

Agenda

Planning and regulatory committee

Date: **Wednesday 30 September 2020**

Time: **10.30 am**

Place: **online meeting only**

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

If you would like help to understand this document, or would like it in another format, please call Tim Brown, Democratic Services Officer on 01432 260239 or e-mail tbrown@herefordshire.gov.uk in advance of the meeting.

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 Elizabeth Foxton
Councillor Bernard Hunt
Councillor Terry James
Councillor Tony Johnson
Councillor Mark Millmore
Councillor Jeremy Milln
Councillor Paul Rone
Councillor John Stone
Councillor William Wilding

Agenda

- | | | |
|------------|---|---------|
| 1. | APOLOGIES FOR ABSENCE
To receive apologies for absence. | |
| 2. | NAMED SUBSTITUTES (IF ANY)
To receive details of any Member nominated to attend the meeting in place of a Member of the Committee. | |
| 3. | DECLARATIONS OF INTEREST
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. | |
| 4. | MINUTES
To approve and sign the minutes of the meeting held on 26 August 2020. | 11 - 24 |
| 5. | CHAIRPERSON'S ANNOUNCEMENTS
To receive any announcements from the Chairperson. | |
| 6. | 193747 - LAND TO THE NORTH OF THE B4348, MUCH DEWCHURCH VILLAGE, HEREFORDSHIRE
Outline application for a residential development of up to 4 dwellinghouses (all matters reserved). | 25 - 46 |
| 7. | 194052 - LEMS FORD, BROAD OAK, HEREFORDSHIRE, HR2 8DZ
Site for the erection of one detached dwelling and two bungalows. | 47 - 66 |
| 8. | 200680 - THE HAY MEADOW, PRESTON WYNNE, HEREFORD, HR1 3PE
Erection of domestic outbuilding for purposes incidental to the enjoyment of the hay meadow, including associated extension to the residential planning unit. | 67 - 88 |
| 9. | 202253 - 13 BACKBURY ROAD, HEREFORD, HEREFORDSHIRE, HR1 1SD
The proposal is for the taking down of the existing garage, passageway and rear extension and the construction of a new single storey side & rear extension, plus the construction of a car port. | 89 - 94 |
| 10. | DATE OF NEXT MEETING
Date of next site inspection – 13 October 2020
Date of next meeting – 14 October 2020 | |

The Public's Rights to Information and Attendance at Meetings

Herefordshire Council is currently conducting its public committees, including the Planning and Regulatory Committee, as "virtual" meetings. These meetings will be video streamed live on the internet and a video recording maintained on the council's website after the meeting. This is in response to a recent change in legislation as a result of COVID-19. This arrangement will be adopted while public health emergency measures including, for example, social distancing, remain in place.

Meetings will be streamed live on the Herefordshire Council YouTube Channel at

<https://www.youtube.com/HerefordshireCouncil>

The recording of the meeting will be available shortly after the meeting has concluded through the Planning and Regulatory Committee meeting page on the council's web-site.

<http://councillors.herefordshire.gov.uk/ieListMeetings.aspx?CId=264&Year=0>

YOU HAVE A RIGHT TO: -

- Observe all "virtual" 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. (These will be published on the Planning and Regulatory Committee meeting page on the council's web-site. See link above).
- 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. (These will be published on the Planning and Regulatory Committee meeting page on the council's web-site. See link above).
- 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 access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Access to this summary of your rights as members of the public to observe "virtual" meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect documents.

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.

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	The Green Party
Councillor Elizabeth Foxtan	It's our County
Councillor Bernard Hunt	True Independents
Councillor Terry James	Liberal Democrat
Councillor Tony Johnson	Conservative
Councillor Mark Millmore	Conservative
Councillor Jeremy Milln	The Green Party
Councillor Paul Rone	Conservative
Councillor John Stone	Conservative
Councillor William Wilding	Herefordshire Independents

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?

The following attend the committee:

- Members of the committee, including the chairperson and vice chairperson.
- Officers of the council – to present reports and give technical advice to the committee
- Ward members – The Constitution provides that the ward member will have the right to start and close the member debate on an application.

(Other councillors - may 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. The case officer will then give a presentation on the report.

The registered public speakers will then be invited to speak in turn (Parish Council, objector, supporter). (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 Council's Constitution provides that 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 (see note below)

- 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.

(Note: The public speaking provisions have been modified to reflect the “virtual” meeting format the Council has adopted in response to a recent change in legislation as a result of COVID-19. Those registered to speak in accordance with the public speaking procedure are able to participate in the following ways:

- *by making a written submission*
- *by submitting an audio recording*
- *by submitting a video recording*
- *by speaking as a virtual attendee.)*

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 in the Council's Constitution (Part 5 section 6).

In the case of the ward member being a member of the Committee they will be invited to address the Committee for that item and act as the ward member as set out above. They will not have a vote on that item.

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 as an online meeting only on Wednesday 26 August 2020 at 10.30 am

Present: Councillor John Hardwick (chairperson)

Councillors: Graham Andrews, Paul Andrews, Polly Andrews, Barry Durkin, Toni Fagan, Elizabeth Foxton, Bernard Hunt, Terry James, Tony Johnson, Mark Millmore, Jeremy Milln, John Stone, David Summers and William Wilding

In attendance: Councillor Christy Bolderson

147. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Rone and Seldon.

The Chairperson welcomed Councillor Wilding as a new member of the Committee, replacing Councillor Watson.

148. NAMED SUBSTITUTES

Councillor Durkin substituted for Councilor Rone and Councilor Summers for Councillor Seldon.

149. DECLARATIONS OF INTEREST

Agenda item 7: 193747 – Land to the North of the B4328 Much Dewchurch

Councillors Fagan and Milln declared other declarable interests because of a connection to the Steiner Academy.

150. MINUTES

RESOLVED: That the minutes of the meeting held on 5 August 2020 be approved as a correct record and signed by the Chairperson.

151. CHAIRPERSON'S ANNOUNCEMENTS

None.

152. 191187 - LAND BETWEEN LEEWARD HOUSE AND THE MILLENNIUM HALL, CROW HILL, UPTON BISHOP, ROSS ON WYE, HR9 7TU

(Outline application for the erection of 9 houses and the improvement of existing access to serve the development.)

(Councillor Hunt was not present for the consideration of the whole of this application and accordingly did not vote upon it.)

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

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

She highlighted that the Ministry of Housing, Communities and Local Government had informed the Council that the Secretary of State had received a request that he consider calling in the planning application for his own consideration. If the Committee agreed the resolution the Secretary of State would be informed and the decision would not be issued until the call-in request had been considered.

In accordance with the criteria for public speaking for virtual meetings, Mr M Robins of Upton Bishop Parish Council spoke in objection to the application as a virtual attendee. Mr D Bushell, a local resident, spoke in objection as a virtual attendee. Mrs N Inchbald, the applicant's agent, together with Mr A Padmore, a consultant, spoke in support of the application as virtual attendees.

In accordance with the Council's Constitution, the local ward member, Councillor Durkin, spoke on the application. He expressed particular concerns about highway safety and drainage and questioned the development's sustainability. He considered there were a number of issues to be resolved and consideration of the application should be deferred. A development with fewer houses of better design might be preferable.

The Committee discussed the application. The question of deferring the application was considered. However, responses by officers addressed the concerns expressed about highway safety and drainage to the satisfaction of most of the Committee.

The local ward member was given the opportunity to close the debate. He reiterated his concerns about highway safety and drainage.

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**
- 2 C03 - Time limit for commencement (outline permission)**
- 3 C04 - Approval of reserved matters**
- 4 C05 - Plans and particulars of reserved matters**
- 5 C06 - Development in accordance with the approved plans**
- 6 The reserved matters application submitted pursuant to Condition 1 shall be accompanied by a BS5837:2012 report to detail the quality of the trees and the potential impacts they will have on development above and below ground.**

The report should contain the following:

- Tree Survey**

- **Tree Constraints Plan**
- **Arboricultural Impact Assessment**
- **Tree Protection Plan.**

Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 7** The reserved matters application submitted pursuant to Condition 1 shall be accompanied by details of a scheme for the delivery of the open market housing. This scheme shall comprise a schedule outlining the number of 2, 3 and 4 (+) bed dwellings; the overall mix being 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 SS2, RA2 and H3 of the Herefordshire Local Plan – Core Strategy and the housing and social aims and objectives National Planning Policy Framework.

Pre-commencement Conditions

- 8** **CAT - Construction management Plan**
- 9** **CAB - Visibility Splays – Eastbound 2.4 x 74m, Westbound 2.4 x 73m**
- 10** **CAE - Vehicular access construction**
- 11** **CAQ - On site roads - Submission of Details**
- 12** **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 demonstrate how the site will be effectively drained; the means of disposal of surface and foul water and shall include:

- **A detailed surface water drainage strategy with supporting calculations that demonstrates there will be no surface water flooding up to the 1 in 30 year event, and no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change; detailed foul water drainage strategy showing how foul water from the development will be disposed of**
- **Demonstration of the management of surface water during extreme events that overwhelm the surface water drainage system and/or occur as a result of blockage;**
- **Demonstrates that opportunities for the use of SUDS features have been maximised, where possible, including use of infiltration techniques and on-ground conveyance and storage features. Additional soakaway testing to BRE 365 will be required to refine the design of the proposed soakaway basin;**
- **Indicate how foul flows will communicate to the public sewerage system.**

Thereafter, the scheme shall be implemented in accordance with the approved details prior to the occupation of the development and no further

surface water or 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 and to manage flood risk in accordance with the requirements of policy SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and guidance contained within the National Planning Policy Framework.

13 CCK - slab level plan

14 Prior to commencement of any construction works a detailed plan of proposed biodiversity enhancement- ‘net gain’ features, including significant provision for bat roosting, bird nesting, pollinating insect homes and hedgehogs, has been submitted to the local planning authority for written approval. The approved scheme shall be implemented in full and hereafter maintained unless otherwise approved in writing by the local planning No external lighting shall illuminate any new ecological feature or adjacent habitat or boundary feature; and all lighting shall support the Dark Skies principles.

Reason: To ensure that all protected species are considered and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitat Regulations 2018 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006.

Pre-occupation Conditions

15 A scheme of noise insulation measures for all the residential accommodation shall be submitted to and be approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the first use of the development to which it relates commences and the measures shall be retained for the duration of the use.

Reason: To safeguard the amenity of the area in compliance with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

16 CAP - Highways Improvement/off site works

17 CB2 - Cycle parking

18 CE6 - Water efficiency

19 Prior to the first occupation of any dwelling a scheme to enable the charging of plug in and other ultra low emission vehicles (e.g. provision of outside electric sockets) to serve the occupants of the dwellings hereby approved shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior of the first occupation of each dwelling hereby approved.

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

20 CK8 - Landscape Management Strategy (following RM)

Compliance Conditions

- 21 All foul water shall discharge through a connection to the local Mains Sewer network; and all surface water managed through on site Sustainable Drainage Scheme (SuDS); unless otherwise agreed in writing by the Local Planning Authority.**

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

- 22 The ecological protection, mitigation, compensation and working methods scheme, as recommended in the ecology report by Worcestershire Wildlife Consultancy dated October 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 and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2018 (as amended), Policy LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006.

- 23 CAX - Direction of proposed lighting**

INFORMATIVES:

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
- 2 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.

- 3 I11 - Mud on highway
- 4 I09 - Private apparatus within highway
- 5 I45 - Works within the highway
- 6 I07 - Section 38 agreement and drainage
- 7 I05 - No drainage to discharge to highway
- 8 I47 - Drainage other than via highway system
- 9 I35 - Highways Design Guide and Specification

153. 193747 - LAND TO THE NORTH OF THE B4348, MUCH DEWCHURCH VILLAGE, HEREFORDSHIRE

(Outline application for a residential development of up to 4 dwellinghouses (all matters reserved.)

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 for virtual meetings, Upton Bishop Parish Council had submitted a written submission in objection to the application. Mrs R Craine, a local resident, had submitted a written submission in objection to the application. Mr P Staddon, the applicant's agent had also submitted a written submission, in support of the application. The three submissions were read to the meeting.

In accordance with the Council's Constitution, the local ward member, Councillor Bolderson, spoke on the application. She opposed the application principally on the grounds of access and drainage, highlighting the risk of fluvial flood. She requested that consideration of the application should be deferred pending a flood risk assessment.

The Committee discussed the application.

RESOLVED: That consideration of the application be deferred, pending receipt of a flood risk assessment.

154. 202191 - WYESIDE PLAYING FIELDS, BELVEDERE LANE, HEREFORD, HEREFORDSHIRE, HR4 0PH

(Proposed additional balcony areas to increase entrances into the building. East facing elevation moved forward to increase clubhouse floor area and remove area that is vandalised.)

The Development Manager gave a presentation on the application.

In accordance with the Council's Constitution, the local ward member, Councillor Toynee, had written stating her support for the officer recommendation to approve the application.

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

1. **C01 - Time limit for commencement (full permission)**
2. **C06 - Development in accordance with the approved plans**
3. **CBK - Restriction of hours during construction**

INFORMATIVES:

1. **IP1 - Application Approved Without Amendment**
2. **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 all Bat species, Badgers, Great Crested Newts, 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.**

155. DATE OF NEXT MEETING

Noted.

Appendix - Schedule of updates

The meeting ended at 1.13 pm

Chairperson

PLANNING AND REGULATORY COMMITTEE

Date: 26 August 2020

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

191187 - OUTLINE APPLICATION FOR THE ERECTION OF 9 HOUSES AND THE IMPROVEMENT OF EXISTING ACCESS TO SERVE THE DEVELOPMENT AT LAND BETWEEN LEEWARD HOUSE AND THE MILLENNIUM HALL, CROW HILL, UPTON BISHOP, ROSS ON WYE, HR9 7TU

For: Mr David Greer and Mrs Montgomery per Mrs Nicola Inchbald, The Estate Office, Holdfast Manor, Holdfast, Upton Upon Severn, WR8 0RA

ADDITIONAL REPRESENTATIONS

On August 19th a further representation was submitted by Mr Wiggins MP, who has already made representations on the application.

This representation identified the application site is close to a bore hole near 'the pond' and raised concerns regarding its pollution.

OFFICER COMMENTS

Colleagues in the Council Environmental Health team have confirmed within the last few days the bore hole has now been registered, however wouldn't normally consider that a housing development would be a risk and as such would assume that all relevant drainage and sewerage was in place. Also if there was an issue of affecting the water supply the council would require the relevant person(s), which could be the landowner, owner of the premise, or user or the supply, or any other person who exercises powers of management or control in relation to that supply to carry out remedial works, taking into account any specific legal agreements.

ADDITIONAL REPRESENTATIONS

On August 25th a further representation was received from the Ministry of Housing, Communities and Local Government:

I am contacting you, as I understand that you are the case officer for Hertfordshire Council dealing with the above application.

I am emailing to inform you that the Secretary of State has received a request that he consider calling in the above planning application for his own consideration.

I understand that the application is due before committee on 26 August.

The Secretary of State does not act on third party requests to call in planning applications until the relevant Planning Committee have resolved to approve the application.

If the Committee are minded to approve the application then the Secretary of State could issue an Article 31 holding direction or the local planning authority could give an assurance that they would not issue a Decision Notice until the Secretary of State has had an opportunity to consider whether or not to call in the application.

I should be grateful if you could confirm whether you are content not to issue a Decision Notice in this case until the Secretary of State has decided whether or not to call in the application. Could you also send me a copy of the committee report and recommendation for this application, please.

Officer comments.

If members agree the resolution The Secretary of State will be informed and the decision will not be issued until the call-in request has been duly considered.

NO CHANGE TO RECOMMENDATION

193747 - OUTLINE APPLICATION FOR A RESIDENTIAL DEVELOPMENT OF UP TO 4 DWELLINGHOUSES (ALL MATTERS RESERVED) AT LAND TO THE NORTH OF THE B4348, MUCH DEWCHURCH VILLAGE, HEREFORDSHIRE

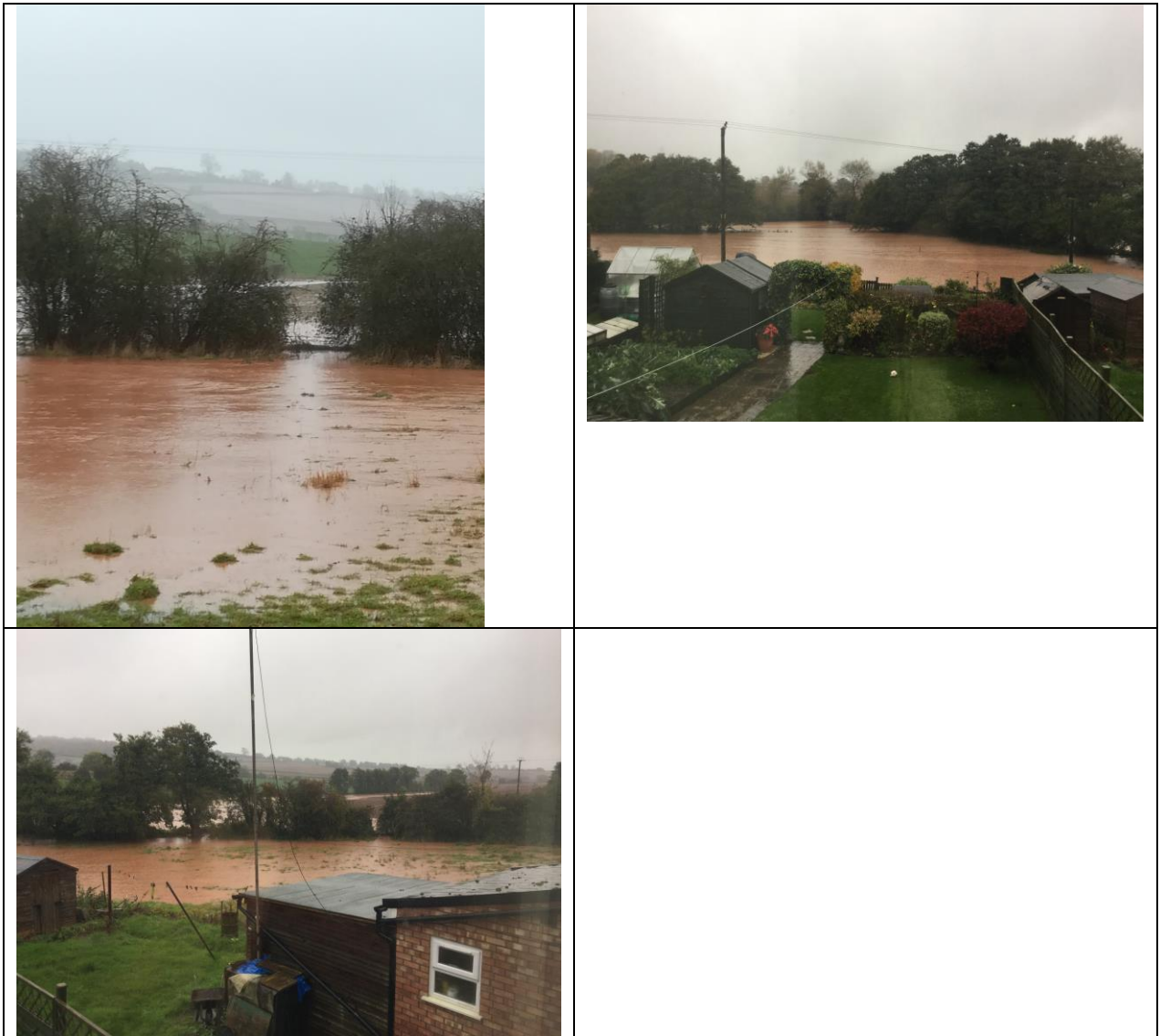
For: Hereford Diocesan Board of Finance per Mr Philip Staddon, 26 Lea Crescent, Longlevens, Gloucester, GL2 0DU

ADDITIONAL REPRESENTATIONS

On August 20th the following further objection was submitted to members of the committee by the Parish Clerk, who has already made representations on the application:

We would like you to look at the attached photographs, taken on different occasions, prior to the committee meeting on 26 August 2020 and request that these be taken into consideration. The image Site 4 is a regular occurrence throughout the year.





