combined attenuation and infiltration features that maximise infiltration during smaller rainfall events.

It is also noted that the submitted storage calculations are based on FSR rainfall data. In accordance with The SUDS Manual, we expect the detail design of the drainage system, including attenuation storage, to be designed using FEH 2013 rainfall data.

Point 1: Consideration of exceedance flows for events up to the 30 year event and 100 year event to ensure no increased risk to downhill properties.

The submitted amended drainage strategy drawing shows the proposed flood exceedance route. The drawing shows that exceedance flows will be conveyed towards the access road (Cawdor Arch Road) and eventually towards Homs Road. The illustrated proposal is not acceptable as it will increase the risk of flooding to Homs Road and adjacent properties. We stress that exceedance flows for events up to the 1 in 100 year event with climate change should be managed within low vulnerability areas of the site boundary to ensure no increased risk of flooding elsewhere. That said, the proposed use of infiltration/attenuation basins will assist in the management of exceedance flows if the Applicant can demonstrate that overland flow will be directed towards the basins and not directly off-site. As the basins are located at the lowest elevation of the site this should be easily achievable.

The submitted Addendum to FRA states that the proposed exceedance flow route is indicative at this stage as proposed external levels have not yet been designed. The addendum also states that during detailed design, a combination of ground levels and drainage design will demonstrate that the scheme can be developed to ensure no increased risk of pluvial flooding to properties both within the site and downstream of the site. We therefore require a detailed strategy to be presented at detailed design that demonstrates how overland flows will be directed towards the basins within posing risk to the development or elsewhere – noting that careful consideration should also be given to protecting properties located immediately downhill of the proposed storage areas.

Point 2: Agreement in principle with Welsh Water regarding the proposed discharge of foul water from the development.

The Applicant submitted a letter from Welsh Water stating that the proposed development would overload the existing Waste Water Treatment Works. However, improvements are planned for completion by 31/03/2020. Welsh Water stated that they cannot support the communication of foul drainage to the public sewerage system in advance of these works. Welsh Water also stated that if the Council is minded to grant planning permission, they request that the following condition is included within any subsequent consent:

'No buildings on the application site shall be brought into beneficial use earlier than 31/03/2020, unless the upgrading of the Waste Water Treatment Works, into which the development shall drain, has been completed and written confirmation of this has been issued by the Local Planning Authority'.

Welsh Water confirmed that after 31/03/2020 foul flows from the proposed development can be accommodated in the public foul water sewerage.

We have no further comment on this matter.

Point 3: Confirmation of the authority responsible for the adoption and maintenance of the surface water and foul water drainage systems.

The submitted Addendum to FRA states that the surface water drainage system up to headwall of the attenuation ponds is proposed to be adopted by Welsh Water. Welsh Water confirmed that they will adopt the system up to the headwall of the first attenuation pond. The Addendum to FRA also states that the attenuation ponds and the interlinking swales will be managed by a private management company. The Applicant submitted a recommended maintenance schedule for the basins and swales. This is acceptable although a more detailed maintenance plan will be required prior to construction.

It is assumed that foul water will be adopted by Welsh Water.

Overall Comment:

The information provided by the Applicant is sufficient to address our previous comments. Should the Council be minded to grant planning permission, we recommend the Applicant submits the following information requested in suitably worded planning conditions:

- Assessment of risks to safe access and egress associated with fluvial flooding (with climate change allowances) and demonstration of appropriate provision of safe access and egress;
- Results of infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology. If the infiltration results are found to not be suitable, an alternative drainage strategy will need to be submitted to the Council;
- Confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels;
- Detailed drawings that demonstrate the inclusion of SuDS, where appropriate, and location and size of key drainage features;
- Drawings showing details of the proposed attenuation ponds and swales, including cross sections;
- Detailed calculations of proposed infiltration features informed by the results of infiltration testing;
- All drainage calculations, including attenuation storage calculations, should be based on the FEH 2013 rainfall data;
- Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event;
- Calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event;
- Calculations that demonstrates there will be no increased risk of flooding as a result of development up to the 1 in 100 year event and allowing for the potential effects of climate change;
- Details of how natural overland flow paths and overland flows from outside of the site boundary have influenced the development layout and design of the drainage system;
- Detailed drawing demonstrating the management of surface water runoff during events that may exceed the capacity of the drainage system, including: temporary exceedance of inlet features such as gullies; exceedance flow routes and storage up to the 1 in 100 year event; and exceedance in the event of blockage including blockage of attenuation pond outlets;
- Operation and Maintenance Manual for all drainage features to be maintained by a third party management company;
- Detailed drawings of the foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features.

4.15 Building Control Department comments:

With regards to the removal of the bridge advise: *As this is outside the site it does not fall within the requirements of the Building Regulation for access for fire services (Regulation B5).*

4.16 Open Spaces Planning Officer comments:

It is noted that this application is for a revised scheme replacing planning application 173190 which was withdrawn. The proposal largely remains the same in respect of on-site POS proposals and my comments remain mostly unaltered from those previously submitted.

Core Strategy Policies OS1 and OS2 apply. Open space requirements from all new development are to be considered on a site by site basis and in accordance with all applicable set standards as set out below. Where on-site provision is not appropriate off-site contributions may be sought where appropriate on an equally beneficial basis for the local community.

In this instance the following evidence bases apply.

- Herefordshire Open Space Study 2006 which recommends POS should be at a rate of 0.4ha per 1000 population (to note data for amenity public open space has not changed significantly and it is still considered to be accurate),
- Local Evidence: Herefordshire Play Facilities Study and Investment Plan 2012 and National Evidence: Fields in Trust Guidance: These recommend children's play at a rate of 0.8ha per 1000 population. Of this 0.25ha should be formal equipped play.
- Herefordshire Playing Pitch Assessment 2012 and Outdoor Sports Investment Plan (2016) and National Evidence: Fields in Trust Guidance: These recommends outdoors sports provision of between 1.4 and 1.6ha per 1000 population and where future investment in outdoor sport should be directed to maximise the benefits to the local community.

**please note this information will form the basis of a separate SPD on POS standards currently being prepared.*

For 32 houses at an occupancy of 2.3 (total population 73.6) the following is required:

- The developer provides a minimum of 0.870ha (870sq m) of on-site green infrastructure comprising;
- 0.029ha (290sqm) of Public Open Space (@ 0.4ha per 1000 population)
- 0.058ha (580sq m) of Children's Play (@ 0.8ha per 1000 population) of which 0.018ha (180sq m) should be formal play equipment. (@ 0.25ha per 1000 population)

A combination of both on and off site POS and outdoor sport is required from this proposal.

On-site provision

POS and Children's Play: The applicant should be clear as to how much usable POS will be provided on site in meeting the minimum requirements shown above. The proposal includes an area of informal POS situated at the entrance point along the south-east boundary of the application site which does show 180sq m of infant outdoor play described as "environment" within a larger amenity area much of which is shown to include tree/orchard planting. The size of usable POS hasn't been provided and I will assume that the play area is to be equipped, although this is not clear. The 20m ecology easement line along the south west boundary could provide informal POS but again it is not clear how much if any could be used for this purpose.

The value of on-site play provision is calculated in accordance with the SPD on Planning Obligations and for market housing only which are in this instance: 8 x 2 bed, 10 x 3 bed and 1 x 4 bed.

This equates to a play area to the value of **£26,339**. The play area should be aimed at infants and juniors only and provide a range of equipment intended for this age offering good play value. Some landscaping may be required given the topography of the area and this can be included in the costs. Detailed plans of the play area, including layout, equipment list (with suppliers and part numbers), details of safety fencing, safety surfacing information on signage, seating and litter bins, costs and a schedule of maintenance should be submitted. This play area scheme will need to be approved by the planning authority and conditioned accordingly. I suggest CA4 and CA6 on the council's standard conditions.

Future maintenance: Herefordshire Council no longer adopt open space and suitable management and maintenance arrangements will be required to support any provision of open

space and associated infrastructure within the open space in line with the Council's policies. This could be a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the Town Council or a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

Off-site contributions

Outdoor Sports: an off-site contribution is asked for in accordance with OS1 and OS2 and based on evidence from the Playing Pitch Assessment for the Ross Area 2012 and Outdoor Sports Investment Plan which includes up to date information (2017) on existing facilities and clubs and has been prepared by a partnership of Herefordshire Council, the relevant National Governing Bodies for Sport, (NGBs) Sport England (SE) and the County Sports Partnership (CSP). This partnership makes up the Steering Group overseeing delivery of the Investment Plan. The investment plan is considered to be robust providing details of both quantity and quality projects (football, cricket, rugby and hockey) for Ross which are considered to be sustainable and deliverable and required in support of improving existing outdoors sports facilities to meet the needs of the future populations up to 2031.

Contributions are calculated as follows for market housing only:

Contribution arising from this proposal:

- £974,200: Total Outdoor Sports Investment costs (costs calculated using Sport England's Facility Kitbag)
- 900 new houses (Core Strategy Ross housing requirements)
- £1,082: Cost per market house: (Total investment costs divided by total number of houses)

For this application and 19 market houses this equates to **£20,558**

Projects for Ross include:

Football Quantity/Quality deficiencies: Identified deficiencies: senior training and junior football provision. Ross Football Club (juniors and seniors) play at Ross Sports Centre.

Proposal: Ross Sports Centre: Creation of a high quality sustainable multi sports hub for the town and surrounding area to make the best use of limited resources. Included as part of the overall package of improvements to support the delivery of additional football matches and training and to enable the consolidation of local clubs and facilities and the creation of a complete pathway from junior to senior football:

- Provision of additional dedicated junior football pitches and training facilities
- Development and alterations to the existing centre to create additional facilities and changing rooms.
- High priorities for the National Governing Body for Football and Herefordshire Football Association.

Rugby Quantity/Quality deficiencies: Identified deficiencies: Existing changing rooms and facilities at Ross Sports Ground are not adequate for future need of the Ross on Wye RUFC. Facilities are owned by the club.