OFFICER COMMENTS

The matter of flooding has been fully addressed in the Officer's Report, see paragraphs 6.19 – 6.26 and recommended conditions 12 and 13. As well as the latest technical response from the Council's consultant Land Drainage Engineer provided at paragraph 4.6 of the Officer's Report.

NO CHANGE TO RECOMMENDATION

CORRECTION OF OFFICER'S REPORT

At paragraph 6.32 and 6.36 of the Officer Report the Church of St David is referred to as Grade II Listed when in fact it is Grade I Listed. Grade I Listed buildings are of national importance and the preservation of which should be afforded the greatest weight, as directed by paragraph 193 of the NPPF. However, it remains that the principle of development is considered to have no impact on the setting of the Grade I Listed Church of St David and so no harm is apparent to attribute weight to.

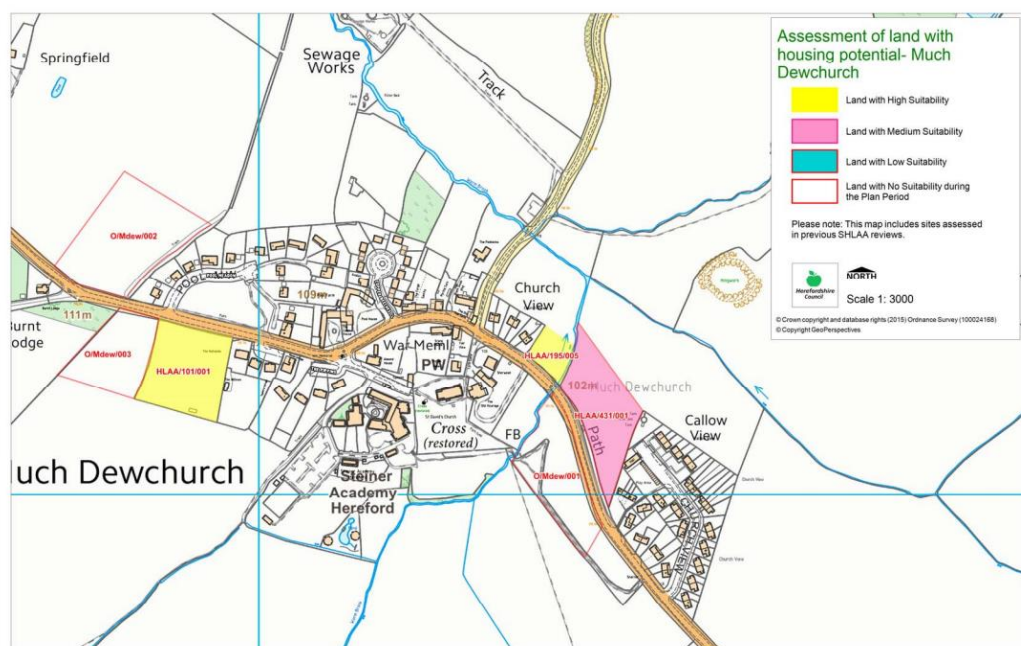
Views from the Council's Historic Buildings Officer have informally been sought and they have identified no objection at this stage in the process, having regard to the potential impact on the setting. Although, depending on the details submitted at the Reserved Matters stage, it was noted that harm may vary between less than substantial to no harm and so formal consultation would be undertaken as part of the Reserved Matters application.

NO CHANGE TO RECOMMENDATION

FURTHER INFORMATION RECEIVED

Discussions with the Council's Forward Plans highlighted that Strategic Housing Land Availability Assessments (SHLAA) were undertaken for Much Dewchurch in 2015 and 2009. The 2009 assessment identified the current application site as 'Land with High Suitability'. With a potential housing capacity of 5 dwellings. This suitability did not change in the 2015 review for which the Covering Report states:

1.2 This assessment is a study of sites that are considered to be potentially capable of delivering housing development over the next 20 years and beyond. Consequently, all sites included in this study have been assessed for their suitability and availability for housing development. The achievability assessment has yet to be completed.



NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	30 SEPTEMBER 2020
TITLE OF REPORT:	<p>193747 - OUTLINE APPLICATION FOR A RESIDENTIAL DEVELOPMENT OF UP TO 4 DWELLINGHOUSES (ALL MATTERS RESERVED) AT LAND TO THE NORTH OF THE B4348, MUCH DEWCHURCH VILLAGE, HEREFORDSHIRE,</p> <p>For: Hereford Diocesan Board of Finance per Mr Philip Staddon, 26 Lea Crescent, Longlevens, Gloucester, GL2 0DU</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=193747&search-term=193747
Reason Application submitted to Committee – Redirection	

Date Received: 25th October 2019

Ward: Wormside

Grid Ref: 348341,231163

Expiry Date: 20 December 2019

Local Member: Councillor Christy Bolderson

UPDATE

Members will recall that this application was deferred at the Planning and Regulatory Committee on 26 August 2020 in order for a formal request for a site specific Flood Risk Assessment to be submitted. This was requested but the applicant has advised that this will not be undertaken in support of the current outline application.

Officers have since discussed the Flood Zone mapping with the Environment Agency who stated that there is no ongoing work to re-map the flood extent in this area and that the application site lies wholly within Flood Zone 1. The Environment Agency declined to offer bespoke comments and stated that an application for less than 10 dwellings, even within Flood Zone 3, would not warrant bespoke comments.

The most recent comments from the Council's Consultant Land Drainage Engineer state that a Flood Risk Assessment submitted in support of the Reserved Matters application will be able to provide sufficient mitigation. The layout of the site remains a reserved matter and the flood risk in question is associated with Worm Brook, located along the South Eastern site boundary, as such the outline permission provides adequate flexibility to bring a layout forward that avoids areas of the site that are identified to be at risk of flooding.

Given the site lies wholly within Flood Zone 1 and that the layout and scale of any future development is reserved for later consideration and will be informed by a Flood Risk Assessment (required by recommended condition 12), it remains your Officer's recommendation that planning permission should be granted, even in the absence of the Flood Risk Assessment requested at the last Planning and Regulatory Committee meeting. The following report has been updated, where necessary, with the relevant information following the deferral of this application.

Further information on the subject of this report is available from Mr David Gosset on 01432 261588

1. Site Description and Proposal

- 1.1 The application site is located within Much Dewchurch Parish and proximate to the settlement of the same name. The site is to the South East of Church View, a collection of 6 semi-detached properties, and to the North East of the B4348 which runs through Much Dewchurch. The application site fronts the road, forming its South Western boundary, and is bounded to the North West by the residential curtilage of No 6 Church View and to the South East by Worm Brook, to the North of the application site is agricultural land in the applicant's ownership.
- 1.2 The application is made in outline, with all matters reserved, for the erection of up to 4 dwellings.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy (CS):

SS1	-	Presumption in favour of sustainable development
SS2	-	Delivering new homes
SS3	-	Releasing land for residential development
SS4	-	Movement and transportation
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
RA1	-	Rural housing distribution
RA2	-	Housing in settlements outside Hereford and the market towns
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 Core Strategy policies together with any relevant supplementary planning documentation can be viewed on the Council's website by using the following link:-

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

2.2 National Planning Policy Framework (NPPF)

Chapter 2	-	Achieving sustainable development
Chapter 4	-	Decision-making
Chapter 5	-	Delivering a sufficient supply of homes
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

3. Planning History

- 3.1 P191968/PIP - Application for permission in principle for a residential development of up to 4 dwelling houses - 04-Sep-2019 – Refused

4. Consultation Summary

Further information on the subject of this report is available from Mr David Gosset on 01432 261588

Statutory Consultations

4.1 **Natural England – No Objection**

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

4.2 **Health and Safety Executive – No Objection**

Do not advice against.

4.3 **Cadent Gas**

No response.

Internal Council Consultations

4.4 **Local Highways Authority – Area Engineer – No Objection**

27th November 2019:

New Access - A full 7 day speed survey undertaken during term time should be provided. Visibility splays should meet the 85th%tile recorded speed in both directions. (Quote both Herefordshire Highways Design Guide 2006 based on DMRB and Mfs & Mfs2):- Speed and volume data should be submitted in an excel spreadsheet format or in a readable form with one day's data to a page. A plan showing the location of the survey should also be submitted.

Please also provide a 2m footway at the front of the site.

1st January 2020 (Latest Comments)::

The application submitted is for an outline permission with all matters reserved, including access. As this is an all matters reserved the principle of “can an access be achieved” needs to be established. When visiting the site it was agreed that the principle of an access could be achieved as the visibility to and from the access had the benefit of the alignment of the highway and therefore had the view it could be achieved, subsequently the principle of the development could be achieved. If the permission is granted, then at the reserved matters stage, details and evidence including a speed and volume survey for a 7 full day period should be submitted to show that the access can meet national and local guidance. Further to the submission of the speed surveys, construction drawings on how the access can be achieved as there are a number of issues to cover in providing an access as there is a significant level difference and the requirement to meet HC guidance on access and driveway gradients.

Please condition the provision of a full 7 day speed and volume survey and construction details.

CAD - Access gates

CAE - Vehicular access construction

CAH - Driveway gradient

CAI - Parking – single/shared private drives

CAT - Construction Management Plan

CAX - Direction of proposed lighting

CB2 - Secure covered cycle parking provision

I11 – Mud on highway

I09 – Private apparatus within the highway

I45 – Works within the highway

I05 – No drainage to discharge to highway

I47 – Drainage other than via highway system

Further information on the subject of this report is available from Mr David Gosset on 01432 261588

4.5 Ecology – No Objection

Habitat Regs. Assessment

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

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

The initial Habitat Regulations Screening Assessment identifies surface water and foul water as ‘likely significant adverse effects’. The applicant has indicated in their application that foul water will connect to mains sewer, and surface water will outfall to on site SuDs (including infiltration tanks and geo-cellular storage), prior to outfall to the Worm Brook.

Condition- Drainage - Mains Sewer and Surface Water to Sustainable Urban Drainage

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

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

Site ecology

In order to ensure site ecology, including the Worm Brook and bankside habitats are protected, the following conditions are recommended:

Condition Nature conservation protection - Ecological buffer zone

The details submitted pursuant to condition X [the reserved matters condition] shall include details of an ecological buffer zone and root protection area along the eastern site boundary adjacent to the Worm Brook. Such details shall include the retention of bankside vegetation, the erection of boundary fencing on the west (garden) side of the zone and measures to restrict illumination of the ecological buffer zone. Such measures as are agreed shall be maintained thereafter unless otherwise approved in writing by the LPA.

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

Condition Nature Conservation protection – Construction Environmental Management Plan

Before any work, including any site clearance or demolition begin, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and a specified ‘responsible person’, shall be supplied to the local 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; unless otherwise agreed in writing by the local planning authority.

To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National

Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3.

Condition – Nature Conservation Biodiversity Enhancement Plan (Net Gain)

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

Informative: Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. Green and blue infrastructure could include wildlife friendly SuDS, tree and shrub planting (usually locally characteristic or directly associated cultivars of native species), wildflower meadows and Traditional ('standard') Orchards. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

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

Condition– Nature Conservation protection – Lighting

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

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

4.6 **Land Drainage – No Objection**

19th December 2019:

Overall Comment

We recommend that the Council do not grant planning approval for this development until the concerns raised above have been addressed. The proposed development may be at risk of flooding from fluvial and other sources, noting that these risks could influence the design (or event viability) of the proposed development and potentially increase flood risk elsewhere. The applicant has also provided insufficient information regarding the proposed surface water and foul water drainage strategies.

It is recommended that the Applicant submits the following information prior to the Council granting planning permission:

- A Flood Risk Assessment that assesses the risk of flooding to the proposed development from all sources, and that demonstrates no unacceptable risk to the development or to people, property and infrastructure elsewhere.
- An outline surface water and foul water drainage strategy, supported by a plan of the drainage systems that demonstrates the proposed location of attenuation features and discharge points.
- Calculations to support the outline surface water drainage strategy, including greenfield runoff rates, proposed discharges rates a

12th March 2020:

Overall Comment

Further information on the subject of this report is available from Mr David Gosset on 01432 261588

We recommend that the Council do not grant planning approval for this development until the concerns raised above have been addressed.

The proposed development may be at risk of flooding from fluvial and other sources, noting that these risks could influence the design (or even viability) of the proposed development and potentially increase flood risk elsewhere.

It is recommended that the Applicant submits the following information prior to the Council granting planning permission:

- A Flood Risk Assessment that assesses the risk of flooding to the proposed development from all sources, and that demonstrates no unacceptable risk to the development or to people, property and infrastructure elsewhere.
- A revised drainage strategy that demonstrates all SuDS features that serve more than one property are located in public open space or on land registered as jointly owned by the residents.
- Confirmation of who will be responsible for the maintenance of the proposed crate storage system and the outfall to the watercourse.

20th April 2020 (Latest Comments):

This response is in regard to flood risk and drainage aspects. In previous responses we have raised significant concerns regarding the potential risk of flooding from fluvial and other sources, and the opportunities for the sustainable management of surface water runoff. We highlighted that these risks could influence the design (or even viability) of the proposed development and potentially increase flood risk elsewhere.

The applicant has responded to the concerns raised in a note dated 16 April 2020 titled 'Applicant's Note to Planning Case Officer'.

Flood risk

The Applicant discusses the flood risk to the site and refers to this only as surface water flood risk. We stress that we have concerns that the site could also be at risk of fluvial flooding, and that the current indication of the site in Flood Zone 1 may be associated with the extent of mapped model extents rather than a reflection of the actual fluvial risk attributable to the Worm Brook. The Applicant states that a detailed assessment of flood risk will be undertaken to inform the reserved matters application and the detailed design of the scheme. We agree with this approach, however highlight that this assessment must consider the following:

- Fluvial flood risk associated with the Worm Brook and tributaries, noting that this must comprise a robust assessment and not be based only on the indicative EA flood maps, and take anecdotal flood records into account.
- The development must mitigate for any increase in flood risk elsewhere associated with impact to fluvial flood flow conveyance or loss of fluvial flood storage in accordance with the recommendations of the Herefordshire Level 1 SFRA and taking climate change effects into account.
- The development must be safe over its lifetime taking climate change effects into account.

We highlight that the need to provide appropriate mitigation may affect the layout of the development.

Surface water drainage

The Applicant's drainage strategy proposed the roof and driveways be drained to a crate storage system that will discharge at an attenuated rate to the Worm Brook on the eastern edge of the site. We noted that the crate storage system was drawn to span what appeared to be two property gardens. This approach was not considered acceptable as any shared SuDS feature must be located in public open space or on land registered as jointly owned by the residents.

The Applicant has since responded and stated that the ownership / future maintenance of the indicative SUDS features are not strictly planning matters, however we highlight that the submitted strategy is not viable and amending this strategy may require an amendment to the layout of the development. If the Applicant understands this risk and appreciates that an amendment to the layout of the development may be required to provide an acceptable drainage strategy, we agree that this information can be provided as part of the reserved matters application to inform the detailed design.

Overall Comment

On the understanding that the Applicant accepts that mitigating fluvial flood risk and providing an amended drainage strategy may affect the layout of the development, we have no further objections to the proposed development on flood risk and drainage grounds.

Should the Council be minded to grant planning permission, we recommend that the following information is requested as part of the reserved matters application:

- Detailed drawings of the proposed surface water drainage system and proposed features such as infiltration structures, attenuation features, and outfall structures;
- Results of infiltration testing undertaken in accordance with BRE Digest 365 methodology;
- 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;
- 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. FEH 2013 rainfall data is expected;
- 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. FEH 2013 rainfall data is expected;
- Calculations that demonstrates that the proposed drainage system will have sufficient capacity to cater for up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH 2013 rainfall data is expected;
- Calculations to inform the assessment of the risk of water backing up the surface water drainage system from the proposed outfall and how this risk will be managed without increasing flood risk to the site or to people, property and infrastructure elsewhere, noting that this also includes failure of flap valves;
- Demonstration that appropriate access is available to maintain drainage features;
- Operation and maintenance manual for all proposed drainage features that are to be adopted and 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;
- Confirmation that discharge to the public sewerage system has been agreed with the relevant authority. If the results of infiltration testing indicate that infiltration will provide a feasible means of managing surface water runoff, an alternative drainage strategy must be submitted to the Council for review and approval. Ordinary Watercourse Consent will be required for any proposed structures within an ordinary watercourse.

4.7 **Welsh Water – No Objection**

We have reviewed the information submitted as part of this application and note that the intention is to drain foul water to the mains sewer and surface water to a soakaway to which we offer no objection principle. Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

Conditions

No 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.

5. Representations

5.1 Much Dewchurch Parish Council

21st November 2019:

The proposed site is on a flood plain. This field, including the area of the proposed site, is under water several times a year. The flood map in the planning application is out of date and is not a true picture of the flooding that occurs. The Parish Council requests that a flood/drainage survey is carried out and the flood map updated before any application can be considered. Unequivocal photographic evidence as to the flooding issue has been submitted by neighbouring properties.

The proposed site is 6-8ft below the B4348 and would therefore have to be raised. This would severely impact the flood zone 3 areas already identified immediately adjacent to site. The Strategic Flood Risk Assessment 2009 (SFRA) aims to ensure that planning policies and site allocations will not increase the risk of flooding both within the site itself and the surrounding area. The nearby Welsh Water sewage pumping station already floods and this development would exacerbate the problem. 18-20th November the pumping station experienced hydraulic overload with a large amount of discharge coming up through a manhole in the field of the proposed site and ultimately covering a proportion of the field and getting into the adjacent Worm Brook. The proposed site lies within the River Wye Special Area of Conservation and as such is protected by European legislation. The site is well established grassland adjacent to a water course. Any development would have a massive impact on the wildlife and vegetation located in the brook and the meadow. There would be unavoidable run off from any development into Worm Brook due to its immediate location.

There are three proposed accesses onto the B4348; these are in a dip onto a very busy road and with very limited visibility in both directions. The proposed access arrangements are considered to be dangerous.

Much Dewchurch has very limited facilities i.e. one pub and next to no public transport links. Planning has already been granted for six houses and an application for nine is in progress. Therefore Much Dewchurch is providing towards the housing shortage but to put a further 4 houses on a location that clearly floods is considered unacceptable. Much Dewchurch Parish Council strongly opposes this application and request that it is refused.

5th March 2020:

MDPC still strongly objects to this application and the additional drainage survey in no way alleviates the serious concerns that were raised previously by the council.

The attenuation tank, no matter how low the flow, will still be releasing water into a watercourse which bursts its banks on a regular basis. Any raising of levels to stop these houses flooding will exacerbate an already serious flooding problem further downstream.

The architect for this development keeps re-iterating in his correspondence with the planning officer that the site is on a flood zone 1 area, defined as a 1 in 100 to a 1 in 1000 year risk of flooding, this is clearly not the case as photographic evidence shows. The EA map being used is out of date and the argument that the site is on a flood zone 1 site should no longer be used, It is noted that the architect is writing the conditions for the planning department to get this application passed, is it standard practice for architects to tell the planning department what to write?

The Parish Council still objects to this application on the basis that the site floods, the access is dangerous and any building will affect the ecology of well-established pasture land and the adjoining brook. The PC request that this application is refused.

20th August 2020 (Latest Comments):

We would like you to look at the attached photographs, taken on different occasions, prior to the committee meeting on 26 August 2020 and request that these be taken into consideration. The image Site 4 is a regular occurrence throughout the year.

- 5.2 To date a total of 19 objecting responses have been received. The comments are summarised below:

Objecting comments:

- Risk of flooding on the site
- Downstream effects of the development
- Overload of the sewage system
- Located in the River Wye Special Area of Conservation
- Access onto a busy section of the B4348 with poor visibility at the base of a small hill
- Access would have to cross footpath
- Lack of a regular bus service
- Limited services
- Impact on local wildlife and protected species
- Inadequate surface water drainage strategy
- Impact on the Welsh Water Treatment Works

- 5.3 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=193747&search-term=193747

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

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

6. Officer's Appraisal

Policy Context

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

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

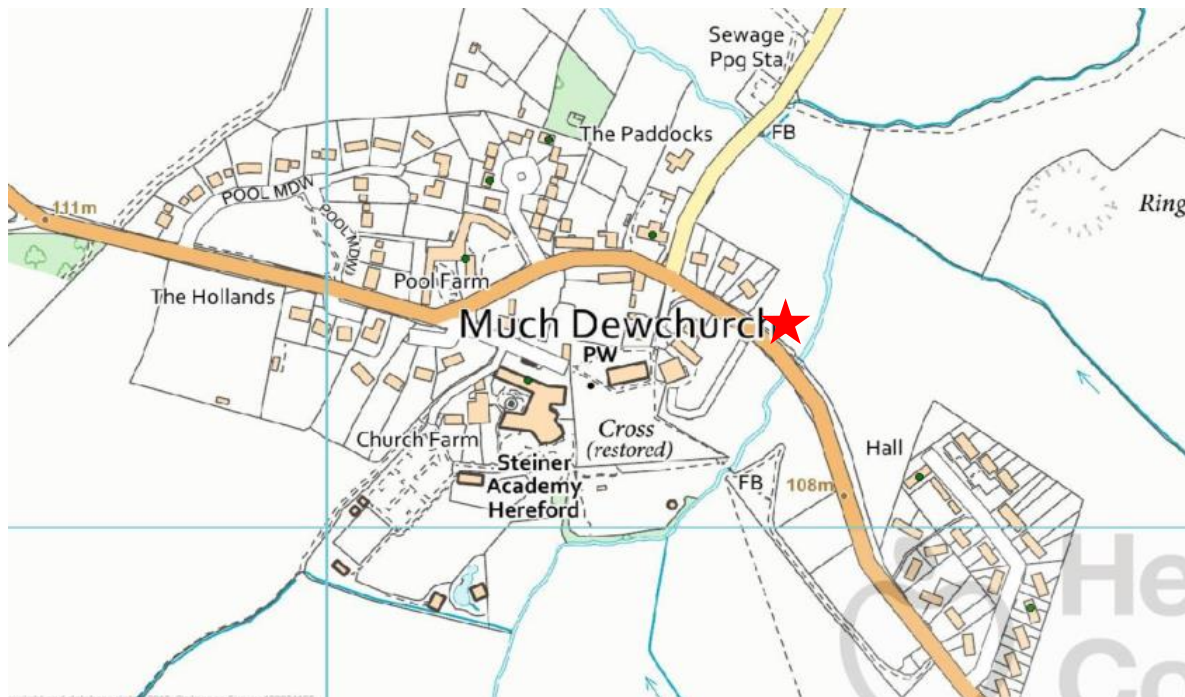
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). It is also noted that the site falls within the Much Dewchurch Neighbourhood Area, which has not begun drafting a Neighbourhood Development Plan and so no weight can be attributed to any draft document at this stage. The National Planning Policy Framework 2019 is a significant material consideration, but does not hold the statutory presumption of a development plan.

Principle of Development

- 6.3 It is a matter of fact that currently the Council is unable to demonstrate a 5-year housing land supply, with the latest published Position Statement identifying a housing land supply equating to 3.69 years (April 2020). This leads to the policies for housing supply being considered out of date. As set out in paragraph 11 of the NPPF, in such circumstances where the policies most important for determining an application are considered to be out of date, permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits,

when assessed against the NPPF as a whole. As such this tilted balance in favour of development is adopted as directed by paragraph 11(d)(ii) of the NPPF.

- 6.4 The spatial strategy relating to housing distribution within the county is set out in the CS at Policy SS2. Hereford, as the largest settlement and service centre is the recipient of up to 6,500 of the required 16,500 homes, with the market towns identified in the second tier as recipients of approximately 4,700 dwellings. Housing in the rural parts of the County is delivered across the settlements identified at figures 4.14 and 4.15 of the Core Strategy. Here the identified settlements are arranged according to the seven identified housing market areas. Figure 4.14 identifies the settlements which will be the main focus of proportionate housing development. Figure 4.15 classifies the 'other' typically smaller settlements where proportionate housing will be appropriate. There are 119 'main' villages (figure 4.14) and 98 'other settlements' (figure 4.15), giving 217 rural settlements where proportionate growth will be acceptable in principle. Much Dewchurch is a settlement so defined by figure 4.14.
- 6.5 It is of note that the spatial strategy for the location of housing contained within the CS is considered to be sound and consistent with the framework; which itself seeks to avoid the development of isolated homes in the countryside through paragraph 79. It is therefore considered that Policies RA1 and RA2 of the CS continue to attract significant weight in the decision making process despite being considered out of date.
- 6.6 As set out in the preamble to Policy RA2, at paragraph 4.8.23, until such time as either the NDP or the Rural Areas Sites Allocation DPD defines settlement boundaries (or a reasonable alternative) any proposal has to be assessed against its relationship to the main built up form of the settlement.
- 6.7 With the foregoing paragraph in mind and considering the lack of an NDP, it is the relationship between the proposal site and the main built up part of the settlement which is to be assessed. The site is indicated on the plan below by the red star:



- 6.8 The pattern of development across Much Dewchurch comprises wayside development running along the roadside as well as examples of residential estates accessed off the B4348 there are

also a number of converted farm buildings. The dwellings nearest the site (to the North West) comprise semi-detached properties which are set back from the roadside but accessed directly from the B4348. These dwellings are set out in a linear form following the road. The application site is immediately adjacent to these dwellings and the indicative site layout illustrates that it would be achievable to provide 4 dwellings on the site with a similar layout. Given the site lies at the edge of the settlement it is not considered to be a part of the main built form. However, it is considered to lie adjacent to the main built form of the settlement and would form a natural extension to it, up to Worm Brook.

- 6.9 The degree to which the site is considered to be sustainable is derived, in part, from the access to alternative modes of transport, beyond that of a private motor vehicle and the ability of future residents to access services without an undue reliance upon the private motor vehicle. However, the NPPF makes it clear at paragraph 103 that the opportunities to maximise sustainable transport solutions will naturally vary between urban and rural areas and this should be taken into account in decision-making.
- 6.10 There is a pedestrian footpath along the northern side of the B4348, which the application site will benefit from and provides access into the village. The village provides some basic services, including a public house, private school and church. There is a single bus stop in the village that provides limited services South to Monmouth and North to Hereford, which provides a wider range of public transport connections including rail.
- 6.11 When having regard to the aforementioned policy provisions relating to the delivery of housing, the application site is adjacent to the main-built up part of the settlement in accordance with CS policy RA2. The principle of residential development is therefore considered acceptable, a point that is bolstered by the relative sustainability of the location with access to a range of services on foot or by public transport.
- 6.12 The following sections will go on to consider whether there are any other material considerations of such weight and magnitude that might lead to a conclusion that the proposal represents an unsustainable form of development.

Landscape Impact

- 6.13 While landscaping remains a reserved matter the impact of the principle of developing the site can be assessed in terms of its potential landscape impacts. The Core Strategy seeks, via policy LD1, to ensure development proposals demonstrate how the character of the landscape and townscape have positively influenced the nature and site selection of the proposal.
- 6.14 The application site lies adjacent to an established row of residential dwellings on the edge of the settlement. As such the site is well contained by this adjoining residential use and Worm Brook, which runs along the Eastern site boundary. Furthermore the site fronts on to the B4348 and so maintains a connection with it. The depth of the application site matches the adjacent residential dwellings plot depth which limits the incursion north into the open countryside. The application site gently slopes down towards Worm Brook but the surrounding topography is generally flat, as such the site is not widely visible.
- 6.15 The site does not lie within a designated landscape and is a well contained site adjacent to existing residential development. The proposal is clearly informed by the surround built form and landscape in terms of the proposed residential use and the depth and positioning of the application site, contained by existing features and development. As such it is considered that the proposal adheres to the requirements of CS LD1.

Amenity

- 6.16 Policy SD1 of the core strategy states that development should safeguard amenity of existing and proposed residents and ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination and therefore scale, height and proportion needs consideration.
- 6.17 While the appearance and scale remain reserved matters the principle of developing the site has some implications for the adjacent residential neighbours. There will be an increase in the activity on the site, in the short term as a result of construction and in the long term as a result of the ongoing residential use of the site. However, this change is not inherently contrary to SD1 which seeks a reasonable control over the preservation of residential amenity of existing residents. The temporary construction effects are not considered to be material and the long term change is unlikely to cause adverse effects beyond that which is considered acceptable. The site is large enough to accommodate up to 4 dwellings without being overdeveloped and provides ample room to position the dwellings in a manner that would preserve the residential amenity of the neighbouring dwellings.
- 6.18 Considering the above the principle of developing the site is not considered to be contrary to CS SD1 and a scheme could come forward at the reserved matters stage that adequately protects the amenity of the neighbouring dwellings.

Flooding and Drainage

- 6.19 Policy SD3 of the Core Strategy states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.20 The application site lies within Flood Zone 1 as defined by the Environment Agency and as such has a low probability of flooding. In accordance with Environment Agency standing advice, the planning application does not need to be supported by a Flood Risk Assessment (FRA).
- 6.21 The site lies proximate to both Flood Zone 2 and 3, located to the North of the application site. Furthermore there are surface water flood hazards noted on the Environment Agency mapping, associated with Worm Brook, these include the 1% and 3.3% annual chance hazards which are limited to the South Western edge of the site, following the boundary as it adjoins Worm Brook. Furthermore there is a 0.1% hazard across a wider extent of the site. The Council's Land Drainage consultant suggested that these surface water hazards were likely associated with Worm Brook rather than being a result of surface water flooding. A range of public comments have supplied photographic evidence of flooding approximately on the application site.
- 6.22 While these flood hazards are acknowledged and will inform the layout of the application site they are not sufficient to trigger the need for a FRA. The application site remains in Flood Zone 1 and as such is considered, by the Environment Agency, as being at low risk of fluvial flooding. Furthermore the Environment Agency has stated there are currently no plans to remodel the flood extent in this area and as such the site will remain in Flood Zone 1. Nevertheless, adopting a cautious approach, given the range of public comments and, the concerns highlighted by the

Council's Land Drainage consultant recommended condition 12 will require the submission of a FRA in support of the reserved matters application which would then inform layout and design.

- 6.23 The Council's Land Drainage consultant expressed concern that the result of the FRA might lead to changes in the proposed layout and drainage strategies. However, the application is all matters reserved and the submitted layout is indicative only, as such is liable to change. If the FRA does constrain the viable site area this will naturally impact upon the layout and ultimately upon the number of units that can come forward under the reserved matters application. This fact has been acknowledged by the planning agent acting on the applicant's behalf who confirmed the following, via email dated 07 May 2020:

I do think that it is really important to recognise that this is an outline application for 'up to 4 dwellings' and that all matters are reserved. As a result, we are fully aware that unit numbers are not guaranteed and that the design and layout will be influenced by constraints, whether that be drainage, ecology or other matters. Anything we have shown to date (the 4 plot layout and the drainage drawing) is purely indicative and subject to change.

- 6.24 The wording of recommended condition 12 was informed by the Council's Land Drainage consultant's latest comments, which clearly set out the details required in support of the reserved matters application:

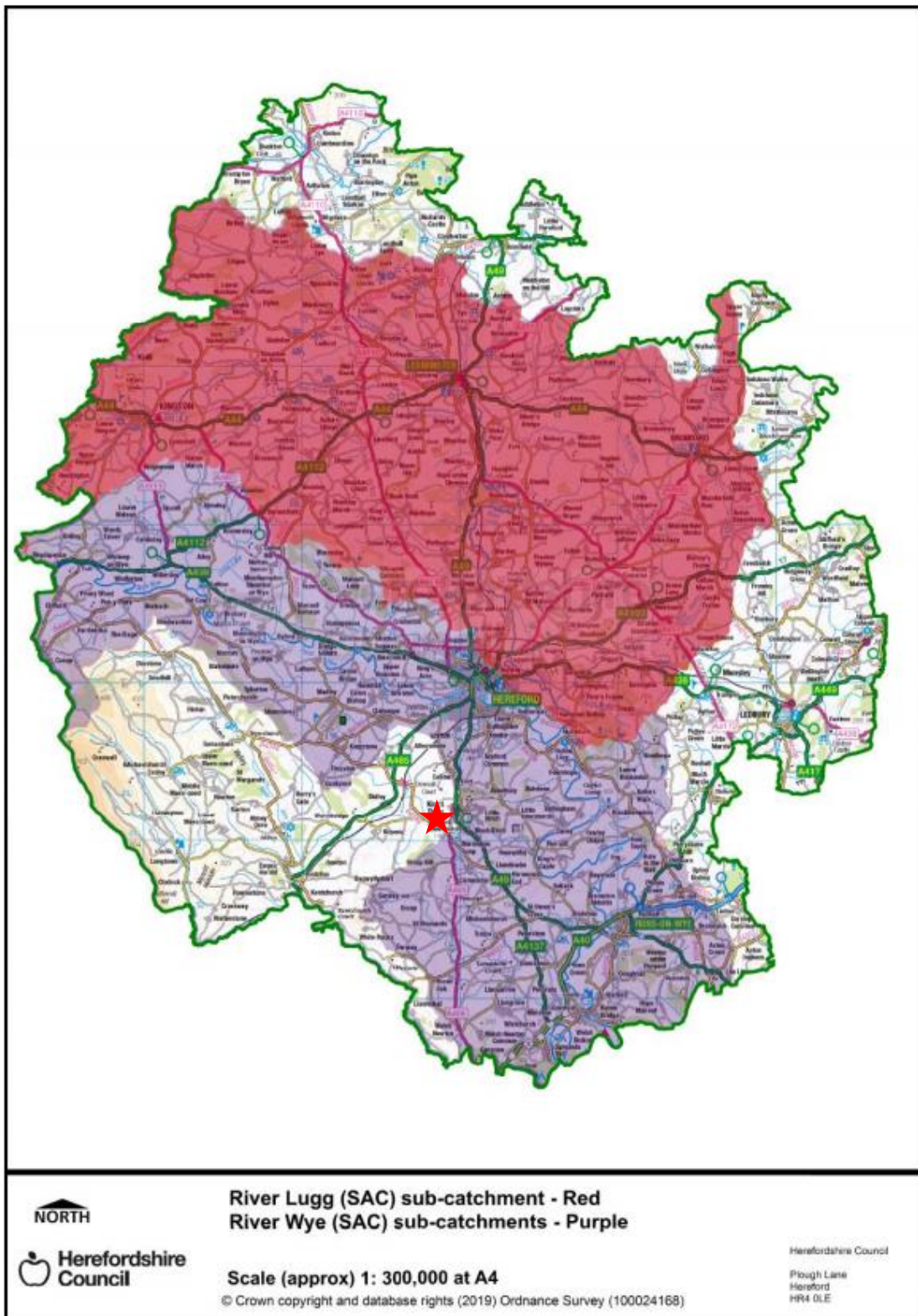
- *Fluvial flood risk associated with the Worm Brook and tributaries, noting that this must comprise a robust assessment and not be based only on the indicative EA flood maps, and take anecdotal flood records into account.*
- *The development must mitigate for any increase in flood risk elsewhere associated with impact to fluvial flood flow conveyance or loss of fluvial flood storage in accordance with the recommendations of the Herefordshire Level 1 SFRA and taking climate change effects into account.*
- *The development must be safe over its lifetime taking climate change effects into account.*

- 6.25 In regards to foul water the applicant proposes to connect to the mains sewer network. This has been reviewed by Welsh Water who have confirmed the viability of the scheme. This is secured via recommended condition 15.

- 6.26 The surface water drainage strategy is to utilise on site soakaways to manage any excess surface water. The design and layout of the soakaways will be confirmed at the reserved matters stage, after being informed by the FRA, and is secured via recommended condition 13.

Habitat Regulations Assessment

- 6.27 The application site lies in an area of the county that drains to the River Monnow and the Council's Ecologist has confirmed that the Welsh Water treatment works serving Much Dewchurch discharges to Worm Brook which connects into the River Monnow. As such the Habitat Regulations Assessment (HRA) process is not automatically triggered. However, the application site is close to the boundary marking the different catchment areas, as shown on the below map, and so the Council's Ecologist has nevertheless taken a precautionary approach and completed Appropriate Assessment (AA). The HRA AA concluded that subject to conditions there would be no likely significant effect upon the River Wye SAC. This assessment has been reviewed by Natural England who responded with no objection.



Ecology and Biodiversity

- 6.28 Policy LD2 of the CS seeks the conservation, restoration and enhancement of biodiversity and geodiversity assets. As such, development will not be permitted where it has the potential to harm these assets or reduce the effectiveness of the ecological network of sites. The introduction, restoration and enhancement of biodiversity and geodiversity features will be actively encouraged. This is directly supported by policy LD3 which ensures development proposals protect, manage and plan for the preservation of existing and delivery of new green infrastructure.

Further information on the subject of this report is available from Mr David Gosset on 01432 261588

This is achieved by identifying green corridors and linkages, provision of on-site infrastructure and integration into the wider network. The application site is generally laid to grass and there is no designation as to its ecological value. Worm Brook does provide an ecological corridor which continues south under the B4348 and north, following the brook. The roadside boundary does not form a green corridor as it terminates at the SW corner of the site but it does provide the potential for valuable habitats.

- 6.29 The application has been reviewed by the Council's Ecologist who confirmed that subject to appropriate conditions there was no objection to the proposal at the outline stage and that it would meet both policies LD2 and LD3 of the CS.
- 6.30 The first condition recommended seeks to ensure there is an ecological buffer zone along the Eastern site boundary to Worm Brook, see recommended condition 14. This allocation of an ecological buffer zone will ensure wildlife connectivity along this green corridor is maintained post development and chimes with the approach needed to ensure a reduced risk of flooding to future dwellings from Worm Brook as well as aligning the development with the specific requirements of LD2 and LD3.
- 6.31 A further three conditions are recommended, see conditions 10, 11 and 16, which in turn seek to secure a Construction Environmental Management Plan (CEMP), biodiversity net-gain enhancements and control over external lighting that may illuminate local habitats. These again ensure compliance of any future scheme under the reserved matters application with policies LD2 and LD3 of the CS and will ensure sufficient compensation from any loss of habitats associated with hedgerow removal.