Proposal: Additional Changing Rooms:

- Increase the number of changing rooms from 2 to 4 and provide a clubroom. The club is growing its membership and requires these to accommodate future growth.
- High priorities for the National Governing Body for Rugby

Both of these projects will potentially benefit the residents of the proposed development.

4.17 **Strategic Housing Manager** comments

In principle Strategic Housing support the above application. On reviewing the mix of open market and affordable housing I can confirm that 40% of the development has been provided as affordable housing. I am in agreement with the breakdown of bed sizes and the pepper potting of dwellings. The tenure breakdown would be:

<u>2 Bed</u>	<u>3 Bed</u>
3 x Social Rent	3 x Social Rent
4 x Intermediate	3 x Intermediate

The open market dwellings are also in line with the Local Housing Market Assessment. Local connection is required to Ross on Wye in the first instance.

4.18 The **Planning Obligations Manager** comments:

'A policy compliant draft heads of terms has been negotiated and agreed to secure financial contributions towards community infrastructure and the delivery of affordable housing. There is provision for the translocation of slow worms from the site to wildlife reserve sites in the ownership of Herefordshire Wildlife Trust.

The comments of Ross Town Council have been taken into account with regards to the draft heads of terms.

With regards to item 2 of their comments, I will include reference to the safer routes to school in the draft heads of terms.

With regards to item 7, this is included in response to a request from Shakespeare Martineau Solicitors who act on behalf of the Wye Valley Trust. The Wye Valley Trust run Hereford Hospital and this is where the contribution will be directed.

The doctor's surgeries are operated by the Clinical Commissioning Group who have not commented on the application.

4.19 **Education** comments –

The educational facilities provided for this development site are Ashfield Park Primary School and John Kyrle High School. Ashfield Park Primary School has a planned admission number of 60. As at the schools summer census 2018:-

- All Year groups have spare capacity- no contribution requested

John Kyrle High School has a planned admission number of 210. As at the schools summer census 2018:-

- year groups are at or over capacity- Y7=212, Y9=238, Y10=245

Approximately 1% of the population are affected by special educational needs and as such the Children's Wellbeing Directorate will allocate a proportion of the monies for Primary, Secondary and Post 16 education to schools within the special educational needs sector. Although there is currently surplus capacity with the catchment primary school and therefore we are unable to ask for a full contribution as indicated in the SPD towards this element please note that 1% of the contribution will go towards Special Educational Needs provision within the Local Authority maintained Special Schools and therefore we would still be seeking this 1% contribution.

Please note that the Planned Admission Number of the above year groups is based on permanent and temporary accommodation, whereas section 3.5.6 of the SPD states that the capacity should be based on the permanent accommodation, therefore, additional children may also prevent us from being able to remove temporary classrooms at John Kyrle High School that we would otherwise be able to do.

In accordance with the SPD the Children's Wellbeing Directorate would therefore be looking for a contribution to be made that would go towards the inclusion of all additional children generated by this development. The Children's Wellbeing contribution for this development would be as follows:

Contribution by No of Bedrooms	Pre-School	Primary	Secondary	Post 16	SEN	Total
2+bedroom apartment	£117	£0	£1,036	£87	£89	£1,329
2/3 bedroom house or bungalow	£244	£0	£1,949	£87	£138	£2,418
4+ bedroom house or bungalow	£360	£0	£4,002	£87	£247	£4,696

Although no contribution has been requested for the catchment Primary school for this development, please note that parental preference may dictate that children from this development may attend other schools that would ordinarily require a contribution as a result of this development taking place.

Please note this is the contribution that would be requested at this point in time based on the current information available that is pupil census data and the criteria in the SPD. It is therefore likely that this level of contribution will change (increase or decrease) for all subsequent applications made.

5. Representations

5.1 Ross on Wye Town Council commented on amended plans assessed within this report as follows –

Members re-iterate the comments previously being that they do not object to development of the site in principle but do object to the style of the proposed development considering it to be out of keeping with local building styles and materials and in a very visible location. Members object to the removal of the railway arch as no evidence has been submitted stating that it needs to be removed for fire service reasons and so it would therefore serve no useful purpose. The transport evaluation does not recommend the removal of the arch.

The referenced previous comments stated *Members do not object to development of the site in principle but do object to the style of the proposed development considering it to be out of keeping with local building styles and materials and in a very visible location. Members voted to object to the removal of the railway arch by 3:1.*

The Town Council provided further comments on the Draft Heads of Terms as follows –

The draft Heads of Terms were discussed at the recent Planning and Development Committee Meeting and members would like to make the following requests:

Item 2 – that the sustainable transport infrastructure should also include safer routes to school i.e. John Kyrle School and Brampton Abbotts School.

Item 7 – that the development of infrastructure for the provision of health services should be in Ross-on-Wye i.e. Ross Hospital and increased consulting rooms for GP's at Alton Street Surgery, as opposed to Hereford County Hospital.

- 5.2 **50 representations of objection** have been received, comments are summarised as –
- The railway bridge proposed to be demolished has history to the town and its character, the bridge is an historical structure and landmark and should be protected as part of our heritage and not demolished
 - Concerned regarding highway safety, particularly of pedestrians and increased traffic hereabouts
 - The site should be left for open space and nature and is a resource for children's play and wildlife
 - There are protected species on the site
 - The land was donated for public use, not to be sold off
 - The area has enough homes and does not have enough public open space as it is
 - Concern regarding loss of views from proposed planting
 - Loss of the arch would prevent reopening of the branch line
 - There is no need for 32 new homes
 - The removal of the arch is not necessary to enable emergency or service vehicles
 - Additional houses will put more strain on existing infrastructure and services
 - Impact and inconvenience on users of the public right of way which is used as a walking route to local Schools
 - Adverse landscape impact and one within an AONB
 - Development impractical on basis of land levels and earth works required to implement it
 - Design is not in keeping with the area and is highly prominent
 - Loss of privacy to existing homes
 - Concern regarding access to existing dwelling for maintenance
 - Concern regarding impact on existing drainage facilities and capacity
 - Reference to previous application
- 5.3 **Two letters of support** has been received, comments are summarised as –
- The Ross Charity Trustees have been endeavouring over many years to sell the unused open land to enable them to purchase properties to let at affordable rents to people in need of their own homes - of which there are many in the town.
 - The arch is of no particular architectural interest and better examples exist along this former line
 - The proposal will tidy up the site and improve appearance of the area

5.4 The **Ramblers' Association** comments:

The proposed development will affect public footpath ZK5 as stated in the Design & Access Statement – ‘An area of PROW may have to be removed to allow the upgraded vehicular access route. If so, an alternative PROW access point will be provided...’.

The Ramblers' Association requests that the Mike Walker, Public Rights of Way Team Leader at Balfour Beatty Herefordshire be involved in the final design of this new access point to ensure that any new access point complies with equalities legislation and allows access for all.

If it is necessary to close the footpath during construction works a temporary closure order must be obtained from the highway authority prior to works commencing.

5.5 **Hereford and Worcester Fire and Rescue Service** comments have been received from their Technical Fire Safety Officer, Community Risk Department, who states –

I have been working with Charles Jones (LABC), Edward Simcox (Planning Consultant), Roland Close (Planning) and initially Sara Fernandez Romero from Systra Ltd.

The application for the dwellings and site location could not meet the Approved Document as access via the bridge was compromised by the width and height restriction, meaning a fire

appliance would be unable to access to within 45m of all parts of the dwellings. There was no alternative route to the site.

After some discussions with regards excavation and dropping the road, a conclusion was reached as to the demolition of the bridge so providing adequate access.

The existing properties are obviously historic and would be attended on a best position and local knowledge basis.

The need to meet B5 in ADB is obviously for new development and as the risk of an attendance to the location is increased the need for suitable access is therefore necessary

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

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=182617&search=182617

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

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

6. Officer's Appraisal

Policy context and Principle of Development

Legislation

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."* The development plan is the Herefordshire Core Strategy.
- 6.2 Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 state the following respectively:-
- "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*
- "In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area."*
- 6.3 The legal framework for AONBs in England and Wales is provided by the Countryside and Rights of Way Act (CRoW) 2000 which reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty, and sets out responsibilities for their management. In particular relevance to the proposal is following section –
- 6.4 Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty.
- 6.5 Section 84 confirms the powers of local authorities to take appropriate action to conserve and enhance the natural beauty of AONBs.
- 6.6 Section 85 places a duty on all public bodies and statutory undertakers to 'have regard' to the 'purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

Herefordshire Local Plan - Core Strategy

- 6.7 Policy RW1 – *Development in Ross-on-Wye* sets out objectives specific to the town and where Ross-on-Wye will accommodate a minimum of 900 new homes, balanced with approximately 10 hectares of existing allocated employment land allocation during the plan period, in accordance with the spatial strategy. A strategic housing location will focus a minimum of 200 new homes to the south east of the town. The remaining requirement for homes will be delivered on sites allocated through a Neighbourhood Development Plan. Within Ross-on-Wye, new development proposals will be encouraged where they:
- improve accessibility within Ross-on-Wye by walking, cycling and public transport, particularly where they enhance connectivity with local facilities, the town centre and existing employment areas;
 - contribute towards new or improved community facilities and/or allow for infrastructure improvements in the town to promote sustainable development;
 - reflect and enhance the characteristic natural and built historic elements of Ross-on-Wye, such as its red sandstone and timber framed Tudor buildings and boundary walls, the medieval plan form, conservation area and natural setting overlooking the River Wye;
 - enhance green infrastructure and biodiversity, particularly the Wye Valley Area of Outstanding Natural Beauty and the River Wye; and
 - have demonstrated engagement and consultation with the community including the town/parish council.
- 6.8 Policy H3 – *Ensuring an appropriate range and mix of housing* states Residential developments should provide a range and mix of housing units which can contribute to the creation of balanced and inclusive communities. Also, Policy H3 indicates that the latest *Local Housing Market Assessment* will provide evidence of the need for an appropriate mix and range of housing types and sizes. Whilst it is not in dispute these are policies for the supply of housing they also have wider implications in terms of ensuring the social benefits of providing a suitable mix of housing types.
- 6.9 The Herefordshire Local Housing Market Assessment (HLHMA) formed part of the evidence base for the CS, although it is now some five years old. However, it is specifically cited in CS Policy H3 and without any other substantive evidence in regard to housing need in this area significant weight is attached to this. For the Ross on Wye area the HLHMA indicated that the greatest demand was for two and three bedroom housing, which was estimated as providing 49.5% and 25% of housing needs, with four bedroom or larger housing providing only 20.1% of the estimated needs.
- 6.10 Core Strategy policy SS6 describes proposals *should conserve and enhance those environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations.*
- 6.11 Policy SS6 then states in its list of criteria states *Development proposals should be shaped through an integrated approach and based upon sufficient information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.*
- 6.12 Core Strategy policy LD1 criteria requires new development must achieve the following:
- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;

- conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management

6.13 Core Strategy policy LD4 – *Historic environment and heritage assets* sets out as relevant to this appeal that Development proposals affecting heritage assets and the wider historic environment should:

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

2. the conservation and enhancement of heritage assets and their settings through appropriate management, uses and sympathetic design. Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas

Neighbourhood Development Plan

6.14 The Neighbourhood Development Plan is at the Regulation 14 draft plan consultation stage. Ross-on-Wye Town Council submitted their draft Neighbourhood Development Plan to Herefordshire Council on 7 November 2018. As detailed in section 2.2 above, having regard to the requirements of NPPF Para 48 officers would advise that limited weight can be attributed to the neighbourhood plan but officers have considered its contents and would note the following.

6.15 The Draft NDP devises a settlement boundary that at present only identifies the current application site as being within the settlement boundary where NDP policy EN3 directs development. The Draft NDP proposes five allocated sites to deliver upto 87 new homes in Ross on Wye in addition to policy EN3. The application site and this application is referenced within Section 4.11 of the Draft NDP without commentary of prejudice, however is also referenced under Policy SC3 – *Allotments*, which seeks to retain such facilities unless equivalent or improved provision is provided however at the same time notes *Those at Cawdor are soon to be closed (because of a potential development)*. Topic based draft policies of relevance to the proposal include –

- Policy EN1 – *Ross Design Policy* states The design of all new development within the town, while being clearly of its time, should demonstrate its relationship and applicability to its site, setting and context in terms of scale, materials, form, details, layout, public realm and historic character. This is of particular importance within the Conservation Area and Town Centre.
- Policy EN7 – *Landscape Setting* states Proposed developments of any type within the Wye Valley Area of Outstanding Natural Beauty will be subject to the controls in place within the Herefordshire Local Plan and the Wye Valley AONB Management plan.

National Planning Policy Framework

6.16 The NPPF has 'sustainable development' central to planning's remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people's quality of life. The National Planning Policy Framework has been considered in the assessment of this application. The following sections are considered particularly relevant:

- 2. Achieving sustainable development
- 5. Delivering a sufficient supply of homes
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment

Further information on the subject of this report is available from Mr C Brace on 01432 261947

- 16. Conserving and enhancing the historic environment

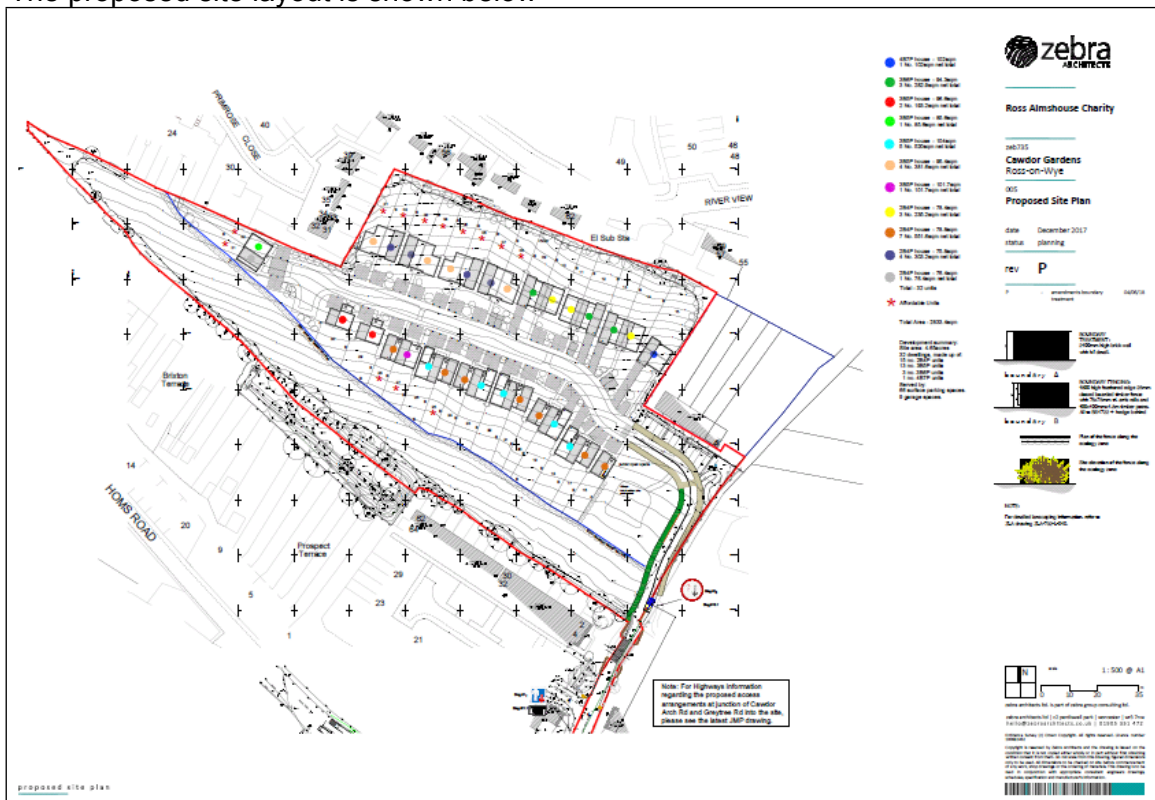
- 6.17 Paragraph 7 sets out and defines sustainable development and of the three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, the social objective requires planning to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.
- 6.18 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.19 NPPF Paragraph 124 states *The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.* Paragraph 127 outlines Planning decisions should ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.20 Policies specific to protected landscapes (including AONBs) are detailed at paragraph 172 and states *Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty. The scale and extent of development within these designated areas should be limited.*
- 6.21 NPPF section 16 sets out the position regarding conserving and enhancing the historic environment. Specific principles and policies relating to the historic environment and heritage assets and development are found in paragraphs 184 – 202.
- 6.22 The NPPF sets out in paragraph 185 that there should be a positive strategy for the conservation of the historic environment and this should take into account of:
- the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;

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- the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
 - the desirability of new development making a positive contribution to local character and distinctiveness; and
 - opportunities to draw on the contribution made by the historic environment to the character of a place.
- 6.23 Paragraph 189 – 192 sets out what and how LPA’s should consider in determining planning applications featuring heritage assets. This includes:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.24 Paragraph 193 advises that *When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*
- 6.25 Paragraph 194 states *Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:*
- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
- b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*
- 6.26 Where a proposed development will lead to substantial harm to (or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- the nature of the heritage asset prevents all reasonable uses of the site; and
 - no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
 - the harm or loss is outweighed by the benefit of bringing the site back into use.
- 6.27 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.28 Paragraph 197 states *The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

Assessment

- 6.29 The site is undeveloped agricultural land. It is noted the landholding is within the Wye Valley AONB which covers much of the adjoining area and is within the Ross on Wye Conservation Area which covers the west of Ross on Wye, extending as far as Wilton and includes the town centre.
- 6.30 The site is within the main built form of the town and adjoins existing residential development on all sides. The site is considered sustainably located in both locational and environmental terms and in principle, development here is acceptable.
- 6.31 The surrounding built environment has development density ranges between 52.1 – 69.5dph. the proposal is a development of 32 new dwellings, on the basis of a site area of 1.8ha this equates to a development density of 18dph, due to the application site's sensitive location and constraints, which have informed the design and scale of the proposed development. On this basis the reduction from CS policy SS2 aim to achieve between 30 - 50dph, is justified and such an allowance is afforded within the policy as it states that this *may be less in sensitive areas*. Given the location of the site within the AONB and conservation area, the proposals development density is appropriate.
- 6.32 The proposed site layout is shown below



- 6.33 On the basis of the above the acceptability of the proposal is assessed against material and technical considerations as set out below –

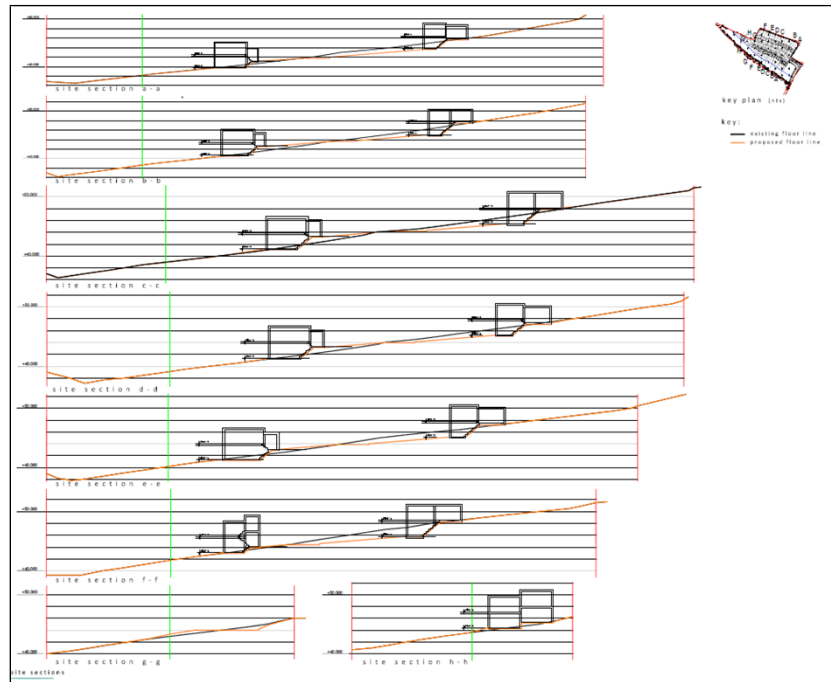
Landscape

- 6.34 CS policies RA2 is underpinned by Policy LD1 of the Core Strategy *Landscape and townscape*. Development proposals need to demonstrate that features such as scale and site selection have been positively influenced by the character of the landscape and townscape, and that regard has also been had to the protection and enhancement of the setting of settlements. Development proposals should also conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including locally designated parks and gardens;

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and should incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings.