Heritage

- 6.32 There are a number of listed heritage assets on the Eastern side of the village of Much Dewchurch. These are as follows: The Old Toll Cottage (Grade II), Black Swan Public House (Grade II), Stone House (Grade II), Church of St David (Grade I), Churchyard Cross (Grade II and associated Scheduled Ancient Monument), The Old Vicarage (Grade II), Lychgate (Grade II), Thomas Monument (Grade II), a Water Pump (Grade II) and a Telephone Kiosk (Grade II).
- 6.33 Policy LD4 states that development proposals should protect, conserve and enhance the heritage assets and wider historic environment that they affect. This includes emphasising the original form and function through the use of sympathetic design, contributing to the character and distinctiveness of the local townscape. The scope of the works required to protect, conserve and enhance heritage assets and their settings should be proportionate to their significance. This is supported by Paragraph 190 of the NPPF which states that when making decisions a Local Planning Authority should identify and assess the particular significance of any heritage asset that may be affected. Furthermore it directs decision makers to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 6.34 Special regard has to be given to the desirability of preserving and enhancing historic assets and their setting. Under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Herefordshire Council, as the local planning authority, is required, when considering development which affects a listed building or its setting:

"to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

- 6.35 The application site is well separated from all of the above heritage assets and the impact on these groups of assets will be assessed below:

- 6.36 The group of heritage assets surrounding the Church of St David (including Church of St David itself, the Churchyard Cross, including the associated Schedule Ancient Monument, The Old Vicarage, Lychgate and Thomas Monument) are all over 70m from the application site with the B4348 further separating the site from these assets. There is mature vegetation along the southern side of the carriageway that removes any direct visual connection to these assets from the application site. The closest of the Grade II Listed buildings is The Old Vicarage which is further screened by the outbuilding located to the immediate north of it, while this outbuilding is considered to be curtilage listed it is not listed in its own right. Given the separation distance between the application site and these heritage assets the proposal for up to 4 dwellings on a site adjacent to existing dwellings is not considered to impact the character or setting.
- 6.37 The three Grade II Listed assets that lie on the Southern side of the B4348 in the centre of Much Dewchurch (Stone House, a Water Pump and a Telephone Kiosk) are all some distance, West from the application site at 90m, 96m and 56m respectively. There is no visual connection between the application site and these heritage assets. Given the separation distance and the lack of any visual connection it is not considered that the proposal could affect the character or setting of them.
- 6.38 Finally The Old Toll Cottage and Black Swan Public House, located to the North of the B4348 are approximately 68m and 80m, respectively, North, North West of the application site. The Old Toll Cottage is visible from the South Western site boundary of the application site but the Black Swan is entirely screened by intervening buildings (N^o 1 and 2 Church View and the Old Toll Cottage). Given the significant distance and the surrounding built form the proposal is not considered to affect the character or setting of these listed heritage assets.
- 6.39 Furthermore, the application site is adjacent to a row of 6 existing dwellings and would form a natural extension to this emerging pattern of development and so reduce any adverse impact upon the character of the area. The application is made in outline with all matters reserved and as such the effect upon the Listed Heritage assets and local development pattern will be further considered when scale, layout, appearance and landscaping are sought to be resolved.
- 6.40 The proposal is therefore not considered to have any effect upon the character or setting of the historic environment and as such no conflict with CS LD4 is identified. Scheduled Ancient Monuments and Grade I Listed Buildings are of national importance and as directed by paragraph 193 of the NPPF the preservation of these assets should be afforded the greatest weight, However, no impact upon the setting of the heritage assets has been identified and so no harm is apparent to attribute weight to. Views from the Councils Historic Buildings Officer have informally been sought and they have identified no objection at this stage in the process, having regard to the potential impact on the setting. Although, depending on the details submitted at the Reserved Matters stage, it was noted that harm may vary between less than substantial to no harm and so formal consultation would be undertaken as part of the Reserved Matters application.

Highways and Transport

- 6.41 Policy SS7 requires proposals to focus development to the most sustainable locations and reduce the need to travel by private car. This aim is reflected by policies SS4 and MT1, which stipulate that proposals should facilitate a genuine choice of travel modes such as a walking, cycling and public transport. These policies are reflective of the National Planning Policy Framework objectives to guide development to sustainable locations.
- 6.42 Furthermore policy MT1 of the CS seeks to ensure that developments, among other things, are sited, designed and laid out in a manner which ensures the safe and efficient flow of traffic, safe

entrance and exit and have the appropriate operation manoeuvring space to accommodate all modes of transport.

- 6.43 The Local Highways Authority Area Engineer has reviewed the proposal to develop up to 4 dwellings on the site. Given access is a reserved matter the Area Engineer has assessed the principle of gaining access to the site from the B4348. Following a site visit the Area Engineer confirmed that the principle of an access to the site could be achieved as the visibility from the site had the benefit of the alignment of the highway.
- 6.44 The reserved matters application will need to be supported by a full 7 day speed and volume survey to ensure the access visibility meets both national and local standards.
- 6.45 While a number of public comments raised this matter the only item under consideration is the principle of gaining access for up to 4 dwellings and not the technical details, including how it would cross the footpath. Full details will come forward under the reserved matters application and will be reviewed by the Local Highways Authority for compliance with current local and national guidance.
- 6.46 As covered above the application site has ready access to the local public transport network in Much Dewchurch and through the imposition of conditions bicycle storage will be secured in line with CS SS4, SS7 and MT1.

Conclusion and Balance

- 6.47 In accordance with the statutory requirement, determination must be made in accordance with the Development Plan, unless material considerations indicate otherwise. The NPPF affirms at paragraph 12 that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 6.48 At this time the Development Plan comprises the CS. As set out in the foregoing paragraphs the development proposed is considered to accord with the CS. This is because the site lies adjacent to a main built up part of the settlement, in accordance with policy RA2 and no other conflict has been identified.
- 6.49 Next it is necessary to turn to the material considerations, to ascertain if these indicate if a decision should be made other than in accordance with the Development Plan. As detailed above there is not a Neighbourhood Development Plan that has reached a stage that can be attributed any weight.
- 6.50 A key material consideration is the NPPF. As the application is for the supply of housing, specifically up to three dwellings, the current implications of the Local Planning Authority not being able to demonstrate a 5 year housing land supply, plus requisite buffer, as set out in the NPPF (footnote 7), must be considered. The current published position is a 3.69 year supply. At paragraph 11d the NPPF states that where policies which are most important for decision making are out-of-date, permission should be granted 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.
- 6.51 Given the proposal is for housing the policies most important for determination of the application relate to housing. As per paragraph 11d, footnote 7, of the NPPF they must be considered as out of date by reason of the current housing land supply deficit. This does not mean that they attract

no weight, but rather reduced weight that is determined by the decision maker. There is a requirement, over the plan period (2011-2031) to provide a minimum of 40 new dwellings in the Parish of Much Dewchurch. As of April 1st 2020 those built and existing commitments amount to 25 dwellings. Leaving a residual requirement for 15 dwellings in the Parish. The current application would go some way to meeting the Parish's minimum growth target in a sustainable location.

- 6.52 Given 11(d)(i) does not apply to this application site and proposal it's necessary to apply the commonly referred to 'tilted' planning balance set out in paragraph 11(d)(ii). The tilted planning balance, is generally assessed under the three overarching objectives of the planning system, namely the economic, social and environmental objectives. The proposal would positively contribute to the supply of housing at a time when, at the county and local level, the supply is not meeting targets and this would bring forward economic and social benefits. There would be economic benefits during the construction phase to suppliers and trades and after occupation through increased expenditure of disposable incomes. The payment of the New Homes Bonus is also another benefit to take into account. There may be some social benefits as a result of increased residents in the village and support for local facilities. It is considered that these benefits of the scheme of up to 4 dwellings would be moderate.
- 6.53 There is an opportunity to provide biodiversity net gain enhancements and an ecological corridor as part of the reserved matters application and so these aspects do not weigh against the scheme in environmental terms.
- 6.54 There was an elevated number of public comments regarding the potential for flooding on the application site as well as the downstream effect of bringing forward development on this site. However the Council's Land Drainage Consultant was satisfied that the provision of a FRA at the reserved matters stage would inform the layout of the scheme and be able to adequately avoid or mitigate any on site and downstream effects. The application site is wholly within Flood Zone 1 according to the Environment Agency and so it was determined that a FRA was not required at this stage. As such this does not weigh against the scheme in environmental terms and is considered neutral at this time.
- 6.55 In terms of the identified harm, there would be a degree of localised visual harm resulting from the need to create access to the site from the B4348 and the construction of the dwellings. However these are very limited aspects of the development and further details would come forward under the reserved matters application.
- 6.56 Bringing all of the above together and in light of the 'tilted balance' there is limited identifiable harm as a result of the scheme and a range of benefits from providing up to 4 dwellings, adjacent to a settlement, in a Parish that has yet to achieve the minimum growth target set out by the development plan. The adverse effects identified are not sufficient to significantly or demonstrably outweigh the benefits when assessed against the NPPF as a whole. It is therefore recommended that planning permission be granted subject to the below conditions.

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. C02 – Time limit for submission of reserved matters (outline permission)**
- 2. C03 - Time limit for commencement (outline permission)**

3. **C04 - Approval of reserved matters**
4. **C06 - Development in accordance with the approved plans**
Drawing No: 761/ PL01 dated April 2019
5. **CAT - Construction Management Plan**
6. **CAE - Vehicular access construction**
7. **CAH - Driveway gradient**
8. **CAI - Parking – single/shared private drives**
9. **CB2 - Secure covered cycle parking provision**
10. **Before any work, including any site clearance or demolition begin, equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and a specified 'responsible person', shall be supplied to the local 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; unless otherwise agreed 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, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies LD1-3.

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

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3.

12. **The details submitted pursuant to condition 3 shall be supported by a Flood Risk Assessment (FRA) that identifies local flood hazards, specifically those associated with Worm Brook. The FRA must also identify mitigation for any increase in flood risk elsewhere associated with the impact to fluvial flood flow conveyance or loss of fluvial flood storage in accordance with the recommendations of the Herefordshire Level 1 SFRA and taking climate change effects into account.**

Reason: To protect the development from flooding and to prevent further downstream effects associated with the removal of fluvial flood storage and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

13. **No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented before the first occupation of the dwellings hereby approved.**

Reason: Required prior to commencement given the specific concerns highlighted by the Land Drainage Engineer. To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal and to comply with Policy SD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

14. The details submitted pursuant to condition 3 shall include details of an ecological buffer zone and root protection area along the eastern site boundary adjacent to the Worm Brook. Such details shall include the retention of bankside vegetation, the erection of boundary fencing on the west (garden) side of the zone and measures to restrict illumination of the ecological buffer zone. Such measures as are agreed shall be maintained thereafter unless otherwise approved in writing by the LPA.

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

15. All foul water shall discharge through a connection to the local Mains Sewer network and surface water shall be managed through a SuDs system (with infiltration tanks) within the development boundary; unless otherwise agreed in writing by the Local Planning Authority pursuant to condition 13.

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

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

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

17. CAD - Access gates

18. CAX - Direction of proposed lighting

19. CBK - Restriction of hours during construction

20. CE6 - Efficient use of water

21. All planting, seeding or turf laying in the approved landscaping scheme (required by condition 3) shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner.

Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

22. The details submitted pursuant to condition 3 shall include a full 7 day speed and volume survey undertaken in a suitable position proximate to the application site during term-time, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To fully inform the provision of an access(es) from the highway to the application site and to conform with Policy MT1 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework

INFORMATIVES:

1. IP1 Application Approved Without Amendment
2. I11 – Mud on highway
3. I09 – Private apparatus within the highway
4. I45 – Works within the highway
5. I05 – No drainage to discharge to highway
6. I47 – Drainage other than via highway system
7. I35 – Highways Design Guide and Specification
8. Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. Green and blue infrastructure could include wildlife friendly SuDS, tree and shrub planting (usually locally characteristic or directly associated cultivars of native species), wildflower meadows and Traditional ('standard') Orchards. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

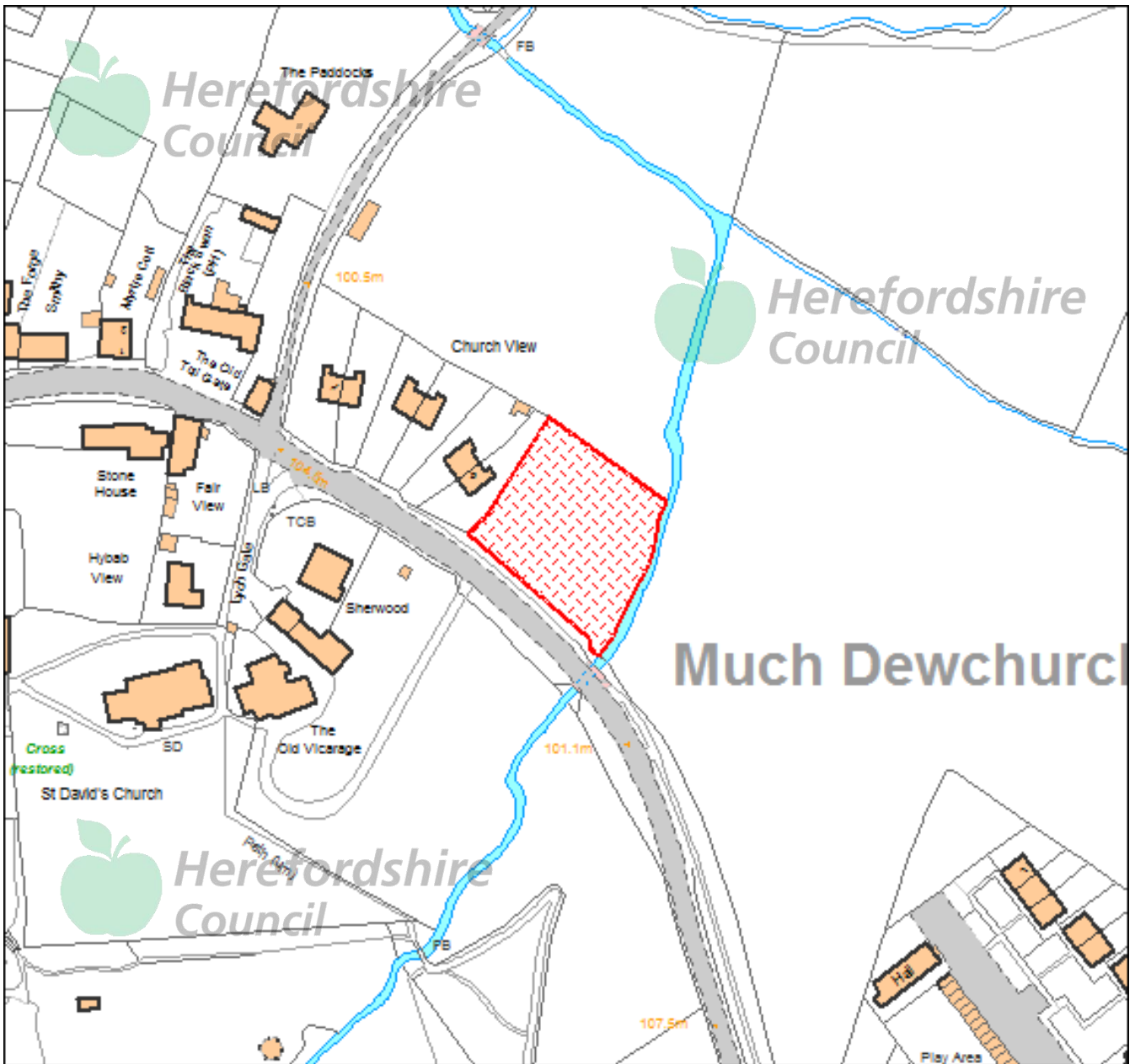
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 193747

SITE ADDRESS: LAND TO THE NORTH OF THE B4348, MUCH DEWCHURCH VILLAGE, HEREFORDSHIRE

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	30 SEPTEMBER 2020
TITLE OF REPORT:	194052 - SITE FOR THE ERECTION OF ONE DETACHED DWELLING AND TWO BUNGALOWS AT LEMSFORD, BROAD OAK, HEREFORDSHIRE, HR2 8DZ For: Messrs Partridge per Mrs Julie Joseph, Trecorras Farm, Llangarron, Ross-On-Wye, Herefordshire HR9 6PG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=194052&search-term=194052
Reason Application submitted to Committee - Redirection	

Date Received: 21 November 2019 **Ward: Birch**
Expiry Date: 16 January 2020
 Local Member: Councillor Toni Fagan

Grid Ref: 348093,221128

UPDATED

Members will recall that this application was deferred at the Planning and Regulatory Committee on 24 June 2020 in order for a site visit to be undertaken by members of the Committee.

Since the deferral of the application the following information has been submitted

- Applicant submitted a Tree Survey and Arboricultural Assessment plus accompanying tree protection plan;
- Applicant submitted a revised layout plan;
- Amended comments from the Senior Landscape Officer;
- Consultation with the Arboriculture (Tree) Officer;
- Amended comments from the Parish Council;
- 3 additional letters of objection;
- The Garway Neighbourhood Development Plan passed through independent examination.

The additional and amended details submitted by the applicant pro-actively sought to address matters of concern that arose during the debate at the Planning and Regulatory Committee. The Tree Survey and Arboricultural Assessment has been assessed by the Council's specialist Arboriculture Officer who confirmed the details of the assessment, which concluded that the development, as revised, would not impact on the longevity of the oak tree.

The above assessment identified that the dwelling proposed on Plot 2 would marginally incur upon the root protection area of the oak tree and so the layout has been amended. The change shifts the dwelling on Plot 2 further East beyond the root protection area.

The tree protection plan was accompanied by a proposed planting scheme along the site's southern boundaries, either side of the C1239.

The Senior Landscape Officer has reviewed the changes and welcomed the additional planting which will filter views of the development when travelling north, into Broad Oak. Furthermore the tree protection plan and adjusted positioning of Plot 2 was noted to help support the longevity of the existing oak tree, which was previously noted as being important to local amenity values. However, there remains an in principle objection to the proposal and the effect upon the character of the settlement, as it creates a suburban linear character, eroding the rural gap between Broad Oak and Caldicott Farm.

The Parish Council maintain the original grounds of objection that the application site lies beyond the identified settlement boundary and in close proximity to a slurry lagoon. However, it is of note that the Council's Environmental Health Officer has reviewed the proposal and confirmed that they hold no objection on the grounds of proximity to the slurry lagoon.

Since 24 June the Garway Neighbourhood Development Plan has passed through independent examination. The examiner's report details a number of changes to the Neighbourhood Plan which have been accepted by the Parish and Herefordshire Council and confirmed in the Decision Document. As set out in Paragraph 48 of the NPPF the policies contained within the NDP should now be attributed significant weight until such time as the NDP undergoes a referendum to become part of the Development Plan.

As previously assessed the current application site lies beyond, but adjacent to, the settlement boundary identified in Policies Map 2 and as such there is an identified conflict with policy GAR1 of the NDP. This policy now receives significant weight in the planning balance and materially alters the assessment of the proposal.

Given the above change in weight that is to be attributed to the Garway Neighbourhood Development Plan the identified conflict with GAR1 combined with the already identified adverse landscape character impact of the proposal, contrary to CS LD1 and NDP GAR4 it is Officers recommendation that planning permission be refused.

1. Site Description and Proposal

- 1.1 The application site lies either side of the C1239, approximately 180 metres south of its junction with the B4521, which forms the central cross roads of Broad Oak. Currently both portions of the application site comprise agricultural fields with no access within the constraints of the existing site. Immediately to the north of the application site, to the west side of the C1239 lies a development of 4 residential dwellings (ref: 180061, later amended by 191721 and 192709).
- 1.2 The application seeks outline permission, with only access and layout for consideration, for the erection of three dwellings. The proposed layout is for a single detached dwelling on the portion of the site located to the west of the C1239 with a private access proposed. Then, on the portion of the site that lies to the east of C1239, two detached bungalows are proposed utilising a shared access. Scale, appearance and landscaping are reserved for later consideration. The application site is indicated on the below location plan, in relation to the junction of the C1239 and B4521 that form the central cross roads of Broad Oak. The red star indicates the application site with a blue star denoting the site of the four dwellings currently under construction (180061):



2. Policies

2.1 Herefordshire Local Plan - 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
RA1	-	Rural housing distribution
RA2	-	Housing in settlements outside Hereford and the market towns
RA3	-	Herefordshire's countryside
H3	-	Ensuring an appropriate range and mix of housing
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 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 Garway Neighbourhood Development Plan (awaiting referendum)

GAR1	-	New Housing Development in Garway Village and Broad Oak
GAR2	-	Design in Garway Parish
GAR3	-	Flooding and Drainage
GAR4	-	Protecting Local Landscape Character
GAR6	-	Rural Environment and Tranquility
GAR10	-	Highways and Transport

Further information on the subject of this report is available from Mr David Gosset on 01432 261588

The Plan can be afforded significant weight.

2.3 National Planning Policy Framework 2019 (NPPF)

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

3. **Planning History**

- 3.1 **P193265/F** - Application for permission in principle for the erection of two bungalows and one two storey dwelling – Withdrawn - 14-Nov-2019
- 3.2 **P192729/EN** - Proposed installation of a new three phase overhead electricity line - No objection - 19-Sep-2019
- 3.3 **SW2002/1397/F** - Secure touring caravan storage area surrounded by ditch and mound. Includes collection area, electronic perimeter beam system, fencing and gates, anti ram posts and 3 lights. Formation of vehicle passing place on road – Refused - 03-Jul-2002

4. **Consultation Summary**

Statutory Consultations

4.1 **Welsh Water – No objection**

We note from the application that the proposed development does not intend to connect to the public sewer network. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development.

4.2 **Natural England – No objection**

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

Notwithstanding the above, your authority should be aware of a recent Ruling made by the Court of Justice of the European Union (the CJEU) on the interpretation of the Habitats Directive in the case of Coöperatie Mobilisation (AKA the Dutch Case) (Joined Cases C-293/17 and C-294/17).

The Coöperatie Mobilisation case relates to strategic approaches to dealing with nitrogen. It considers the approach to take when new plans/projects may adversely affect the ecological situation where a European site is already in 'unfavourable' conservation status, and it considers the acceptability of mitigating measures whose benefits are not certain at the time of that assessment.

Competent authorities undertaking HRA should be mindful of this case and should seek their own legal advice on the implications of these recent ruling for their decisions.

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

European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the River Wye Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have¹. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

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.

4.2 Internal Council Consultations

4.3 **Environmental Health Officer – No objection**

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

It is noted that 2 of the proposed dwellings are just over 100m away from a slurry lagoon and that there are other dwellings also in reasonably close proximity.

I have not witnessed any smells coming from this lagoon and we have no general history of complaints or problems being reported to our department with regard to slurry storage issues.

In the event of failure to manage the slurry lagoon site appropriately, our department has powers to investigate and take action against alleged Statutory Nuisances under the Environmental Protection Act 1990.

Our department therefore has no objections to this proposal.

4.4 **Area Engineer (Highways) – No objection**

No objections to the proposed. Please condition as follows
CAB - Visibility Splays 54 x 2.4m

Further information on the subject of this report is available from Mr David Gosset on 01432 261588

CAD - Access gates 5m
CAE - Vehicular access construction
CAH - Driveway gradient
CAI - Parking – single/shared private drives
CAT - Construction Management Plan
CB2 - Secure covered cycle parking provision

I11 – Mud on highway
I09 – Private apparatus within the highway
I45 – Works within the highway
I05 – No drainage to discharge to highway
I47 – Drainage other than via highway system
I35 – Highways Design Guide and Specification

4.5 Ecology – No objection

The site location in the River Wye SAC triggers the requirement for a Habitat Regulation Assessment process. The appropriate assessment completed by the LPA is subject to consultation with Natural England prior to any planning consent being granted.

It is noted that the foul water management system for the adjacent, previously approved housing development (180061) has been subject to consultation with the Environment Agency who are satisfied that it is compliant with General Binding Rules and includes the use of individual PTP systems and a reed-bed pond system prior to final outfall in to a local watercourse. This additional development by the same owner/applicant proposes additional connection to this existing agreed system. The LPA ecology team have no reason not to believe that this ‘combined’ system will not be achievable and with the maximum flow rates still fall within General Binding Rules. The River Wye SAC at this catchment area is not currently failing its conservation status water quality levels and any phosphates finally released are a significant distance from the River Wye SAC and can be managed with the existing ‘phosphate allowance’ as agreed with Natural England.

Surface water can be managed through an appropriate SuDS scheme.
A condition is requested to secure the relevant mitigation:

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

All foul water shall discharge through connection to new private foul water treatment system with final outfall to existing Environment Agency compliant outfall on land under the applicant’s control; and all surface water shall discharge to appropriate SuDS; unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), and Herefordshire Core Strategy (2015) policies SS6, LD2, SD3 and SD4

It is noted that NO ecological report has been submitted with this application however the ecology report submitted with approved application 180061 did cover this area of land and based on the findings can still be considered relevant and appropriate. This existing ecology report by Janet Lomas should be formally appended to this current application. It is noted that the previously approved Biodiversity Net gain (Enhancement Plan) does not refer to this current application and a scheme specific to this current application should be secured by a relevant condition.

Nature Conservation – Ecology Protection, Mitigation.

The ecological protection, mitigation, compensation and working methods scheme, as recommended in the ecology report by Janet Lomas dated June 2018 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority. No external

lighting should illuminate any boundary feature, highway corridor, adjacent habitat or area around the approved mitigation.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Habitats & Species Regulations 2017 (as amended), Policy SS6 and LD2 of the Herefordshire Core Strategy, National Planning Policy Framework (2019) and NERC Act 2006

As identified in the NPPF, NERC Act, Core Strategy LD2 and draft Environment Bill all developments should clearly identify how they are going to achieve enhancement of the local biodiversity values. To secure this a condition is requested:

Nature Conservation – Biodiversity and Habitat Enhancement

Prior to any construction above damp proof course levels, a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including significant provision for bat roosting, bird nesting, hedgehog homes and movement corridors across the site, amphibian and reptile hibernacula and pollinating insect ‘nesting’ should be supplied to and acknowledged by the local authority and then implemented in full. The approved scheme shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any biodiversity net gain 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, Core Strategy SS6, LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

4.6 Land Drainage Consultant – No objection

19th December 2019

I have reviewed the proposed drainage strategy for the three houses.

The proposals involves discharging treated effluent to a dry ditch. This will not be compliant with the Binding Rules as discharges require a constant flow of water.

On this basis I recommend refusal of the outline planning submission

16th January 2020

I note recent correspondence between the applicants designer and the EA regarding compliance with the Binding Rules

Separate to this particular issue, I have some reservations regarding the proposed drainage layout. There will be practical difficulties associated with identifying when a Package Treatment Plant is not functioning, if a further 3 additional dwellings discharge into the pipe that has already been approved to receive flow from 4 properties (7 in total)

The law has evolved to include the term ‘knowingly pollute’. So in a hypothetical scenario, if a package treatment plant was found to be defective the owner would only be breaking the law if he or she allowed the PTP to continue to cause pollution.

With the drainage system that has been approved to date, there are two properties draining from the north to one headwall. In the event of pollution of the watercourse, the pond would be inspected. The headwalls are close together, but presumably the grass adjacent to the headwall where pollution was occurring would be discoloured, with a black sewage fungus. If the inspector

had a plan showing the drainage network then it would be possible to approach the two home owners to the north to check which PTP was not working.

Likewise with the drainage system that has been approved to date, there are four properties draining from the east to one headwall. In the event of pollution of the watercourse, the pond would be inspected. Presumably the grass adjacent to the headwall where pollution was occurring would be discoloured, with a black sewage fungus. If the inspector had a plan showing the drainage network then it would be possible to approach the four home owners to the north to check which PTP was not working.

If the application is approved, the likelihood of identifying the source of pollution will reduce as there will be 7 properties connected on the eastern side.

Note that providing sampling chambers on the site is not an easy remedy to this problem, because organic pollution is released in batches. This is because domestic properties release bath water, dish water etc in between batches of foul water from WCs etc. Accordingly identifying pollution by means of lifting an inspection chamber is difficult

The proposals do not offer assurance regarding pollution mitigation

21st May 2020

I was aware that the planning system is geared this way

On this basis we do not object

Yes I suggest that we condition to ensure that the alarm system referred to in earlier emails is utilised.

4.7 Senior Landscape Officer – Objection

22nd May 2020

This is a desk based response, however the site setting was visited 16th December 2019. The landscape character type is Sandstone Farmlands. The site is located on the southern edge of the small village of Broad Oak. The village includes a Grade II listed building, an ancient tree and a small triangle of Common land at the village centre. Construction work is underway on the adjacent residential development to the site.

The site is outside of the settlement boundary (Broad Oak Village Policies Map) and is contrary to the ambitions of the local community as set out in the Garway Neighbourhood Development Plan (Submission Version Nov 2019). The Objectives of the NDP include to ensure that “All development will be designed to ensure it has minimal impact on the area’s distinctive character and environment” (no. 4). It is considered that in landscape terms the location for new development proposed in this application does not conserve or enhance the rural character of Broad Oak (Objective 2), nor will it integrate well into its setting (Objective 3). This is due to the incremental effect of developments collectively that encroaches on and erodes the rural landscape features of the setting of the settlement. The cumulative impact of 7 new buildings, rather than just 4 permitted, will create a ‘creeping’ change to stretch out the village further south in a more suburban character which is not locally distinctive. Continuing development further south along this road reduces the rural gap between the village and the farm buildings at Caldicott Farm, an important separation that should be retained so that the cumulative impact of built development does not dominate views and character of the area.

In terms of the indicative layout proposed the driveways would require gaps and widening in the important roadside hedgerow, which is a key landscape feature as well as an important biodiversity corridor. The large mature tree is shown for retention within Plot 2 but it’s long term

viability could be put at risk as it is not an ideal size and species for a garden tree, as well as potential root damage due to hedgerow works to create a visibility splay.

The application lacks any demonstration that the character of the landscape has positively influenced the site selection for residential development. It does not conserve or enhance the natural environment or protect the area's character. The indicative location of new hedgerows would need to be fully specified, but does not off-set the intrusive increase in built infrastructure. A tree and hedgerow survey in accordance with BS5837:2012 would be required.

The application is contrary to Core Strategy Policy LD1 and LD3.

20th July 2020 (Latest Comments):

I welcome the addition of the 'Tree Survey and Arboricultural Assessment' and the additional proposed planting. Together this demonstrates consideration for the existing landscape and green infrastructure. The tree survey and slight movement of plot 2 will help support longevity of the existing oak tree (T1).

The proposed planting will help filter views of the development when travelling north into the village and helps to create an 'end' to the village. There may be some complications around ownership and maintenance responsibility for these trees as they are outside of the application 'red line'.

This does not, however, overcome the 'in-principle' objection in relation to the form of the village stretching out to a more suburban linear character or encroachment on the rural gap between the village and nearest farm.

If the application were to be approved then a condition should be added to address temporary tree protection fencing during construction, full specification for the planting (sizes, density, hedgerow species), planting implementation and long term management and maintenance of the 'additional tree and hedgerow planting'.

4.8 Arboriculture (Tree) Specialist – No Objection

The addition of the tree report, produced by Jerry Ross Arboricultural Consultancy, provides adequate information to demonstrate that the proposed erection of 3 dwellings will not have a negative impact on the retained trees.

Accordingly I am of the opinion that the proposals are compliant with policies LD1 & LD3 of the core strategy and have no objections.

The details of the tree report and recommended protective measures shall be secured via a condition.

Conditions

Trees In accordance with plans

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan:

Tree Survey and Arboricultural Assessment – Jerry Ross Arboricultural Consultancy

Tree Protection Plan 16/9/19- Jerry Ross Arboricultural Consultancy

Reason: To ensure that the development is carried out only as approved by the Local Planning Authority and to conform with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

CKA - Retention of existing trees (5yrs)

5. Representations

5.1 Garway Parish Council – Object

31st January 2020:

Garway Parish Council considered the proposals set out in planning application 194052 and are not prepared to support the application on the following grounds:

- The proposed development is too close to a slurry lagoon.
- The proposed development falls outside the village settlement boundary.

31st July 2020 (Latest comments):

Garway Parish Council considered planning re-consultation 194052 and saw no justification for deviating from their original response which objected to the proposals on the following grounds.

The proposed development is too close to a slurry lagoon.

The proposed development falls outside the village settlement boundary.

5.2 **Third Party Representations** – to date a total of 12 representations have been received, comprising of 14 letters of objection from 11 individuals and 1 letter of support.

The contents of the objecting representations are summarised below:

- Overdevelopment of the hamlet that goes beyond proportional growth
- Contrary to the emerging Neighbourhood Plan, outside the settlement boundary
- Increase in traffic without sustainable transport options and lack of local services
- Lack of parking
- Loss of light, privacy and general amenity
- Loss of green space and habitats
- No details regarding design
- Concerns the drainage would impact the River Wye SAC
- Set a precedent for further development

The contents of the supporting representation is summarised below:

- Development of three further dwellings would help support local businesses, services and hamlet as a whole
- Scale of development proportionate to Broad Oak
- Bungalows always sought after and provide for a wide demographic

5.3 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=194052&search-term=194052

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). It is also noted that the site falls within the Garway Neighbourhood Area and it is of note that, since the application was last heard at Planning and Regulatory Committee the NDP has undergone independent examination and is now awaiting a referendum to be formally included within the development plan.

At this juncture, to evaluate the weight that can be afforded to the NDP in the determination of this application, it is necessary to apply the criteria set out in paragraph 48 of the NPPF. These criteria are:

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

Taking the criteria in turn:

- a) An independent examination has taken place and the Examiner's report has been received for the Garway NDP.
- b) All the representations have been subject to the examination
- c) The plan has been considered to meet the Basic Conditions and therefore in general conformity with the Herefordshire Core Strategy and the National Planning Policy Framework

The Decision Document, following the examination report, confirms the Council's acceptance of the recommended modifications set out within the Examiner's Report to the Garway NDP and it is currently awaiting referendum on this basis. At this stage, with regards to paragraph 48 of the NPPF, significant weight can be attributed to the neighbourhood plan.

6.3 It is a matter of fact that currently the Council is unable to demonstrate a 5-year housing land supply, with the latest Annual Position Statement for 2020 confirming a supply of 3.69 years. This leads to the policies for housing supply being considered out of date. As set out in paragraph 11 of the NPPF, in such circumstances that the policies most important for determining an application are considered to be out of date permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole. As such this tilted balance in favour of development is adopted as directed by paragraph 11(d)(ii) of the NPPF.

6.4 The spatial strategy relating to housing distribution within the county is set out in the CS at Policy SS2. Hereford, as the largest settlement and service centre is the recipient of up to 6,500 of the required 16,500 homes, with the market towns identified in the second tier as recipients of approximately 4,700 dwellings. Housing in the rural parts of the County is delivered across the settlements identified at figures 4.14 and 4.15 of the Core Strategy (p. 109 -110). Here the

identified settlements are arranged according to the seven identified housing market areas. Figure 4.14 identifies the settlements which will be the main focus of proportionate housing development. Figure 4.15 classifies the 'other' typically smaller settlements where proportionate housing will be appropriate. There are 119 'main' villages (figure 4.14) and 98 'other settlements' (figure 4.15), giving 217 rural settlements where proportionate growth will be acceptable in principle, Broad Oak is a settlement so defined by figure 4.15.

6.5 It is of note that the spatial strategy for the location of housing contained within the CS is considered to be sound and consistent with the Framework; which itself seeks to avoid the development of isolated homes in the countryside through paragraph 79. It is therefore considered that Policies RA1 and RA2 of the CS continue to attract significant weight in the decision making process despite being considered out of date.

6.6 As set out in the CS at paragraph 4.8.23 until such time as either the NDP or the Rural Areas Sites Allocation DPD defines settlement boundaries (or a reasonable alternative) any proposal has to be assessed against its relationship to the main built up form of the settlement. The NDP is not yet made, so is not part of the development plan, however it can be afforded significant weight in decision making, as set out in paragraph 48 of the NPPF and evaluated above. The NDP defines a single settlement boundary for Broad Oak, as per the extract of the NDP Policies Map below. The application site is mostly outside of the identified settlement boundary, although some of the western element of the site overlaps the housing commitment to the north (180061) as shown in paragraph 1.2 of this report.



6.7 At the present time, as the NDP does not form part of the development plan, CS policy RA2 is still considered to apply, because the site complies with the requirement to be either in or adjacent to the main built up part of the settlement. The policy then requires that design and layout should

reflect the size, role and function of each settlement. Design (appearance), landscaping and scale are reserved matters.

- 6.8 In terms of layout of the site relative to the main built up form of Broad Oak; the application site lies adjacent to the southernmost extremity of the settlement. The centre of Broad Oak is, arguably, the cross roads formed between the C1239 and the B4125 which is located 180m north of the application site. A further 80m east of the cross roads lies the only services in Broad Oak, a shop and garage. As such it is considered that the application site does not form part of the main built-up part of Broad Oak but that it does lie adjacent to it and would form a natural extension of it. However, the location of the site is such that it extends a linear development pattern that has been identified as harmful to the character of the settlement by the Senior Landscape Officer. The other requirements of RA2, including high quality, sustainable schemes that are appropriate to their context are aspects that could be dealt with at reserved matters stage should outline planning permission be granted.
- 6.9 The degree to which the site is considered to be sustainable is derived, in part, from the access to alternative modes of transport beyond that of a private motor vehicle. The lack of a pedestrian footpath into the centre of Broad Oak may discourage some walking, however, it is such a short distance over which driving would be impractical. While there was historically a bus stop located in Broad Oak, outside the garage, there does not appear to currently be a service running and prior to the COVID-19 travel restrictions it was unclear how regular this service was. In either event there would likely be a heavy reliance upon the private motor vehicle to access employment and basic services such as doctors, pharmacies and groceries.
- 6.10 Through examination GAR1 was amended to include the statements that “everywhere outside the two settlements is considered to be countryside where proposals for new housing development will have to demonstrate that they satisfy the exceptional circumstances set out in the NPPF paragraph 79” and goes to referendum as such.
- 6.11 In terms of the principle of residential development on the site, Officer’s consider that the proposal accords with main tenant of CS policy RA2 given its location adjacent to the main built form of the settlement although it is noted that there is some tension with the expectation of proposals in settlements identified in figure 4.15 to pay particular attention to the form, layout and character of the settlement. Additionally there is clear conflict with GAR1 of the NDP, because the site is located outside of the settlement boundary and the development does not meet any of the exceptions set out in paragraph 79 of the NPPF.

Landscape Impact

- 6.12 The impact of the proposed development and layout upon the landscape character is to be primarily assessed against CS policy LD1, which seeks to ensure development proposals demonstrate how the character of the landscape and townscape has positively influenced the nature and site selection of the proposal. Furthermore LD1 seeks to maintain and extend tree cover where important to amenity. These aims are broadly reflected in NDP policy GAR4. Paragraph 127 of the NPPF reinforces this further by stating that development should be sympathetic to local character including the landscape setting.
- 6.13 The Senior Landscape Officer has reviewed the changes and welcomed the additional planting which will filter views of the development when travelling north, into Broad Oak. Furthermore the tree protection plan and adjusted positioning of Plot 2 was noted to help support the longevity of the existing oak tree, which was previously noted as being important to local amenity values. However, there remains an in principle objection to the proposal and the effect upon the character of the settlement, as it creates a suburban linear character, eroding the rural gap between Broad Oak and Caldicott Farm.

- 6.14 The southern boundary of the dwelling known as Lemsford, which lies immediately to the north of the application site, is laid to hedge. This boundary forms a clear distinguishing feature between the residential extent of Broad Oak and the agricultural fields beyond. This boundary hedge extends north-east to the corner of the field. The revised layout seeks to address this tension and includes a proposed planting scheme along the sites southern boundaries, either side of the C1239. As stated by the Senior Landscape Officer this will help to define the newly proposed southern edge of Broad Oak while filtering views of the site as one approaches the village. Furthermore it is noted that the application is made in outline form with landscaping reserved for later consideration, as such it is accepted that boundary treatments could further mitigate this point. The amended plans indicate the character of the landscape has positively influenced the proposal.
- 6.15 Nevertheless the scheme creates an incursion into the agricultural land that forms the rural gap between Broad Oak and Caldicott Farm. Development in this location would cause harm to the character of the settlement as it would continue a linear pattern of development more akin to a suburban environment. Broad Oak is a settlement identified by figure 4.15 and as such, according to CS RA2, proposals are expected to demonstrate particular attention to the form, layout and character of the settlement. As I concur with the assessment of the Senior Landscape Officer and consider that there is clear tension in relation to this proposal and the requirements of both CS policy LD1 and the emerging NDP policy GAR4 despite the additional planting proposed.
- 6.16 The location and design of the access to the eastern element of the site is such that it would require the removal of approximately 6.5m of hedgerow to enable access to be gained to the site. This would result in further localised harm to the character of the area.
- 6.17 The extent of the resulting harm of the above noted conflicts is, however, mitigated somewhat by the characteristics of the site. The site does not hold any notable topographical landscape features and has little value beyond that of a visual and physical separation between the settlement and the adjacent farm complex. This will feed into the overall planning balance below.