- 6.35 Core Strategy policy SD1 (Sustainable Design and Energy Efficiency) also seeks to secure high quality design and well planned development, that contributes positively to the character of the area and that development successfully integrates into the existing built, natural and historic environment.
- 6.36 The proposal is of a density and form appropriate to and commensurate with the location and has worked with the topography of the site to minimise landscape impact. The application has sought to demonstrate how the site will be developed taking into account this topography is detailed on the sectional drawings submitted with the application and inserted below.



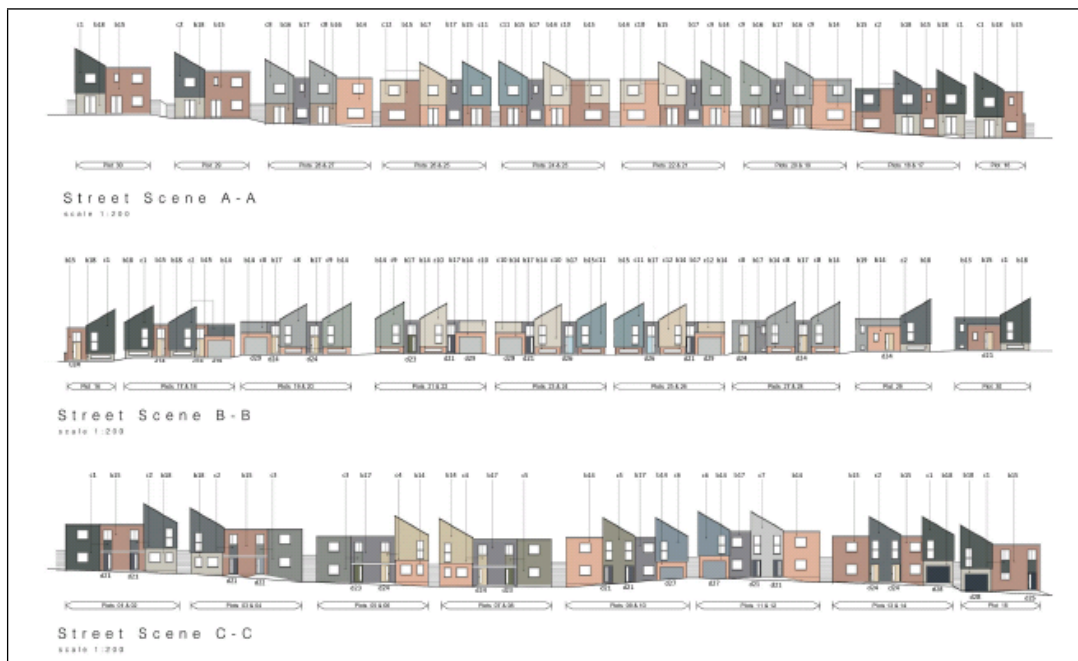
- 6.37 As shown on the proposed plan inserted below an area of public open space will be provided adjacent to the existing properties at Cawdor Gardens. Development has been set back from the southern boundary of the application site by approximately 20m. This will create separation of the proposal from the existing development and retains an element of the existing green break relief experienced when viewing towards Brampton Hill. Substantial planting within this area is secured by condition and will also help break up the mass of housing and reduce the massing effects as the site and area is viewed from Edde Cross Street. The recommendations of the Council's Arboriculturist, which are supported by the Conservation Manager, will be incorporated within the referenced landscaping and planting condition. The green break will also act as an ecological buffer zone and provide a wildlife corridor through the application site.



- 6.38 With regards to wider landscape objectives regarding built form and development within the AONB, and to ensure compliance with CS policies RW1 and LD1 and the Wye Valley AONB Management Plan, conditions requiring approval of all external materials, finishes and colours are also recommended.
- 6.39 Given all of the above and with respect to the location and context of the development within the wider development no substantial landscape harm is Identified and furthermore on this basis, no substantial harm is identified regarding the setting of the Wye Valley AONB.
- 6.40 It is also concluded that, the development of this site in the form proposed would be acceptable in landscape terms and with regards to the local landscape character and the character and accord to the requirements of policies LD1, SD1 and RW1 of the Herefordshire Local Plan – Core Strategy, Wye Valley AONB Management Plan and landscape aims and objectives of the NPPF.

Design and Amenity

- 6.41 Notwithstanding the landscape assessment, CS policy SD1 requires that new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, While making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design and safeguard residential amenity for existing and proposed residents.
- 6.42 A contemporary design has been advanced as this approach lends itself far more suitably to split level dwellings which are proposed so to work with the topography and nestle the dwellings into the hillside. Elevations within streetscenes are shown below. This design and arrangement, along with proposed external materials and finishes and colours, are intended to break up the massing of the development and helps mitigate against any adverse landscape impact given the sites elevated position and wider visibility within the landscape. The colour palette proposed has been developed and informed through a colour study of the immediate and surrounding area. Following this, optimum colours and hues have been identified to ensure an appropriate response to context which notwithstanding the contemporary design, respects the character and appearance of the AONB location and its landscape and built form character.



6.43 On the basis of the above and noting the functional requirements, officers are of the opinion that Core Strategy policies RA6, LD1 and SD1, The Wye Valley AONB Management Plan policies WV-D2 and WV-D3 and the design aims and objectives of the NPPF are satisfied.

6.44 Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 state the following respectively:-

“In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

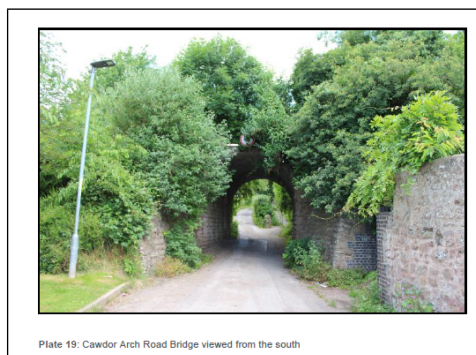
“In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of] any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area

6.45 When an authority finds that a proposed development would harm the setting of a listed building or conservation area, it must give special attention to that harm with “considerable importance and weight”. Importantly, this does not mean that an authority’s assessment of likely harm of proposed development to the setting of a listed building or to a conservation area is other than a matter for its own planning judgement. Nor does it mean that an the authority should give equal weight to harm that it considers would be limited or “less than substantial” and to harm that it considers would be “substantial”.

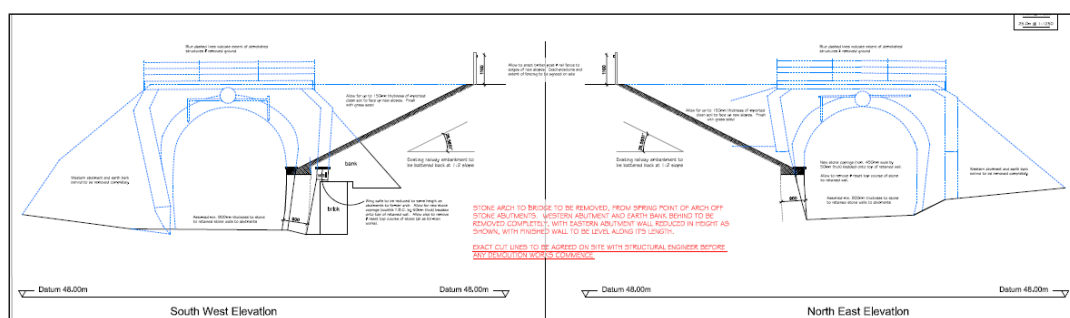
6.46 While Policy LD4 of the Core Strategy does require heritage assets to be protected, conserved and enhanced, and requires the scope of the work to ensure this to be proportionate to their significance, it does not include a mechanism for assessing how harm should be factored into the planning balance. As a result, and in order to properly consider the effects of development on heritage assets, recourse should be had to the NPPF in the first instance.

6.47 The application is submitted with a detailed ‘Built Heritage Statement’ that having regard to the requirements of para 128 of the NPPF assesses any heritage assets (Designated and non-designated) that may be affected by the proposals and help understand the likely impact that the proposed development will have upon the significance of the heritage assets.

6.48 As identified in the consultation responses above, key to this proposal is the matter of the demolition of the bridge (Cawdor Arch) and its significance as a heritage asset in its own right, its contribution to the significance of the Conservation Area and the impacts of the proposed development upon the Conservation Area. It is acknowledged that this is a non-designated heritage asset. The Built Heritage Statement provides a comprehensive assessment of the asset and a photograph of this (from the report) and the proposed plans are inserted below.



6.49 In order to facilitate the development, Cawdor Arch Road Railway Bridge feeding the main access road into the site will be reduced along with the accompanying rail embankment to facilitate full access for emergency vehicles. The lower reaches of the arch will be retained and capped off with the embankment graded up to the remnant former track bed.



6.50 The proposed reduction of the bridge along with the other heritage matters have been carefully considered by the advisors and the consultation responses from the Council’s Building Conservation Manager and Historic England are at section 4 of this report.

6.51 Paragraphs 193 - 196 of the NPPF (2018) deal with the approach to decision-making according to the significance of the heritage asset (this being the Conservation Area) and the degree of harm arising as a consequence of development. Paragraph 193 confirms that great weight should be given to the conservation of designated heritage assets. Paragraph 195 is a restrictive policy and directs refusal where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset. Paragraph 196 explains the approach to decision-making where less than substantial harm to the significance of a designated heritage asset would arise. It states that such harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. 196 is thus also a restrictive policy.