Amenity

- 6.18 CS policy SD1 states that development should safeguard amenity of existing and proposed residents and ensure new development does not contribute to, or suffer from, adverse impacts arising from noise, light or air contamination and therefore scale, height and proportion needs consideration. Furthermore policy GAR2 of the emerging NDP states that proposal should not adversely impact on the residential amenity of existing and future residents. Given appearance and scale are both reserved matters the assessment is whether the principle of residential development through the layout proposed is considered to adversely affect the privacy of the adjacent dwellings: Lemsford to the east of the C1239 and the southernmost dwelling of the approved 180061 to the west of the C1239.
- 6.19 In relation to the effect on Lemsford the two dwellings proposed directly to the south of this property are both to be bungalows. This will inevitably reduce the likelihood of privacy and overshadowing concerns as they are single storey. The single detached dwelling to the west is suitably separated from Lemsford and views from the application site would be of the front of the dwelling, an inherently less private area. In Officer's opinion a scheme could be designed to suitably take account of privacy of Lemsford in compliance with CS SD1 and NDP GAR2.
- 6.20 In relation to the southernmost dwelling of the approved 180061 the current application site could essentially form a fifth dwelling in the approved row of 4. In this regard there is no concern that a suitable design could not adequately make provisions for the privacy of futures residents of both the current proposal and the approved 180061 in accordance with both CS SD1 and NDP GAR2.

Access and Parking

- 6.21 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards to movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.'(NPPF para. 109). Policy GAR10 of the NDP requires new development to include any necessary and appropriate traffic management measures and avoid the use of large areas of hardstanding by adequately landscaping and screening them.
- 6.22 The application proposes two new accesses on the C1239, one to serve the west element of the site and proposed detached dwelling and the other to serve the east element of the site and proposed two bungalows. Both of the proposed accesses lie within the extent of the 30mph for Broad Oak. The plans indicate an achievable visibility splay of 54m in both directions for the access proposed to serve the bungalows with 50m north and 54m south achievable for the access proposed for the single detached dwelling.
- 6.23 Given the levels of accommodation proposed as part of the scheme, a minimum of two car parking spaces is required for the bungalows which the application form indicates would be three bedroom properties. A minimum of three spaces for the detached dwelling which the application form indicates would be a four bedroom dwelling. Noting the area of hardstanding in front of the dwellings and the inclusion of garages for each dwelling I consider this level of parking and turning to be achievable.
- 6.24 As touched on above in paragraph 6.10, the sustainability of the site is in large part derived from the ability to access a range of sustainable transport methods. The Department for Transport 'Manual for Streets', NPPF, CS MT1 and NDP GAR10 recognise the importance of walking and cycling as modes of transport which offer a more sustainable alternative to car travel and can make a positive contribution towards the overall character of a place, improved public health and in helping to tackle climate change. The site is within walking distance of the basic services provided by Broad Oak and the Area Engineer has recommended a condition ensuring secure cycle storage is provided on the application site. While access to employment and a wider range of services will be reliant on the private motor vehicle this is typical of rural settlements across Herefordshire. The NPPF clearly highlights that the opportunities to maximise sustainable transport solutions will vary from urban to rural areas and encourages decision makers to take this into account.
- 6.25 The comments received from the Area Engineer endorse the view that both access and parking/turning for the proposed dwellings are acceptable and raise no objection to the scheme. On this basis the proposal accords with CS MT1 and NDP GAR10.

Ecology

- 6.26 Noting the nature of the site, policies LD2 and LD3 of the Core Strategy are applicable. Policy LD2 states that development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire through the retention and protection of nature conservation sites and habitats and important species, restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks and creation of new biodiversity features and wildlife habitats. Policy LD3 states that development proposals should protect, manage and plan for preservation of existing and delivery of new infrastructure.

- 6.27 While no specific Ecology report was undertaken with this application the Ecologist was happy to receive the report submitted with 180061 (produced by Janet Lomas dated January 2018) as it covered the current application site as well. The Council's Ecologist was satisfied with the details contained within the report and that subject to the recommended conditions the proposal would comply with current policy.
- 6.28 The application site is within the Garren Brook subcatchment of the wider River Wye Special Area of Conservation (SAC) and as such the proposal triggers the need for a Habitat Regulation Assessment. The completed Appropriate Assessment concluded that there would be no likely effects upon the integrity of the SAC subject to appropriate mitigation conditions being attached to any approval. This was reviewed by Natural England who confirmed there was no objection to the proposal.

Drainage

- 6.29 CS Policy SD3 states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.30 The application proposes individual package treatment plants (PTP) with discharge to an attenuation pond to the west of the application site on land owned by the applicant. The attenuation pond forms the approved discharge point for 6 dwellings in total, four approved under 180061 and two on a site further north fronting the B4125. The proposal is considered to be able to meet the general binding rules and so an Environment Agency permit was not deemed to be required. If the general binding rules are not met an Environment Agency permit would be required under obligations outside of the planning process.
- 6.31 The drainage consultant had initially raised concerns that inclusion of 3 additional dwellings to the accepted system would mean that identifying any faults in the system would be increasingly difficult and that this may lead to pollution entering the watercourse. However, the applicant has agreed to the imposition of a condition requiring a flashing beacon alarm system be installed to the PTPs to ensure any failure is identified by the owner or a contracted maintenance company.
- 6.32 The NPPF, at paragraph 183, states the following:

The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

- 6.33 The proposed foul and surface water drainage strategies provide a policy compliant arrangement and the final comments from the Drainage Consultant confirm their satisfaction with this providing the recommended conditions are adopted.

Conclusion and Planning Balance

- 6.34 In accordance with the statutory requirement, determination must be made in accordance with the Development Plan, unless material considerations indicate otherwise. The NPPF affirms at paragraph 12 that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 6.35 At this time the Development Plan comprises the CS. As set out in the foregoing paragraphs the development proposed is considered to accord with the CS. This is because the site lies adjacent to a main built up part of the settlement, in accordance with policy RA2, although some conflict has been identified with the impact upon the character of the settlement.
- 6.36 Next it is necessary to turn to the material considerations, to ascertain if these indicate if a decision should be made other than in accordance with the Development Plan. The NDP is an important material consideration, and as set out before it can be afforded significant weight.
- 6.37 As identified, there is conflict with NDP policy GAR1, because the site lies outside of the defined settlement boundary and does not accord with any of the exceptions set out in paragraph 79 of the NPPF. On this basis, under the NDP permission should be refused.
- 6.38 The other key material consideration is the NPPF. As the application is for the supply of housing, specifically three dwellings, the current implications of the Local Planning Authority not being able to demonstrate a 5 year housing land supply, plus requisite buffer, as set out in the NPPF (footnote 7), must be considered. The current published position is a 3.69 years supply (April 2020). At paragraph 11d the NPPF states that where policies which are most important for decision making are out-of-date, permission should be granted 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.
- 6.39 This application is for housing, so the policies most important for determination of the application relate to housing. As per paragraph 11d, footnote 7, of the NPPF they must be considered as out of date by reason of the current housing land supply deficit. This does not mean that they attract no weight, but rather reduced weight that is determined by the decision maker. There is a requirement, over the plan period (2011-2031) to provide a minimum of 25 new dwellings in the Parish of Garway, equating to 14% growth. Those built and existing commitments, as set out in the NDP, amount to 42 dwellings. This application is for a further 3 dwellings, which would result in a total of 45 dwellings, far in excess of the minimum growth target set for the Parish. Across the wider Ross HMA there is a documented oversupply of housing, when compared against the minimum growth target of 1,150. As of April 1st 2020 there are completions and commitments totalling 213 dwellings in excess of the minimum growth target. These figures demonstrate that the CS and the NDP housing policies have achieved substantial growth in the first ten year period of the plan and significantly boosted the supply of housing in this part of the County.
- 6.40 Firstly, paragraph 11di states that permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusal; this is not applicable to the current application site. Following on from the above, it's necessary to apply the commonly referred to 'tilted' planning balance set out in paragraph 11d)ii. The tilted planning balance, is generally assessed under the three overarching objectives of the planning system, namely the economic, social and environmental objectives. The proposal would positively contribute to the supply of housing at a time when at the county level the supply is not meeting targets and this would bring forward economic and social benefits. At the local level the minimum growth target has been well exceeded and there is local concern that such expansion would have

a harmful impact on the community. There would be economic benefits during the construction phase to suppliers and trades and after occupation through increased expenditure of disposable incomes. The payment of the New Homes Bonus is also another benefit to take into account. Furthermore the introduction of three additional dwellings in Broad Oak would help to support local businesses. Finally the proposed inclusion of 2 bungalows would provide dwellings that are more widely accessible to all members of the community, which is noted as a benefit when viewed through the social lens. Officers consider that these benefits of the scheme for up to 3 dwellings would be moderate.

- 6.41 In terms of identified harm, the proposal is considered to have an adverse landscape character impact in that residential development in this location would be an incremental encroachment that erodes the rural landscape features and reduces the important separation between Broad Oak and farm buildings at Caldicott Farm, to the south. The harm attributed to this erosion is, however, somewhat mitigated by the inclusion of tree planting as well as the general characteristics of the site, which does not hold any notable topographical landscape features and has little value beyond that of a visual and physical separation between the settlement and the adjacent farm complex. Conflict with CS LD1 and GAR4 of the emerging NDP, which should be attributed significant weight, is therefore identified.
- 6.42 The scheme provides an opportunity to enhance biodiversity, so this does not weigh against the scheme in environmental terms. Furthermore, whilst recognising that paragraph 14 of the NPPF does not yet apply given the status of the NDP, the LPA maintains that there would be social dis-benefits through undermining the strategy identified in the document at a stage where it can be afforded significant weight.
- 6.43 Bringing all of the above together, clear conflict with the NDP has been identified, in terms of the principle of development. In addition further landscape harm has been identified, despite the mitigating factors and amendments, in conflict with both CS LD1 and NDP GAR4. The NDP can be afforded significant weight at this time and provides for planned growth that exceeds the indicative target requirement. The Government promotes 'localism' and the NDP demonstrates a proactive approach taken by the Parish Council in responding to local circumstances and supporting housing developments, in accordance with paragraph 77 of the NPPF. Furthermore, paragraph 13 of the NPPF states that 'Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.' The NDP does just that, as confirmed by the Examiner's Report, and accords with the NPPF's promotion of a genuinely planned planning system, being part of the framework for addressing housing needs (paragraph 15). While it does not yet form part of the Development Plan, it is a material consideration that carries significant weight, supplemented due to the growth it achieves and the growth achieved across the Ross HMA.
- 6.44 To conclude, it is Officers view, that the adverse impact of the development's conflict with policy GA1 of the NDP (post Examination stage), together with the identified adverse landscape character impact, contrary to both CS LD1 and NDP GAR4, within a Parish which well exceeds the minimum 'proportionate' growth such that this adverse impact is not justified, would significantly and demonstrably outweigh the benefits. On this basis the NPPF presumption to grant permission for sustainable development is not considered to be engaged and it is the Officer's recommendation that planning permission be refused.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1. The application seeks approval for the erection of 3 dwellings in a location that is outside of the settlement boundary for Broad Oak, as defined in the Garway Neighbourhood Development Plan. Given the weight to be afforded to the Garway**

Neighbourhood Development Plan, the site is considered to be in the countryside and does not accord with the exceptions set out in paragraph 79 of the National Planning Policy Framework as required by policy GAR1 of the Garway Neighbourhood Development Plan. In undertaking the test set out in paragraph 11d)ii of the National Planning Policy Framework, in light of the Council's current housing land supply position, the following identified adverse impacts:

- Conflict with policy GAR1 of the Garway Neighbourhood Development Plan (post examination stage), which can be afforded significant weight.
- Landscape character harm arising from the erosion of the important rural gap between Broad Oak and the farm buildings at Caldicott Farm and the establishment of a harmful suburban linear development pattern, contrary to policies SS6, LD1 and RA2 of the Herefordshire Local Plan – Core Strategy and policy GAR4 of the Garway Neighbourhood Development Plan.

Which would significantly and demonstrably outweigh the benefits at a time when the supply of housing, in both the Parish of Garway and the wider Ross Housing Market Area, has exceeded the minimum growth targets. halfway through the plan period.

INFORMATIVES:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against local and national planning policy, including updating the applicant on the progress of the Brampton Abbots and Foy Group Neighbourhood Development Plan (BA&FGNDP) and the implications of this, and any other material considerations. The applicant was advised of the implications of any conflict with the Development Plan and BA&FGNDP at both pre-application stage and during the consideration of this application. This is an issue of principle, such that it is not possible to negotiate a positive way forward.

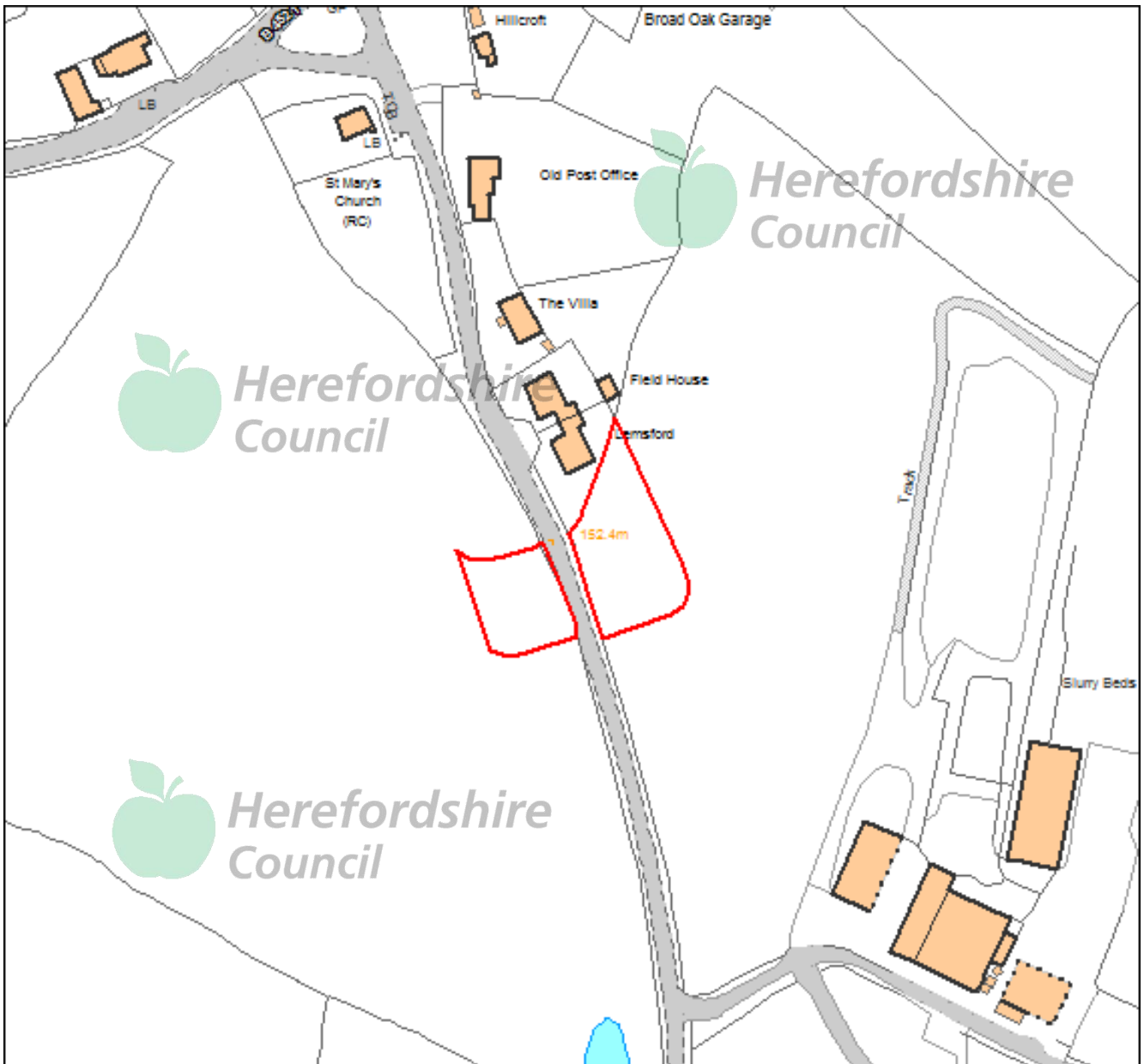
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 194052

SITE ADDRESS : LEMS福德, BROAD OAK, HEREFORDSHIRE, HR2 8DZ

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MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	30 SEPTEMBER 2020
TITLE OF REPORT:	<p>200680 - ERECTION OF DOMESTIC OUTBUILDING FOR PURPOSES INCIDENTAL TO THE ENJOYMENT OF THE HAY MEADOW, INCLUDING ASSOCIATED EXTENSION TO THE RESIDENTIAL PLANNING UNIT AT THE HAY MEADOW, PRESTON WYNNE, HEREFORD, HR1 3PE</p> <p>For: Mr Pickering per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200680&search-term=200680
Reason Application submitted to Committee: Applicant related to officer in the planning department	

Date Received: 26 February 2020

Ward: Hagley

Grid Ref: 356858,246574

Expiry Date: 1st October 2020

Local Member: Councillor Paul Andrews

UPDATE

The application was presented to Planning Committee on 15 July 2020 with a recommendation of approval subject to conditions. Following Officer and Local Member presentations, interested parties speaking and debate, the Committee resolved that consideration of the application be deferred pending a site visit.

Following this resolution, Officers have undertaken an additional consultation with the Council's Archaeological Advisor with the following consultation response being received:

"I note that the proposed development would fall within a general area of relict medieval 'open-field', recorded on the County Historic Environment Record (ref. HER 53342).

In essence, the existing N – S hedgerow boundaries have to some extent fossilised the broad pattern of former furlongs. This is relatively common in parts of Herefordshire, and is not in itself a matter of particular significance.

There is no real evidence of preserved 'ridge and furrow' earthworks between the hedgerows, or other associated features that might have increased the importance and sensitivity of what is present.

Given also that the development will not impact directly on the hedgerow pattern, I am of the view that there are no issues of substance here.”

Officers have also received an additional letter from the application which is included in full below:

“I write pending confirmation of a site visit date following the application’s deferral at the Planning & Regulatory Committee meeting on 15th July 2020.

The purpose of this letter is to dispel any notion that the applicant intends using the proposed building as a business premises. The building, as we have explained previously, is intended as a storage facility for Mr Pickering’s collection of vintage motor vehicles. These are presently stored at various locations across the county and Mr Pickering would like to bring as many as possible under one roof at his home.

In response to concerns expressed in respect of surface water, this will be directed to a soakaway located on Mr Pickering’s property, whilst we understand officers are satisfied there is no impact in relation to the root protection area of the oak tree and the archaeological advisor has likewise confirmed no objection. We should also confirm that these vehicles are roadworthy and will thus be driven to site and not, as some may be anticipating, delivered on an articulated car transporter.

We trust this clarifies some of the matters raised in advance of the site visit and re-reporting to the Planning & Regulatory Committee, but if you require anything further, please do not hesitate to contact me directly.”

The position of officers and the recommendation remains substantively unchanged from the position set out in the Committee Report which is set out below. The updates and comments are to be read in conjunction with the committee report as a whole.

As is noted in the consultation responses from the Council’s Archaeological Advisor; the Herefordshire Historic Environment Record does identify modern enclosure boundaries at Preston Marsh, which reflect the enclosure of former open field furlongs. However given the nature of the development resulting in no alterations to boundary treatment, this pattern is relatively common in the county and not of particular significance and the lack of ridge and furrow earthworks, the proposal would not be harmful in this regard as character of the locale would be preserved. It follows that the proposal is considered to accord with policies LD4 & SS6 of the Core Strategy in this regard.

The additional letter from the applicant is noted, and is considered to reaffirm the existing understanding of the application, this does not alter the consideration or recommendation for this application, but does emphasise the application’s explicit intentions for the building.