6.52 Accordingly it is necessary for the decision-maker to judge, on the evidence before them and having particular regard to expert heritage advice, whether the proposal in this case represents substantial harm to or total loss of significance of the Conservation Area (in which case paragraph 195 directs refusal unless the scheme achieves substantial public benefits that outweigh the harm) or whether the harm falls within the purview of paragraph 196; in which case it is necessary to weigh the less than substantial harm against the public benefits in an unweighted planning balance. Even if harm is less than substantial, it is absolutely clear that such harm weighs heavily in the planning balance – the fact that it is not necessary to

demonstrate that harm significantly and demonstrably outweighs the benefits gives weight to paragraph 196 as a restrictive policy

- 6.53 The Councils historic advisors have considered the proposals and conclude that given the contribution of the bridge both historically and visually to the Conservation Area as a heritage asset and its significance, we would view this as less than substantial harm (para 196). Therefore such harm should be weighed against the public benefits of the proposal and this matter is considered in the conclusions below.
- 6.54 Historic England has also assessed the conservation area and explains the northwest section of the Ross on Wye Conservation Area that was characterised by open fields at the time of designation but is now characterised by residential development of variable architectural quality. Historic features such as the line of the old railway and the more open setting of Ross on Wye's historic core have been lost. The principal contribution the area now makes to significance lies in the survival of the River Wye's low lying open flood meadows south of Homs Road. Historic England raises no objection in principle to the development and whilst drawing our attention to the requirements of paragraph 192, do not identify any harm to the Conservation Area in their assessment.
- 6.55 Officers note that local representation also raise the loss of the railway arch, whilst it has evidential value, is a 'common' example of historic railway infrastructure and in itself has no substantial or significant heritage value as it is neither unique or rare it does have some local social value is noted and one can imagine it being a point of reference for local residents.
- 6.56 The comments from Hereford and Worcester Fire and Rescue Service as detailed in 5.5 above, are noted. The removal of the bridge is required to meet Building Regulation requirements as contained in statutory guidance Fire Safety: Approved Document B. B5 requires there should be access for a pump appliance within 45 metres of all points of a dwellinghouse. The near total demolition of the bridge is essential in order to allow Fire vehicles to access the application site and existing dwellings. Access via passing under the bridge is compromised by the width and height restriction, meaning a fire appliance would be unable to access to within 45m of all parts of the dwellings. There is also no alternative route to the site. It is further noted alternative solutions were explored however these were not achievable or feasible.
- 6.57 As such the proposals are considered to result in less than substantial harm on designated heritage assets, with the loss of the undesignated railway bridge acceptable based on an assessment of the assets value and importance weighed against and considering the wider benefits of the proposal. It is concluded the proposal accord with policies SS6 and LD4 of the Herefordshire Core Strategy, heritage aims and objectives of the NPPF and Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Ecology

- 6.58 The comments of the Council's Ecologist and Natural England are noted and matters highlighted including mitigation and enhancement, are secured by condition.
- 6.59 The Heads of Terms makes provision for the translocation of protected slow worms and commuted sums to be paid to support maintenance thereafter. Herefordshire Wildlife Trust propose four nature reserves as suitable receptor sites for a slow worm translocation associated with the development at Cawdor Gardens. The four reserves are in close enough proximity to allow easy movement of slow worms between the sites. Collectively they represent an almost contiguous mosaic of habitats that include species rich grassland, scrub, and woodland habitats (coppice, glades, rides and high canopy).
- 6.60 The applicants ecologists propose that a minimum of 3.5 acres of good quality habitat is required and managed to ensure that the habitats remain suitable for slow worms. Currently the

total area across the four reserves is 50.7 acres, approximately 25% of which (12.7 acres) could be considered good quality habitat for slow worms. Slow worms prefer the more open habitats which are always threatened by succession. If not physically kept clear a lack of management will quickly result in open habitats reverting to woodland.

- 6.61 There is a requirement within the Head of Terms that Herefordshire Wildlife Trust ensure that *“the receptor site and its habitat will be managed in perpetuity to ensure that it remains suitable for slow worms”*. To support HWT in this endeavour the Trust requests a commutable sum of £8,380 to finance this work in the first 3 years following translocation.
- 6.62 As such the proposal is in line with CS policies LD2 and LD3 and wider NPPF policies.

Highways

- 6.63 The Transportation Manager offers no objection on highway grounds to the proposals following amended plans. It is also noted The removal of the walls of the bridge allows the carriageway to be widened and a full footway to be provided. This represents an improvement to non vehicular traffic movements and will further encourage walking to and from the site and surrounding area to service and facilities making such an option more desirable and convenient in line with the criteria, aims and objectives of policies RW1 and MT1. As such regarding highway safety and related technical matters the proposal accords with CS policies SS4 and MT1, Herefordshire Council’s Highways Design Guide and the NPPF.

Drainage

- 6.64 The comments of the Drainage Engineer are noted and the information provided by the Applicant is sufficient to address the Engineers’ previous comments. Whilst some matters remain outstanding, it is understood these can be addressed through a detailed strategy to be presented at detailed design that demonstrates amongst other matters, how overland flows will be directed towards the basins without posing risk to the development or elsewhere, in particular protecting properties located immediately downhill of the proposed storage areas. On the basis of this and proposed conditions from the Drainage Engineer, the proposal accords with policies Core Strategy policies SD3 and SD4. Conditions ensure surface water will be disposed off without adverse impact upon adjoining land uses.

Section 106 Agreement / Planning Obligations and Conditions

- 6.65 The Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1 April 2008, and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended). Planning contributions as shown below will be secured from the development. These figures will be indexed linked when due –
- the sum of **£48,200.00** to provide **education infrastructure** at John Kyrle High School which may include remodelling or extension of the school. The sum shall be paid prior to first occupation of an open market unit, and may be pooled with other contributions if appropriate.
 - the sum of **£43,000.00** to provide sustainable transport infrastructure to serve the development. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate. The monies shall be used for a Traffic Regulation Order at the junction of Homs Road and Cawdor Arch Road to prevent on street parking within the visibility splay and to restrict parking along Cawdor Arch Road itself so that the width of the carriageway is not reduced.
 - the sum of **£2,560.00** to provide 1 x waste and 1 x recycling bin for each dwelling. The sum shall be paid prior to first occupation of an open market unit.
 - provide a minimum of 0.870ha (870sqm) of on-site green infrastructure comprising;

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- Public Open Space: 0.029ha (290sqm) @ 0.4ha per 1000 population
 - Children's play: 0.058ha (580sqm) @ 0.8ha per 1000 population of which 0.018ha (180sqm) shall be formal children's play
 - NOTE: The value of the children's formal play area should be a minimum of **£26,339.00**.
 - The maintenance of any on-site Public Open Space (POS) will be by a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as the parish council and/or a Trust set up for the new community for example.
 - the sum of **£20,558.00** to be used in accordance with the Sports Investment Plan to provide a clubroom and changing facilities at Ross on Wye RFU and dedicated junior football pitches and changing rooms at Ross Sports Centre for Ross on Wye football club. The sum shall be paid prior to first occupation of an open market unit, and may be pooled with other contributions if appropriate.
 - a sum of **£8,380** to finance the slow worm translocation work by Herefordshire Nature Trust in the first 3 years following translocation.
 - the sum of **£16,964.79** for the development of infrastructure for the provision of health services at Hereford County Hospital. The sum shall be paid on or before the commencement of the development, and may be pooled with other contributions if appropriate.
 - 13 of the residential units shall be "Affordable Housing" which meets the criteria set out in policy H1 of the Herefordshire Core Strategy and the tenure of the affordable housing will comprise;
 - 3x2 bed social rent
 - 3x3 bed social rent
 - 4x2 bed intermediate
 - 3x2 bed intermediate
- 6.66 The Affordable Housing Units will be advertised through Home Point and allocated in accordance with the Herefordshire Allocation Policy for occupation as a sole residence to a person or persons one of whom has:-
- a local connection with the parish of Ross on Wye
 - in the event of there being no person with a local connection to Ross on Wye any other person ordinarily resident within the administrative area of the Council who is eligible under the allocation policies of the Registered Social Landlord if the Registered Social Landlord can demonstrate to the Council that after 28 working days of any of the Affordable Housing Units becoming available for letting the Registered Social Landlord having made all reasonable efforts through the use of Home Point have found no suitable candidate

6.67 On the basis of the above and as confirmed by the Planning Obligations Manager, a policy compliant draft Heads of Terms has been agreed.

Housing Mix

6.68 The 32 dwellings are made up of:

- 15 no. 2 bed units, 7 of which are affordable units
- 16 no. 3 bed units, 6 of which are affordable units
- 1 no. 4 bed units

6.69 On this basis The proposal will deliver an adequate suitable mix and numbers of housing and deliver much needed affordable housing compliant with Herefordshire Core Strategy policies SS2, SS3, H1 and H3 and as such represents development that meets with regards to housing, the social objectives of the NPPF.

Other Matters

6.70 With regards to matters addressed by representations received not addressed above, the following comments are offered –

The site should be left for open space and nature and is a resource for children's play and wildlife

- The site offers up a significant wildlife corridor and planting which will provide and retain ecological and biodiversity values. The site is not subject to any formal designation regarding use, however as detailed, formal open recreation and play space will be provided within the development and significant commuted sums are secured which will go towards provision and enhancement of local sports and recreation facilities.

The land was donated for public use, not to be sold off

- This is a private and or civil matter

Loss of the arch would prevent reopening of the branch line

- The reopening of the relevant branch line is not something under consideration as far as any current or emerging plans show and is not safeguarded by planning policies or legislation. In any event and as noted within the Conservation comments, development post *The Reshaping of British Railways*, published 27 March 1963, commonly referred to as the *Beeching Report*, means in many places the line will have been built over or otherwise obstructed and not capable of exact reinstatement. Any future railway infrastructure serving Ross on Wye would need to be designed and facilitated to accommodate the town and its development at the moment such a proposal comes forward.