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. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

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

- 2. The development shall be carried out strictly in accordance with the following approved plans, Drawing Numbers:**

- Elevation and floor plans – 329 03 Rev A**
- Block plans – 329 02**
- Site location plan - 329 01**

except where otherwise stipulated by conditions attached to this permission.

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 3. With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls, roofs and rainwater goods have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**

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

- 4. The garage hereby permitted shall be used solely for the garaging of private vehicles and for purposes incidental to the enjoyment of the dwelling house as such and not for the carrying out of any trade or business.**

Reason: To ensure that the garage is used only for the purposes ancillary to the dwelling and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 5. The outbuilding and access thereto must be reserved for the garaging or parking of private motor vehicles in the ownership of residents of the host dwelling and the garage shall at no time be converted to habitable accommodation.**

Reason: To ensure adequate off street parking arrangements remain available at all times and to comply with Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no garages shall be erected within the curtilage of the dwellinghouse other than those expressly authorised by this permission.**

Reason. In the interests of the amenity of the development and to comply with the requirements of Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 7 All surface water shall be managed through a soakaway system within the development boundary; unless otherwise agreed 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), and Herefordshire Local Plan - Core Strategy policies LD2, SD3 and SD4.

- 8 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 TWO 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, boundary feature or adjacent habitats.

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, Core Strategy LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

- 9 All planting, approved scheme (Block plans – 329 02) shall be carried out in the first planting season following the first use of the building. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

1. IP2 Application Approved Following Revisions
2. 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 and all Bat species that are present and widespread across the County and recorded in the wider locality around this application site. 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.

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	15 July 2020
TITLE OF REPORT:	200680 - ERECTION OF DOMESTIC OUTBUILDING FOR PURPOSES INCIDENTAL TO THE ENJOYMENT OF THE HAY MEADOW, INCLUDING ASSOCIATED EXTENSION TO THE RESIDENTIAL PLANNING UNIT AT THE HAY MEADOW, PRESTON WYNNE, HEREFORD, HR1 3PE For: Mr Pickering per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200680&search-term=200680
Reason Application submitted to Committee: Applicant related to officer in the planning department	

Date Received: 26 February 2020

Ward: Hagley

Grid Ref: 356858,246574

Expiry Date: 22 April 2020

Local Member: Councillor Paul Andrews

1. Site Description and Proposal

- 1.1 The application relates to land at the rear of The Hay Meadow, Preston Wynne, a detached dwellinghouse of brick construction with a slate roof which is set within a large residential curtilage including a gravel parking area and detached garage to the fore with garden (of predominately lawn area) to the rear. Beyond the residential garden is a modest area of rough pasture, which is in the applicant's ownership and part of which is within the application site.
- 1.2 The dwellinghouse is accessed off the public highway via a modest and private highway known locally as Marsh Lane. The dwellings in the locale, are mostly detached dwellings with a variety of outbuildings, but which notably lack uniformity or consistent vernacular.



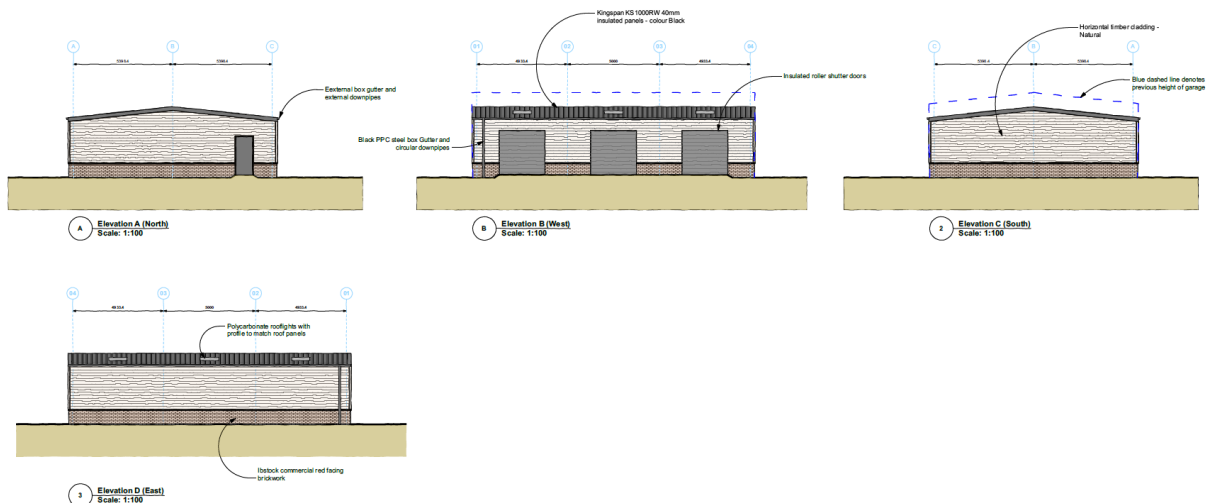
Application site edged in red

Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882



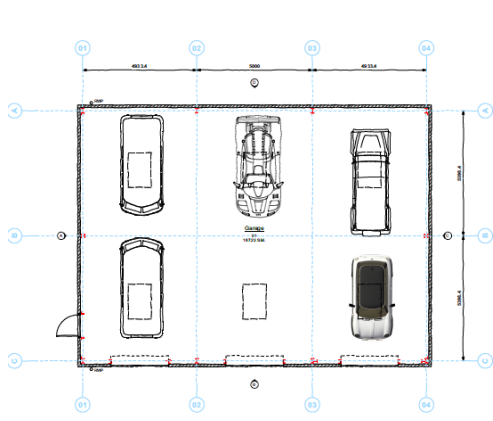
Site photo looking south towards the dwellinghouse

- 1.3 The proposal is for the erection of an outbuilding for the storage of private cars incidental to the enjoyment of the dwellinghouse, as well as the change of use of an area of pasture with no specific use to form part of the residential curtilage of the dwellinghouse. The outbuilding proposed would be sited just beyond the existing boundary to the residential curtilage, adjoining the eastern boundary hedge. The proposal also includes two modest areas of landscape planting, including native species trees.
- 1.4 The building proposed would consist of a shallow dual pitched roof covering a storage building with a width of circa 15 metres; a plan depth of circa 11 metres with a height to the ridge of just under 4 metres. The proposal would be clad in horizontal timber cladding on a red brick plinth and roofed with black insulated panels with rainwater goods also being finished in black.
- 1.5 The proposed building is understood to be necessitated to store the applicant's private motor vehicles and implement storage, in a secure and dry manner; with the applicant stressing the proposal is for domestic uses only.

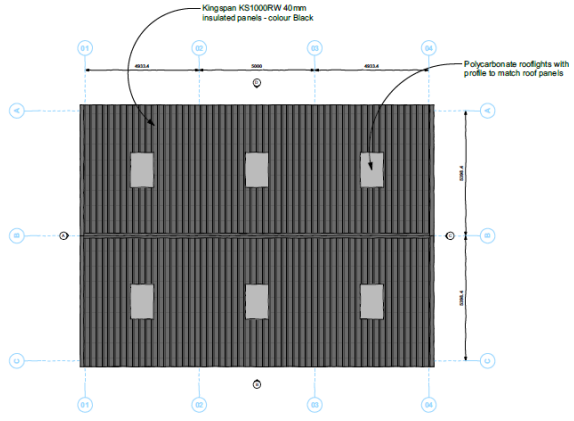


Elevation plans as proposed

Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882



4 Proposed Floor Plan
Scale: 1:100



5 Proposed Roof Plan
Scale: 1:100

Floor and roof plans as proposed



Site photo looking north away from the dwelling



Site Plan as proposed (showing entire application site)

2. Policies

Herefordshire Local Plan – Core Strategy

2.1 The following policies are considered to be relevant to this application:

SS1	-	Presumption in Favour of Sustainable Development
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
RA1	-	Rural Housing Strategy
RA2	-	Housing in Settlements Outside Hereford and the Market Towns
RA3	-	Herefordshire's Countryside
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality

2.2 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/downloads/download/123/adopted_core_strategy

Withington Group Parish Neighbourhood Development Plan (Made 11 October 2019)

https://www.herefordshire.gov.uk/download/downloads/id/18550/withington_group_neighbourhood_development_plan_july_2019.pdf

2.3 The following policies are considered to be relevant to this application:

Policy P4 Local Distinctiveness - Housing Layout and Design

National Planning Policy Framework (2019)

2.4 The following chapters of the framework are considered to be pertinent to this application:

1. *Introduction*
2. *Achieving Sustainable Development*
3. *Plan Making*
4. *Decision-making*
9. *Promoting sustainable transport*
12. *Achieving well designed places*
15. *Conserving and enhancing the natural environment*

2.5 The Planning Practice Guidance published by the Government at the following link is considered to be a material consideration.

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

- 2.6 Further the government's recently published National Design Guide is considered to be material to the consideration of this application, link below.

<https://www.gov.uk/government/publications/national-design-guide>

3 Planning History

- 3.1 The proposal site itself has not been the subject of any past planning applications. The following applications on the wider site are considered relevant:

153789/F - Erection of a self-build detached four bedroom dwelling with a separate double garage and office above – Approved with conditions

162232/AM -Non-material amendment to permission 153789 - Erection of self -build 4bed dwelling with detached garage and office above – amendments to remove chimney – Approved

174669/FH - Proposed single storey orangery extension to rear – Approved

4 Consultation Summary

Statutory Consultations

- 4.1 None.

Internal Council Consultations

- 4.2 Transportation Manager

“There are no highways objections to the proposals.”

- 4.3 Conservation Manager (Ecology)

Original Comments

“The site is within the River Wye/Lugg SAC catchment and a HRA process is triggered by this application.

The LPA notes that:

- *There are no facilities creating any form of foul or dirty water proposed as part of this development.*
- *All additional surface water will be managed through on-site soakaway.*

Based on this information and details being subject to approval and secured through plans approved as part of any consent granted the LPA can conclude that there are NO identified ‘likely significant effects’ on the River Lugg/Wye and this application can be considered as ‘screened out’ from requiring any further HRA process.

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 and all Bat species that are present and widespread across the County and recorded in the wider locality around this application site. 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.

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 TWO 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, boundary feature or adjacent habitats.

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, Core Strategy LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.”

5 Representations

5.1 Withington Group Parish Council

Initial Comments

“The WGPC objects to this application for a number of reasons. These include that:-

- The application is outside the settlement boundary and thus the rural development policies apply, which would be against the proposal.*
- The proposal is beyond that which could normally be described as 'ancillary' to the dwelling house and there is already a substantial garage on the site.*
- Should the planning application be granted, the Parish Council would ask for a condition to be placed on it for 'no commercial or business use' as there is local concern about noise pollution should it be used for industrial use.”*

5.2 Third Party Representations

The application has received 16 representations to date objecting to the development, which have been received from eight members of the public. The main points raised are summarised below:

- Proposed development inappropriate in terms of its size, location, type of construction (being industrial in its appearance) and use
- The potential for noise when ‘stored vehicles’ are being renovated, impact on amenity
- There is a risk applicant with mix business use with the use of the building

- Applicant already has a large double garage and workshop in the curtilage of the dwelling
- Impact on nearby oak tree
- Impact on tranquillity of lane
- Impact on views from adjoining dwellings
- Domestic garage and store cannot be treated under the reference of purposes incidental to the enjoyment of the house

5.3 All the consultation responses can be viewed in full on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200680&search=200680

6 Officer's Appraisal

Policy context and Principle of Development

6.1 The proposal is considered in line with the statutory requirements of Section 70 (2) of the Town and Country Planning Act 1990 (as amended) which requires that when determining planning applications, the local planning authority shall have regard to the provisions of the development plan, local finance considerations (so far as material to the application) and any other material considerations. Following this requirement, Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states the following:

"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 (taken as a whole) is the Herefordshire Local Plan – Core Strategy (CS) and the Withington Neighbourhood Development Plan. The National Planning Policy Framework (NPPF) is also a significant material consideration, but does not constitute a statutory provision, unlike the development plan.

6.3 As is set out at paragraph 30 of the framework and stipulated at Section 38 (5) of the Planning and Compulsory Purchase Act 2004 (as amended), *"if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document"*. In this way should a conflict between the NDP and the CS arise, the NDP will take precedence over the CS unless there are other material considerations that dictate otherwise.

6.4 CS Policy SS1 sets out the presumption in favour of sustainable development, which is reflective of the positive presumption enshrined by the current NPPF as a golden thread running through plan-making and decision-taking. Policy SS1 also confirms that proposals which accord with the policies of the CS (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise. Again, this is broadly reflective of Paragraph 11 of the current NPPF.

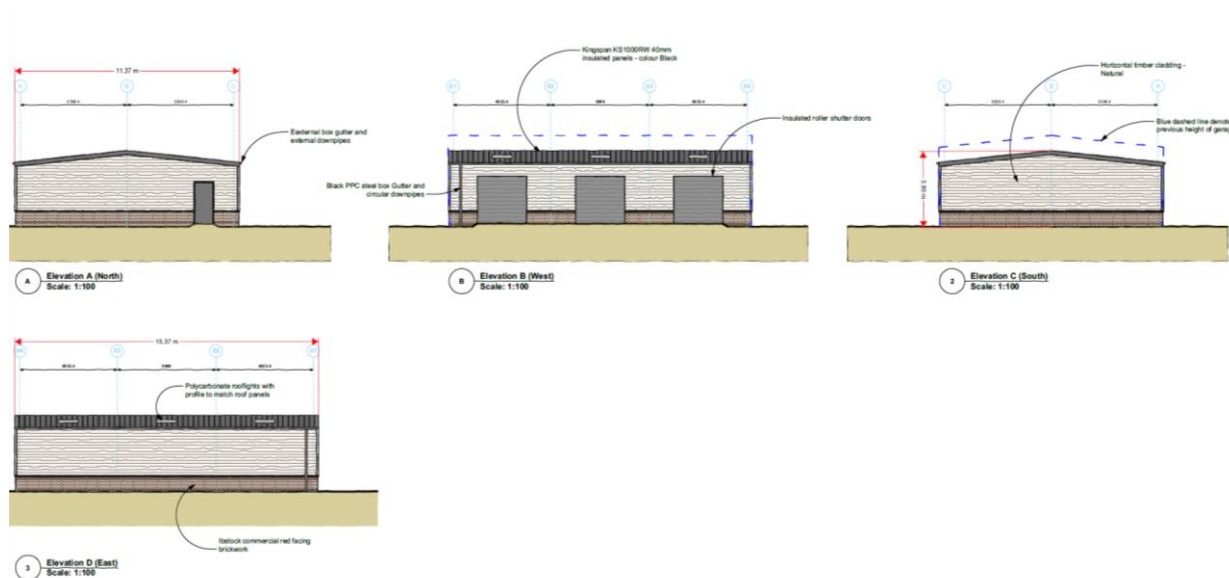
Proposed change of Use

6.5 The application proposes the change of use of an area of land which is currently rough pasture to a residential use as part of the domestic curtilage for the dwellinghouse. This area measures slightly over 500m². Officers consider this change in use of land to be acceptable, as there would be no adverse effect on the appearance or character of the area, as the land is well related to the existing residential curtilage which is of much the same form, with the scale being modest such that it wouldn't amount to an unacceptable domestic incursion into the open countryside.

Design & Appearance

- 6.6 In regards to the design of the proposed building, the Local Planning Authority has a statutory duty under Section 39 of the Planning and Compulsory Purchase Act 2004 to have regard to the desirability of achieving good design.
- 6.7 When considering the design and landscape impact of a proposed development, Policy SD1 of the Core Strategy is significant as it requires that development proposals create safe, sustainable, well integrated environments for all members of the community. In so doing, all proposals should take into account the local context and site characteristics. Moreover, new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. Where appropriate, proposals should also make a positive contribution to the architectural diversity and character of the area, including through innovative design. They should also safeguard the residential amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing. Specifically regarding landscape matters, Policy LD1 requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design scale, nature and site selection of the development, as well as the protection and enhancement of the setting of settlements and designated areas. Development proposals should conserve and enhance the natural, historic and scenic beauty of important landscapes and features (specifically designated assets) through the protection of the area's character and by enabling appropriate uses, design and management. New landscape schemes along with their management should ensure development integrates appropriately into its surroundings and maintains tree cover. In wider terms, policy SS6 sets out that development proposals should conserve and enhance environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity, heritage assets, and especially those with specific environmental designations. All proposals should be shaped through an integrated approach to planning to ensure environmental quality and local distinctiveness.
- 6.8 The NPPF is a key material consideration for the proposal , it includes a chapter focused on achieving well-designed places (chapter 12), which sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, as good design is a key aspect of sustainable development. Decision-making (as directed at paragraph 127 of the framework) should ensure developments will: function well and add to the overall quality of the area 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 including the surrounding built form and landscape setting (whilst not preventing innovation or change); establish or maintain a strong sense of place creating attractive and distinct places to live and visit; with a high standard of amenity for existing and future users that doesn't undermine quality of life or community cohesion and resilience. Additionally paragraph 98 of the NPPF sets out that decisions should protect and enhance public rights of way, including taking opportunities to provide better facilities for users.
- 6.9 The NPPF is clear at paragraph 130 that "planning permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides." The government has confirmed by way of a Written Ministerial Statement (on 1st October 2019) that "in the absence of local design guidance, local planning authorities will be expected to defer to the illustrated National Design Guide"; the National Design Guide is therefore considered to be a material consideration for consider what achieves good design in proposed developments. Equally design shouldn't be concocted as a reason for refusal when proposals accord with the design expectations of the NPPF, material considerations and development plan. Additionally at paragraph 131, great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

- 6.10 The Withington Neighbourhood Development Plan is also applicable in this regards as policy P4 relates to local distinctiveness, housing layout and design with its criteria being relvant for all new development. Specifically criteria (d) in that detached garages to dwellings should not usually project beyond the front or principal elevation of the dwelling and attached garages should be designed to appear subservient to the main dwelling and not visually dominate the street scene, along with criteria (e) in that external materials should respect and complement their setting and context.



Elevation plans as proposed (and annotated with measurements in red)

- 6.11 The proposed outbuilding is noted to be sited to the rear of the existing dwelling, though it is separated from the dwelling by an expanse of lawn. The development plan policies that relate to garaging, specifically NDP policy P4, set out that garaging should be set behind the principal elevation of dwellings and not visually dominant in the street scene. This proposal is set well behind the dwelling and is visually highly discrete in the streetscene and vantage points from the public realm. In this manner the proposal is not considered to detrimentally impact the character, tranquillity or landscape appearance of the area. Further at this juncture, officers note that views from private vantage points such as dwellings are considered to be private interests and rarely form material planning considerations.
- 6.12 Officers consider that the proposal is of an acceptable appearance for its context to the rear of a residential dwelling, as the proposal materials are considered to be in line with those one would expect in a rural context with the utilisation of timber cladding for the elevations providing a natural hue to the proposal which will weather down into its context. Whilst the proposal does utilise black panelling for the roof, due to the shallow pitch of the roof this will not be the prominent visual element of the proposal and the colour is recessive providing the finish is matt.
- 6.13 In terms of the scale of the proposed building, it is considered to be of acceptable massing due to the reduced ridge height, with the proposal being read as a subservient addition to the curtilage as it will not visually challenge the primacy of the dwellinghouse on the property as a whole. The scale of the building in terms of its footprint is noted to be approximately 160m², which is noted to be rather large for a proposed garage however when considered in the context of the scale of other outbuildings found in the area it is not considered to be disproportionate with there being detached home offices and stable buildings in the locale which are of a similar scale. It follows that the scale and mass, whilst in the high echelons of what officers would deem to be permissible, is never the less regarded to be acceptable.

- 6.14 Further, I note that reference has been made to fall back positions in relation to the physical scale of the proposal, it is noted that as the dwellinghouse benefits from permitted development rights; however whilst this proposal could not be erected within the existing curtilage using the provisions of the Town and County Planning (General Permitted Development) Order 2015 (as amended) Part 1, Class E as the eaves heights exceed the criteria. However I do note that a building with a dual pitch roof with a ridge height of less than four metres can be erected and equally a building of a similar footprint can be erected for incidental uses; thus a building of this scale would be a realistic addition to the curtilage of domestic dwellings. However I do not consider provisions under permitted development rights to be overly determinative in the case of this proposal, and the proposal is considered on its merits as presented.