Development impractical on basis of land levels and earth works required to implement it

- This will be a matter for any developer to assess and address, however with regards to planning policies, material considerations and technical assessments applicable to the determination of the application, the proposal is acceptable.

Loss of privacy to existing homes

- With regards to the proposal and its articulation and relationship with its environment, no substantial or significant harm is identified on amenity or privacy of existing dwellings.

Concern regarding access to existing dwelling for maintenance

- This is a private and or civil matter and any rights will be protected by parallel legislation separate from Planning.

Summary and planning balance

6.71 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Core Strategy constitutes a spatial strategy and policies designed to achieve sustainable development under the three objectives; social, economic and environmental. The NPPF, a material consideration, also seeks sustainable development through the economic, social and environmental objectives for planning. To enable a conclusion to be reached on whether the application proposals are in accordance with the development plan and to take account of material considerations, I now consider the conflicts with the development plan alongside the benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn.

Turning to the three objectives of sustainable development;

Economic Objective

- 6.72 A key aspect of the economic role played by the planning system is to ensure that sufficient land of the right type is available in the right places and at the right time to support growth.
- 6.73 In this context, the proposals score, in economic terms at least, positively. The proposal could help to support economic growth arising from:
- employment and supply of associated materials, goods and services in the construction phase
 - support to local services and facilities arising from the new resident population
 - economic benefits to the Council through the payment of New Homes Bonus.
- 6.74 The positive economic benefits arising from the scheme are, however, not unique to this application proposal and as such I attach moderate weight to these benefits – Can we add more to 32 dwellings?

Social Objective

- 6.75 Planning's social role incorporates providing support to strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment.
- 6.76 The proposal delivers a mix and range of housing, including affordable housing, which helps meets local demand now and for the future along with significant Section 106 contributions which will amongst other things, contribute to sustainable transport, health and sports and recreation facilities.
- 6.77 As such the *social* objective is considered to be satisfied and I attribute weight to the benefits in community terms, particularly to establishing sustainable communities and a sense of place the development will secure.

Environmental objective

- 6.78 The environment objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy).
- 6.79 The proposal will enable more sustainable patterns of activity through providing new housing located where the town centre and other services and facilities are accessible by foot or bicycle from the new houses. As described above, the character and appearance of the AONB maintained and matters regarding biodiversity and ecology, flood risk and drainage are addressed.
- 6.80 As detailed above, it is agreed that the proposals will result in a less than substantial harm to the significance of the designated heritage asset will accrue and that the correct approach to decision-making is to weigh this harm against the public benefits arising from the scheme in an unweighted balancing exercise. It is not necessary for the harm to significance to demonstrably and significantly outweigh benefits for refusal to ensue.
- 6.81 Taking all of the above into account, officers consider that the public benefits arising from the scheme, as outlined above, outweigh the less than substantial harm to the significance the Conservation Area and loss of the undesignated heritage asset, Cawdor Railway Arch. It is noted the removal of the arch is essential to allow the development on the basis of ensuring Fire vehicles can access the development. There is no harm arising in relation to other technical

matters as discussed above, and officers do not feel that the impacts of the development should tip the planning balance in favour of refusal.

Conclusions and planning balance.

- 6.82 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise
- 6.83 Policy SS1 of the CS reflects the presumption in favour of sustainable development in national policy and provides that planning applications that accord with the policies in the Core Strategy will be approved unless material considerations indicate otherwise.
- 6.84 The NPPF paragraph 11 provides the mechanism for the determination of the application stating:

For decision Making

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 6.85 As detailed above there is clear conformity with the housing and sustainable development policies of the development plan. These policies are consistent with the guidance contained within the NPPF (2019).

- 6.86 The potential benefits that could be delivered by the scheme have also been considered above to which officers consider significant weight can be attributed.

RECOMMENDATION

That subject to the completion of a Planning Obligation under Section 106 of the Town & Country Planning Act 1990, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any further conditions or amendments to conditions considered necessary by officers named in the scheme of delegation to officers.

1. **Time limit for commencement (full permission)**
2. **Development in accordance with approved plans and materials**
3. **Before any work begins, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) shall be supplied to the planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation

Further information on the subject of this report is available from Mr C Brace on 01432 261947

(Natural Habitats, &c) Regulations 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy, National Planning Policy Framework 2018 and NERC Act 2006

4. **The Reptile Translocation Plan as recommended by Wessex Ecological Consultancy dated May 2017 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority. Offsite Receptor sites must be subject to appropriate legal agreements and Management Plans such as to ensure the in perpetuity security of tenure and habitat quality of the receptor site. The final legal agreement and site management plan shall be approved by this planning authority.**

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

5. **The following information and details shall be supplied to the Local Planning Authority for written approval prior to the commencement of development of the development hereby permitted including any groundworks or site clearance –**

- **Assessment of risks to safe access and egress associated with fluvial flooding (with climate change allowances) and demonstration of appropriate provision of safe access and egress;**
- **Results of infiltration testing at the location(s) and proposed depth(s) of any proposed infiltration structure(s), undertaken in accordance with BRE Digest 365 methodology. If the infiltration results are found to not be suitable, an alternative drainage strategy will need to be submitted to the Council;**
- **Confirmation of groundwater levels to demonstrate that the invert level of any soakaways or unlined attenuation features can be located a minimum of 1m above groundwater levels;**
- **Detailed drawings that demonstrate the inclusion of SuDS, where appropriate, and location and size of key drainage features;**
- **Drawings showing details of the proposed attenuation ponds and swales, including cross sections;**
- **Detailed calculations of proposed infiltration features informed by the results of infiltration testing;**
- **All drainage calculations, including attenuation storage calculations, should be based on the FEH 2013 rainfall data;**
- **Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event;**
- **Calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event;**
- **Calculations that demonstrates there will be no increased risk of flooding as a result of development up to the 1 in 100 year event and allowing for the potential effects of climate change;**
- **Details of how natural overland flow paths and overland flows from outside of the site boundary have influenced the development layout and design of the drainage system;**
- **Detailed drawing demonstrating the management of surface water runoff during events that may exceed the capacity of the drainage system, including: temporary exceedance of inlet features such as gullies; exceedance flow routes and**

Further information on the subject of this report is available from Mr C Brace on 01432 261947

storage up to the 1 in 100 year event; and exceedance in the event of blockage including blockage of attenuation pond outlets;

- Operation and Maintenance Manual for all drainage features to be maintained by a third party management company;
- Detailed drawings of the foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features.

The development shall be carried out in accordance with the approved details and all drainage works shall be installed and ready and available for use prior to the first occupation of the development hereby permitted and thereafter be maintained as such.

Reason: to ensure adequate drainage provision is made, to avoid adverse impact upon adjoining land, buildings and uses and in the interests of public health and safety and to comply with Herefordshire Core Strategy policies RW1, SD3 and SD4.

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

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

7. CAT – Wheel washing

8. In addition to required ecological mitigation and soft landscaping, prior to commencement of the development, a detailed habitat enhancement scheme including extensive provisions for bat roosting, bird nesting, pollinating insect houses, hedgehog homes and reptile-amphibian refugia should be submitted to and be approved in writing by the local planning authority, and the scheme shall be hereafter implemented and maintained as approved. No external lighting should illuminate any biodiversity enhancement, or ecological habitat.

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

9. C96 – Landscaping

10. CA6 – Details of play equipment

11. CAB – Visibility

12. CAE – Access construction

13. CAP – Junction improvements and off site works

14. **C97 – Landscape scheme implementation**
15. **CA1 – Landscape Management Plan**
16. **CA5 – Provision of play equipment**
17. **CAH – Driveway gradient**
18. **CAJ – Parking estate development**
19. **CAL – Access, parking and turning**
20. **CAR – On site road phasing**
21. **CB2 – Secure covered cycle parking provision**
22. **The ecological protection, mitigation and working methods scheme as recommended in the Ecological Report by HEC August 2015 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 2017 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy, National Planning Policy Framework 2018 and NERC Act 2006
23. **No buildings on the application site shall be brought into beneficial use earlier than 31/03/2020, unless the upgrading of the Waste Water Treatment Works, into which the development shall drain, has been completed and written confirmation of this has been issued by the Local Planning Authority".**

Reason: To prevent overloading of the Waste Water Treatment Works and pollution of the environment.
24. **Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015,(or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B, C, D, E and H of Part 1 and of Schedule 2, shall be carried out.**

Reason: In order to protect the character and amenity of the Wye Valley AONB and wider locality, maintain and enhance the character and appearance of the conservation area, to maintain the amenities of adjoining property and to comply with Policy SS1, RW1, LD1, LD4 and SD1 of the Herefordshire Local Plan – Core Strategy, Wye Valley AONB Management Plan and the National Planning Policy Framework.
25. **CA3 – Landscape Monitoring**
26. **CAQ – On site roads - submission of details**
27. **CAX – Direction of proposed lighting**
28. **CB1 – Public rights of way**

Further information on the subject of this report is available from Mr C Brace on 01432 261947

- 29. **CBK – Restriction of hours during construction**
- 30. **No demolition of Cawdor Arch until contract for construction signed or other alternative stage reached**

INFORMATIVES:

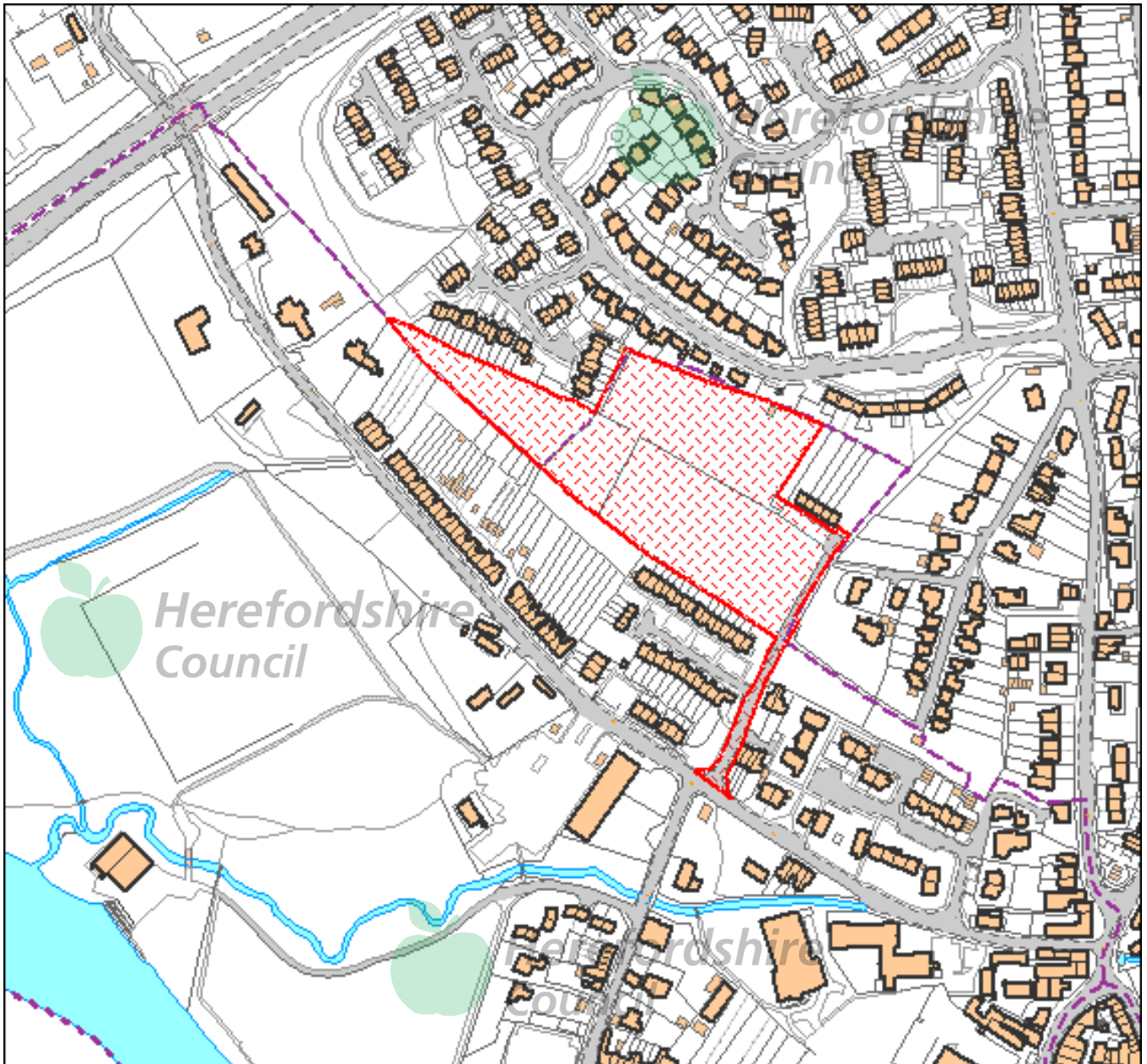
- 1. **Pro active Reason 2**
- 2. **I11 – Mud on highway**
- 3. **I09 – Private apparatus within highway**
- 4. **I06 – Public rights of way affected**
- 5. **I45 – Works within the highway**
- 6. **I08 – Section 278 Agreement**
- 7. **I07 – Section 38 Agreement & Drainage details**
- 8. **I05 – No drainage to discharge to highway**
- 9. **I57 – Sky glow**
- 10. **I49 – Design of street lighting for Section 278**
- 11. **I51 – Works adjoining highway**
- 12. **I47 – Drainage other than via highway system**
- 13. **I35 – Highways Design Guide and Specification**
- 14. **I62 – Adjoining Property Rights**
- 15. **I18 – Rights of way**
- 16. **NC11 – Wildlife Informative**

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 182617

SITE ADDRESS : LAND ADJACENT TO CAWDOR GARDENS, ROSS ON WYE, HEREFORDSHIRE

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Further information on the subject of this report is available from Mr C Brace on 01432 261947

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	19 JUNE 2019
TITLE OF REPORT:	191229 - PROPOSED TWO STOREY AND LEAN-TO SINGLE STOREY EXTENSIONS TO THE SIDE (NORTH) ELEVATION AT 25 QUARRY ROAD, HEREFORD, HR1 1SS For: Mr & Mrs Vaughan per Mrs Angela Tyler, 39 Grandison Rise, Hereford, HR1 1PP
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191229&search=191229
Reason Application submitted to Committee – Agent is a councillor	

Date Received: 4 April 2019

Ward: Eign Hill

Grid Ref: 352884,239791

Expiry Date: 19 June 2019

Local Member: Councillor EM Foxtan,

1. Site Description and Proposal

- 1.1 The site is a semi-detached property located off an unclassified road in the Tupsley area to the north-east of the city centre. It has sufficient parking to the front of the property for 3 cars to park comfortably. It has a good sized rear garden with the rear of the garden backing onto the playing fields associated with Hampton Dene Primary School.
- 1.2 The application is for a proposed two storey and lean-to single storey extensions to the side (north) elevation of the property. The proposed extension would have a footprint of 2.78 metres by 10.2 metres with a maximum ridge height of 7.5 metres. The ground floor would replace the existing garage and would provide a utility/store room to the front of the dwelling with a WC and a lounge/snug to the rear. The extension would be constructed using materials that match the original dwellinghouse with a reduced ridge line and a set back first floor elevation.

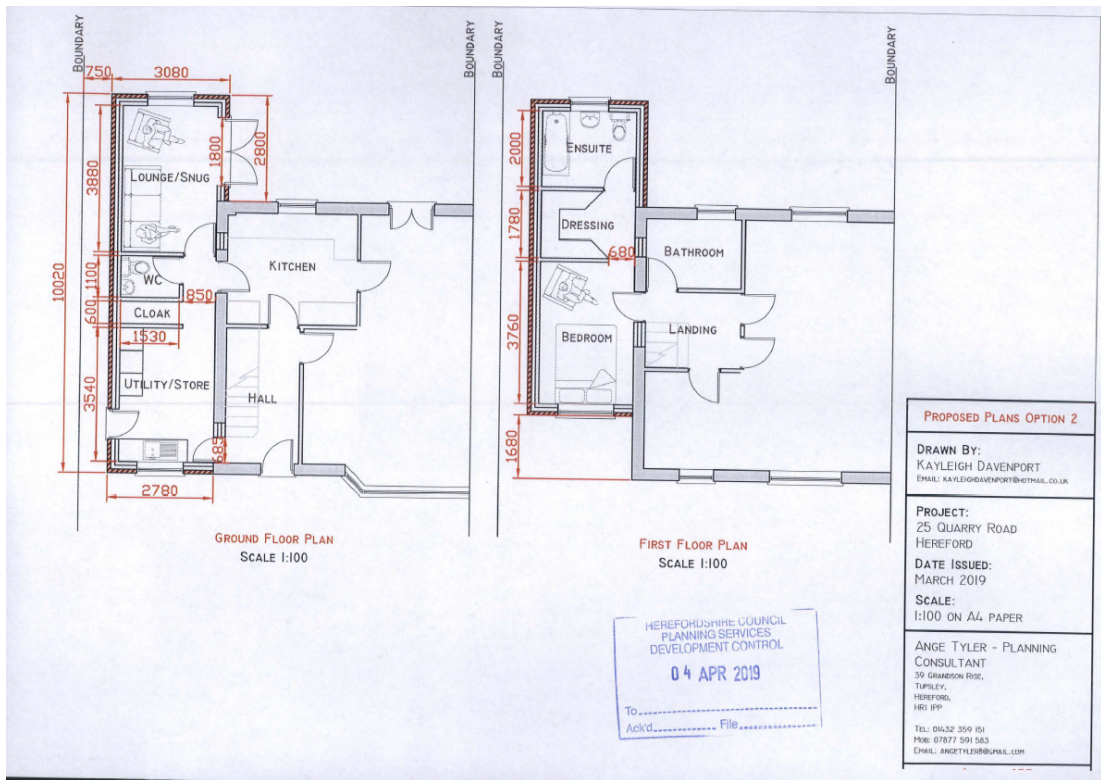


Figure 2 – Proposed Floor Plans

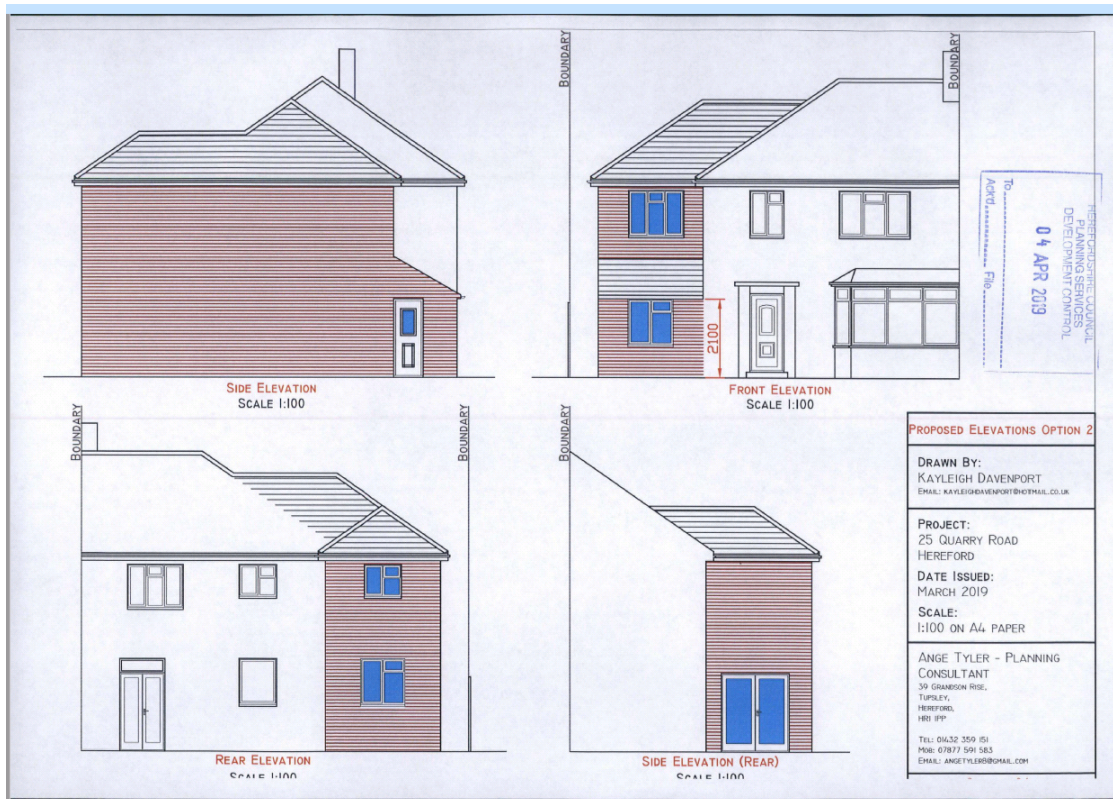


Figure 3 – Proposed Elevations

2. Policies

2.1 Herefordshire Local Plan – Core Strategy 2015

SS1	-	Presumption in Favour of Sustainable Development
LD1	-	Landscape and Townscape
SD1	-	Sustainable Design and Energy Efficiency
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel

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

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

2.2 National Planning Policy Framework (2019) (NPPF)

Chapter 2	-	Achieving Sustainable Development
Chapter 12	-	Achieving Well-Designed Places

Hereford Area Plan

2.3 The Hereford Area Plan has not progressed to a stage where it can be afforded weight in decision-making

3. Planning History

3.1 None

4. Consultation Summary

4.1 Statutory Consultations – No statutory consultations

Internal Council Consultations

4.2 Ecologist

As agreed with Natural England, 'Householder' applications formally assessed by the LPA as being 'extremely low risk' may be exempted from the full Habitat Regulations Assessment process that would normally be triggered by an application sited within the River Wye SAC catchment. This exemption is appropriate in relation to this current application.

There are known bat roosts and Great Crested Newts in the Quarry Road area but there are no records for this immediate location. From information supplied and images available there are no immediate ecology related concerns with this proposal. There are no ecological records of important or Protected Species immediately on or adjacent to the site. The applicant and their contractors have their own legal duty of care towards wildlife protection under UK Legislation that applies throughout any demolition and construction process. Any breach of this legal Duty of Care would be a criminal offence. In this instance this LPA has no reasonable cause to require further information as part of the planning application or include a specific ecology protection condition. However a relevant information note is requested:

Wildlife Protection Informative

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

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

Nature Conservation – Biodiversity and Habitat Enhancement

Within 3 months of completion of the works approved under this planning decision notice evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least ONE Bat roosting enhancements and TWO bird nesting boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any habitat enhancement or boundary feature.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2018, Core Strategy LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

5. Representations

- 5.1 Hereford City Council provided no response to the application
- 5.2 The consultation responses can be viewed on the Council's website by using the following link:-
https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=191229&search=191229

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

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

6. Officer's Appraisal

Policy context and Principle of Development

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

“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration.

Further information on the subject of this report is available from Ms Laura Smith on 01432 383244

- 6.3 Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development. For decision taking, this means that proposals which accord with an up-to-date development plan should be approved without delay.
- 6.4 The main policies for this considered are CS Policies SD1 and LD1. Policy SD1 states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, proportions and massing of surrounding development and that proposals should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing. Policy LD1 requires that the character of the landscape/townscape has positively influenced the design and scale of development, amongst other matters.
- 6.5 The site is located in a relatively built up residential area, in which there are several examples of similar extensions that have been implemented. The proposed materials are a brick to match the existing dwelling with the roof made up of concrete tile to match such that the proposed extension harmonises well with the dwelling. The setting back of the first floor and the reduced ridge height combine to ensure that the extension is subservient in appearance, in accordance with CS Policies LD1 and SD1
- 6.6 The loss of a garage at the site will not have an adverse effect on the amount of off-road parking as there is sufficient space to the front of the property for up to 3 cars, therefore complying with CS Policy MT1

Residential Amenity

- 6.7 The proposed extension will be to the north/side elevation. It will measure 10.2 metres in length and is 2.7 metres in width to the front of the property with the rear measuring 3.08 metres. The extension will sit 0.75 metres from the boundary of the site. The rear of the extension will project 2.8 metres further back than the original dwelling house. It was noted on site that it will not project out further than the immediate neighbour to the north. Therefore it is not considered to result in any unacceptable overshadowing or overbearing. To the rear of the garden is the Hampton Dene Primary School playing fields and the rear of the first floor extension will accommodate an en-suite which is likely to be obscure glass and therefore the proposed extension is not considered to overlook adjacent property in a manner that would be unacceptably harmful to existing levels of privacy.
- 6.8 The proposed extension is therefore considered to comply with CS policy SD1.

Conclusion

- 6.9 The proposed extension is considered to be of acceptable design that would have no adverse effects upon the character of the host dwelling, the wider streetscene, residential amenity or parking provision, thus complying with CS Policies LD1, SD1 and MT1, I therefore recommend it for approval subject to the conditions set out below.

RECOMMENDATION

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

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

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- 2 **C07 Development in accordance with approved plans**
- .
- 3 **CBK - During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.**

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

- 4
- .
- Within 3 months of completion of the works approved under this planning decision notice evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least one Bat roosting enhancements and two bird nesting boxes should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any habitat enhancement or boundary feature.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2018, Herefordshire Local Plan Core Strategy Policy LD2, National Planning Policy Framework, NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019

INFORMATIVE:

- 1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

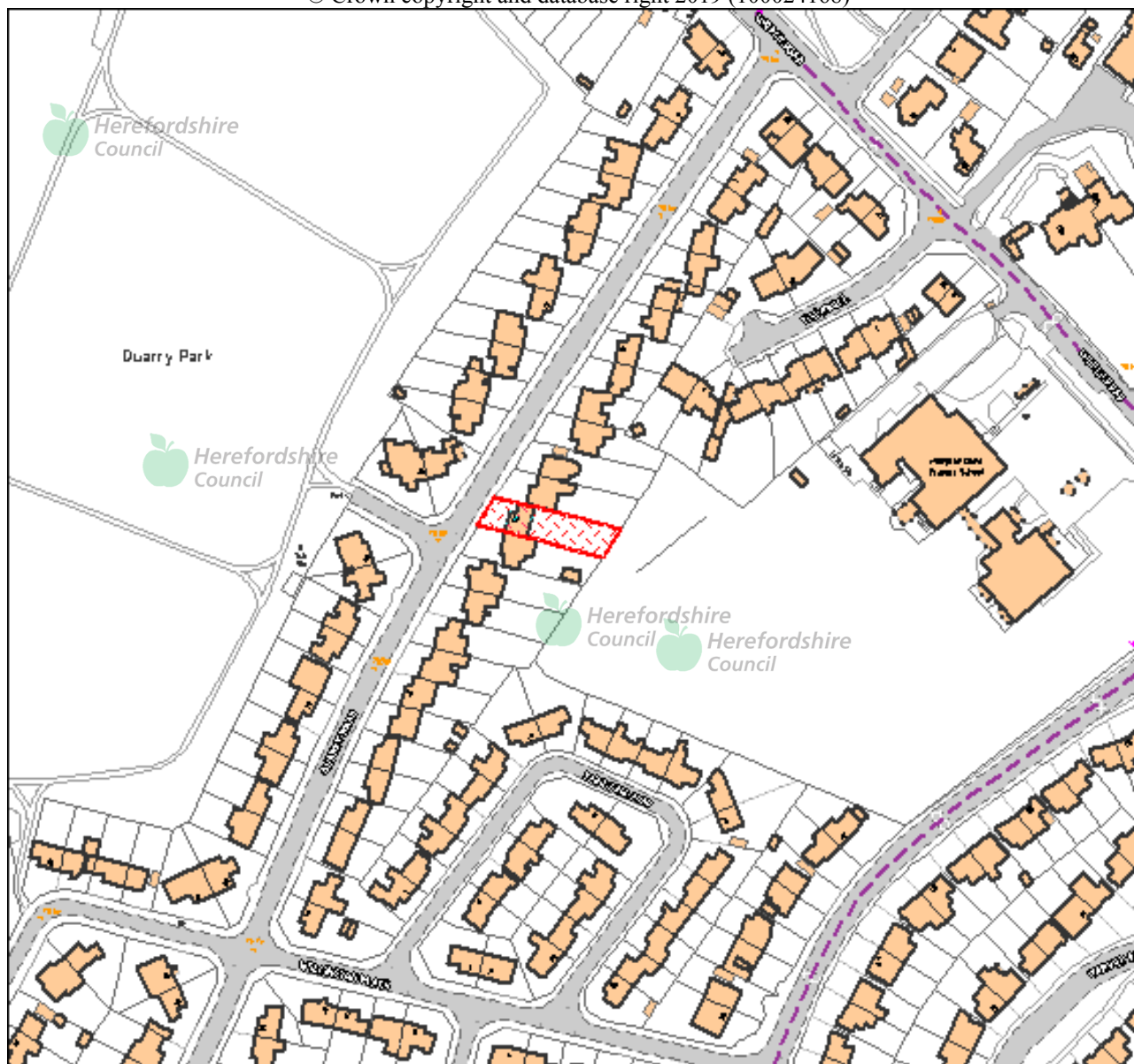
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 191229

SITE ADDRESS : 25 QUARRY ROAD, HEREFORD, HEREFORDSHIRE, HR1 1SS

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Further information on the subject of this report is available from Ms Laura Smith on 01432 383244