Amenity

- 6.15 The proposed building is for the express purpose of storing vehicles and implements, it is not proposed to be for commercial purposes or a mechanics workshop, which officers would expressly deem to be unacceptable in such a location. The proposal is assessed on the basis of what is proposed, with it considered that noise being produced from the development would be relatively minor. The outbuilding would be sited some distance from the nearest residential dwellings as sensitive receptors and it is noted that as the property in its current form would generate some level of domestic noise from operations such as lawn maintenance and as such any noise generation is considered to be comparable to the existing uses on the site.
- 6.16 The proposed development is single storey, with no windows on the elevations and so is not considered to have an overbearing, overlooking or dominating impact on the landscape or neighbouring properties.

Incidental Use

- 6.17 The application is for the change of use of the land to domestic curtilage and then for the erection of an outbuilding for the storage of vintage private motor vehicles and garden implements, with the applicants submitting that the building will be for uses incidental to the dwellinghouse. It is notable when considering this aspect of the proposal that the Town and County Planning Act 1990 (as amended) is explicit at Section 55 (2) (d) that *“the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such”* is excluded from the definition of development. In this manner whilst the proposed building is for the storage of vehicles and implements, it is made on the basis that it does not constitute a material change in use (to a B8 storage use) as the use would be incidental to that of the host dwelling.
- 6.18 To assess if a proposed use is incidental to another use, the primary use must firstly be identified and then the relationship between the incidental use to the primary use must be considered as a matter of fact and degree, as a planning judgment by the decision-maker.
- 6.19 The primary use of the land (on the basis of the conclusions above) would be as part of the domestic curtilage of the dwellinghouse, with this being read as a singular planning unit,. The host dwelling is a detached four bedroomed property with existing outbuildings to the fore and an ample curtilage.
- 6.20 In terms of the physical relationship, the proposed outbuilding would be sited approximately 30 metres to the rear of the existing dwelling with all access arrangements being down the side of the host dwelling. Turning to consider the nature of the secondary use, the scale of the proposed building is for the storage of up to six vehicles (as indicated on the plans submitted, though it is noted that varying degrees of implement storage would reduce the number of vehicles that could be stored), with the vehicles being stored being those in the private ownership of the applicant and which are for the private enjoyment of the applicant. As a metric for considering the reasonableness for such a proposal, elsewhere dwellinghouses have been known to

accommodate: collections of tens of motorbikes, standard gauge railway tracks and rolling stock, or observatory buildings for star gazing. It follows that a use for the storage of a handful of private cars is not, in this instance, considered to be an unreasonable one, in the context of a detached dwelling within a spacious curtilage.

- 6.21 In the consideration of the proposed use, the ability to impose conditions to secure the acceptable form or use of a scheme is of some relevance, in this regard officers are content that the imposition of planning conditions to limit the use of the outbuilding would offer adequate levels of control to ensure that the use remains one incidental to that of the main dwellinghouse. In this manner, if a different use were desired in the future, an application would be needed to change its use and so the merits of such a proposal could be assessed at that juncture.
- 6.22 Officers consider that it is reasonable to conclude that the building is for an incidental use, due to the proposal being for the accommodation of the residents hobby, a private motor vehicle collection which is considered to sensibly related to the enjoyment of the dwelling, and with the proviso that a condition is imposed to ensure no commercial activity takes place in the outbuilding, it is considered to be acceptable in this regard.

Ecology

- 6.23 In regards to ecology and biodiversity matters generally on the site, Policy LD2 of the CS is most applicable in considering matters of ecology and this broadly requires that all developments should conserve, restore and enhance the biodiversity assets of the county through a range of measures. Policy LD3 also requires that proposals should protect, manage and plan for the preservation and provision of green infrastructure, whilst policy LD1 states that developments should maintain and extend tree cover where they are important to amenity. All off these policies are in line with the dictum set out by Chapter 15 of the NPPF.
- 6.24 The proposed building, as noted in representations from members of the public, is nearby to a large oak tree which lies on adjoining land in third party ownership and forms part of the curtilage of Yew Tree House which lies to the east. The centre of the tree is considered to be approximately 20m from the edge of the application site, with the canopy extent being circa 12 metres from the edge of the application site.



Site photo from beyond application site looking south towards host dwellinghouse (oak tree shown on left hand side)



Site photo looking across application site to the east, showing the oak tree in background



Application site edged in red, tree shown to the east

- 6.25 The level of detail provided as part of the application is considered to be sufficient given the separation between the proposed development and the tree. Officers consider that the proposed building would not have an adverse impact on the existing oak tree in the adjoining garden and so the proposal is accords with policy LD2 in this regard.
- 6.26 The application site is noted to adjoin a Natural England Priority Habitat, namely a traditional orchard; as the application does not relate to this parcel of land, officers do not consider the proposal to harm or impact the adjoining habitat. Further, the application includes the provision for the planting of two modest areas of native trees. This is not considered necessary to offset any identified harm from the proposal, however it is considered to offer a biodiversity

Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

enhancement as does the proposed condition from the Council's ecologist for the provision of modest enhancements; both elements are secured via conditions recommended by officers below and are regarded to weigh positively in the planning balance though minor weight is attributed to them.

Habitat Regulations Assessment

- 6.27 The application site lies within the catchment for the River Lugg, which comprises part of the River Wye Special Area of Conservation (SAC), a European site covered under the Habitats Directive & the Conservation of Habitats and Species Regulations 2017 ('Habitats Regs.' henceforth). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value.
- 6.28 Under the Habitat Regs, Herefordshire Council (as the 'competent authority') has a statutory duty to assess if a proposal is likely to have "a significant effect" whether in combination or alone, this must take place before granting planning permission. This initial assessment is known as the 'screening stage' which considers if there is a possibility of a 'likely significant effect' on the integrity of the SAC, this considers both the effect of the proposal and the in-combination effect; this is considered to be a notably low threshold which acts as a trigger, (thus ruling out only cases where there is no doubt or no real risk of significant effects). At the screening stage the proposal must be considered without regard to any mitigation, any integrated or additional avoidance or reduction measures when considering at the HRA screening stage whether the plan or project is likely to have an adverse effect on a European Site, these may only be considered as part of an appropriate assessment. Any proposal that has the possibility of a 'likely significant effect' on the integrity of the SAC triggers an 'Appropriate Assessment' of the proposal.
- 6.29 Once an 'Appropriate Assessment' has been triggered by the screening stage, the competent authority may only grant consent if it can be demonstrated 'beyond reasonable scientific doubt' using the 'best scientific knowledge in the field' that the proposal will not adversely affect the integrity of the SAC, this assessment should utilise 'best scientific knowledge in the field' as well as considering mitigation and in-combination effects.

Screening Stage

- 6.30 The proposal in this case does not include any foul water drainage and would not result in additional persons visiting the site, as the use would be incidental to the enjoyment of the dwellinghouse; the proposal is for all surface water drainage to be managed via soakaways as is the norm, with a condition being recommended to secure the surface water drainage arrangements as is the standard approach. However it is not considered reasonable or necessary in this instance to condition that no toilet facilities are installed in the outbuilding in the future, because the use is considered to be incidental and so there would be no net increase in persons at the property as a whole, thus there would not be any additional foul water (and so phosphates), irrespective of the quantum of toilets or sinks. As is noted by the Council ecologist, the officers conclude that there is no possibility of a adverse likely significant effect on the integrity of the River Lugg which is a catchment within the River Wye Special Area of Conservation; accordingly the proposed development is screened out at this stage and the proposal is considered to accord with the habitat regulations, policy LD2 of the Core Strategy and the framework in this regard.
- 6.31 As the development is screened out and is acceptable in HRA terms, it is not necessary to undertake an appropriate assessment.

Planning Balance and Conclusions

- 6.32 The National Planning Policy Framework has at its heart a presumption in favour of sustainable development which is echoed in CS policy SS1. Sustainable development is considered to consist of three key elements, 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); :

- a) 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;
- b) 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
- c) 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

6.33 Though the three objectives of sustainable development are not criteria against which every decision can or should be judged, decision making 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.

6.34 Development proposals that are considered to represent sustainable development, meet the first test and are considered to be sustainable development, thus benefiting from a presumption in favour of the development. The second half of Paragraph 11 of the NPPF applies the presumption in-favour of sustainable development for decision-making; 11 c) outlines that development proposals in accordance with an up-to-date development plan should be approved without delay; 11 d) outlines that where the development plan is silent or the policies most relevant for the determination of the application are out-of-date (those being the housing policies), permission should be granted unless either of the following criteria are met.

- 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.

6.35 The restrictive policies set out at Paragraph 11 are set out at Footnote 6 of the framework, they include protected areas or assets such as Special Areas of Conservation, Sites of Special Scientific Interest, Local Green Space, Areas of Outstanding Natural Beauty, designated heritage assets or areas at risk of flooding. None are considered to apply in this instance.

6.36 The application as proposed and with the conditions recommended below is not considered to give rise to any conflict with the development plan nor the provisions of the framework. At the heart of both the development plan and framework lies a positive presumption in favour of development, specifically the framework is clear that development proposals in accordance with an up-to-date development plan should be approved without delay.

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. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

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

2 The development shall be carried out strictly in accordance with the following approved plans, Drawing Numbers:

- **Elevation and floor plans – 329 03 Rev A**
- **Block plans – 329 02**
- **Site location plan - 329 01**

except where otherwise stipulated by conditions attached to this permission.

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

3 With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls, roofs and rainwater goods have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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

4 The garage hereby permitted shall be used solely for the garaging of private vehicles and for purposes incidental to the enjoyment of the dwelling house as such and not for the carrying out of any trade or business.

Reason: To ensure that the garage is used only for the purposes ancillary to the dwelling and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

5 The outbuilding and access thereto must be reserved for the garaging or parking of private motor vehicles in the ownership of residents of the host dwelling and the garage shall at no time be converted to habitable accommodation.

Reason: To ensure adequate off street parking arrangements remain available at all times and to comply with Policy MT1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no garages shall be erected within the curtilage of the dwellinghouse other than those expressly authorised by this permission.

Reason. In the interests of the amenity of the development and to comply with the requirements of Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

7 All surface water shall be managed through a soakaway system within the development boundary; unless otherwise agreed 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), and Herefordshire Local Plan - Core Strategy policies LD2, SD3 and SD4.

- 8** 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 TWO 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, boundary feature or adjacent habitats.

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, Core Strategy LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

- 9** All planting, approved scheme (Block plans – 329 02) shall be carried out in the first planting season following the first use of the building. Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

Reason: To ensure implementation of the landscape scheme approved by local planning authority in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy and the National Planning Policy Framework.

INFORMATIVES:

- 1. IP2 Application Approved Following Revisions**
- 2. 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 and all Bat species that are present and widespread across the County and recorded in the wider locality around this application site. 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.**

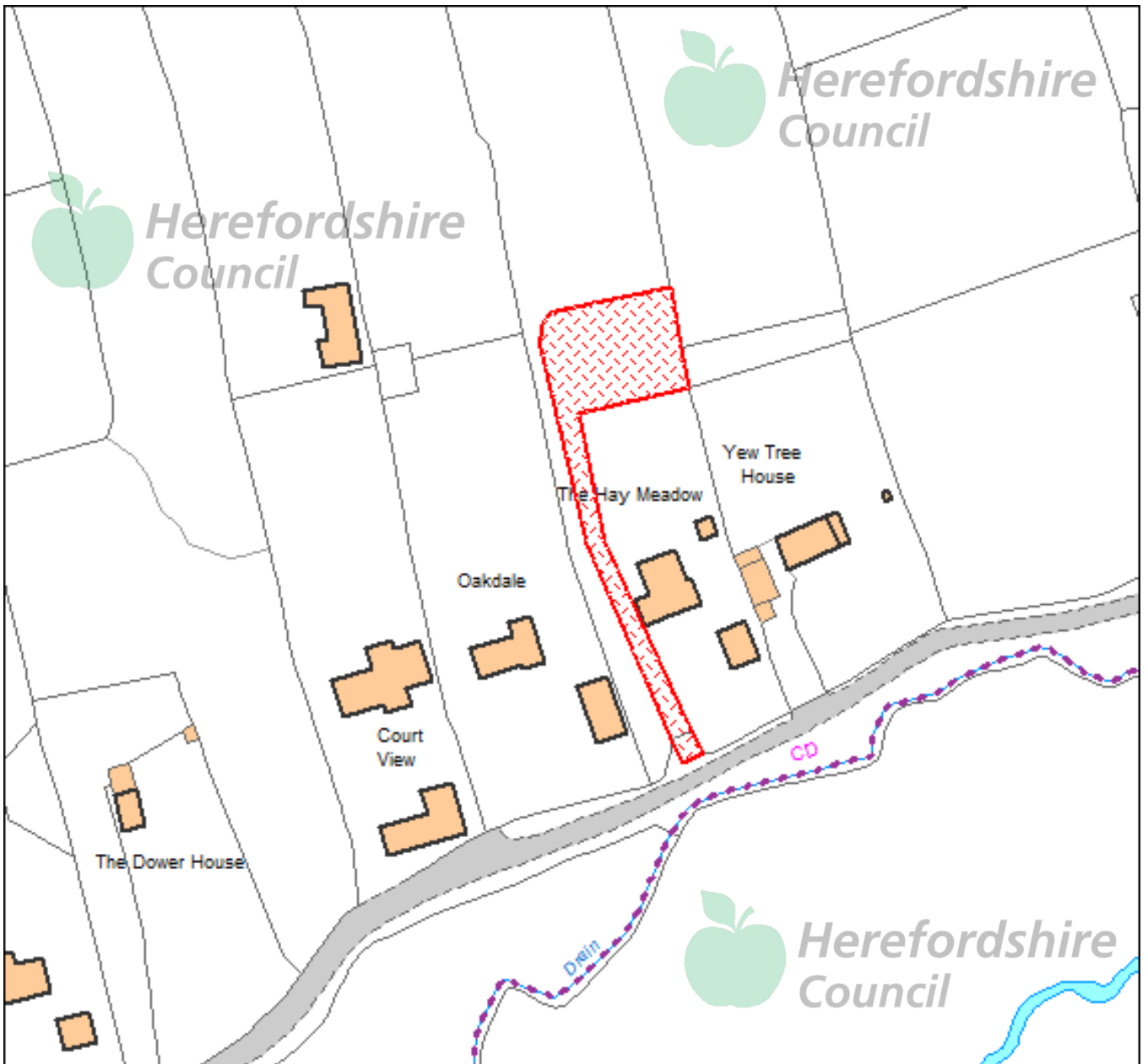
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 200680

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Further information on the subject of this report is available from Mr Alastair Wager on 01432 383882

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	30 SEPTEMBER 2020
TITLE OF REPORT:	<p>202253 - THE PROPOSAL IS FOR THE TAKING DOWN OF THE EXISTING GARAGE, PASSAGEWAY AND REAR EXTENSION AND THE CONSTRUCTION OF A NEW SINGLE STOREY SIDE & REAR EXTENSION, PLUS THE CONSTRUCTION OF A CAR PORT. AT 13 BACKBURY ROAD, HEREFORD, HEREFORDSHIRE, HR1 1SD</p> <p>For: Mr & Mrs Coleman per Mrs Charlotte Knott, 48 Hinton Avenue, Hereford, Herefordshire, HR2 6AW</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202253&search-term=202253
Reason Application submitted to Committee – Staff Application	

Date Received: 15 July 2020

Ward: Eign Hill

Grid Ref: 352671,240111

Expiry Date: 9 September 2020

Local Member: Councillor Elizabeth Foxton

1. Site Description and Proposal

- 1.1 13 Backbury Road is a two storey semi-detached dwelling located within the well-established residential area of Eign Hill to the North – East of Hereford City centre. The dwelling is constructed of red brick walls, plain clay tiled roof and white uPVC windows and doors. There is a driveway to the front of the dwelling with parking for two cars.
- 1.2 The proposal is for the removal of the existing garage, rear extension and passageway and the construction of a new single storey side and rear extension and the erection of a car port. The extension to the side will protrude approximately 3 metres in width and 12 metres in length inclusive of the adjoining rear extension. The rear extension will have an overall width of 6 metres. The car port will have a height of 2.4 metres matching the eaves of the single storey side extension. The extension will be constructed from facing brickwork to match the host dwelling interlocking clay tiles to the extension, with polycarbonate roof panels for the car port.
- 1.3 The proposed elevations and a photograph are set out below for ease of reference.



Proposed Elevations



Site Photo from road

2. Policies

2.1 Herefordshire Local Plan – Core Strategy

- SS1 – Presumption in favour of sustainable development
- SD1 – Sustainable design and energy efficiency
- LD1 – Landscape and townscape
- MT1 - Traffic management, highway safety and promoting active travel

2.2 Hereford Area Plan is at drafting stage and therefore carries no weight in decision making

2.3 National Planning Policy Framework (NPPF) – February 2019

Chapters:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 12 – Achieving well-designed places

- 2.4 The 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

3. Planning History

- 3.1 No site history

4. Consultation Summary

- 4.1 No statutory or internal consultations

5. Representations

- 5.1 Hereford City Council have not provided a response to the consultation

- 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=202253&search-term=202253

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.
- 6.3 When assessing planning applications for residential extensions, Policy SD1 and LD1 of the CS are applicable. SD1 states that proposals should be designed to maintain local distinctiveness through detailing and materials, respecting scale, height, and proportions and massing of surrounding development. The proposal should also safeguard the amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing. Policy LD1 requires that the character of the landscape/townscape has positively influenced the design and scale of development, amongst other matters. These policies accord with the principles as set out within the NPPF with regards to good design and ensuring a high standard of amenity for existing and future occupiers.
- 6.4 Policy MT1 is also applicable. It states that development proposals should demonstrate that the strategic and local highway network can absorb the traffic impacts of the proposed development. It states that developments must be designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space. It also states that developments should have regard to both the Council's Highways Development Design Guide and cycle and vehicle parking standards.

Assessment

- 6.5 The proposals are all of a single storey nature creating a 'wrap around' extension to the side and then to the rear of the dwelling. Its maximum height will sit partly under the first floor window cill height at the rear and partly above at the side of the host dwelling, creating a pitched roof which ensures that it is read as a subservient addition to the dwelling.
- 6.6 The proposed materials for the extension are a matching facing brickwork, with interlocking clay tiles and polycarbonate roof panels to the car port. This will ensure continuity of appearance and it is considered that the proposal is entirely acceptable and policy compliant with regards to design and scale, and would not depart from the character of the host dwelling or the surrounding area.
- 6.7 It is noted that the side element of the extension will remove the garage to the dwelling however the proposals are creating a car port and therefore 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
- 6.8 The proposed extension will be to the side/south of the dwelling. It will have a overall length of 12 metres and is 3 metres in width to the front of the property with the rear measuring 6 metres in width. With a overall ridge height of 3.5 metres, it is noted that the ground slopes slightly to the rear therefore 3.5 metres is at its highest point. The extension will, at its closest point be set back approximately 0.5 metres back from the boundary wall with the immediate neighbour to the south. The car port will have an overall height of 2.4 metres. Due to its modest nature and the proposals only being a single storey as well as the orientation of the site it is not considered to have any adverse impact upon the neighbouring dwellings with regard to overlooking, overshadowing or overbearing. As such the scheme is considered to be of an appropriate and acceptable scale, utilising similar materials and is therefore compliant with CS Policies SD1 and LD1.

Conclusion

- 6.9 In summary the proposed extension and car port are considered to be of an acceptable design that would have no adverse effects upon the character of the host dwelling, the wider streetscene or residential amenity. Moreover the proposals would not give rise to any adverse impact upon the local highway network, thus complying with CS Policies LD1, SD1 and MT1. The recommendation is therefore one of approval subject to the conditions set out below.

RECOMMENDATION

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

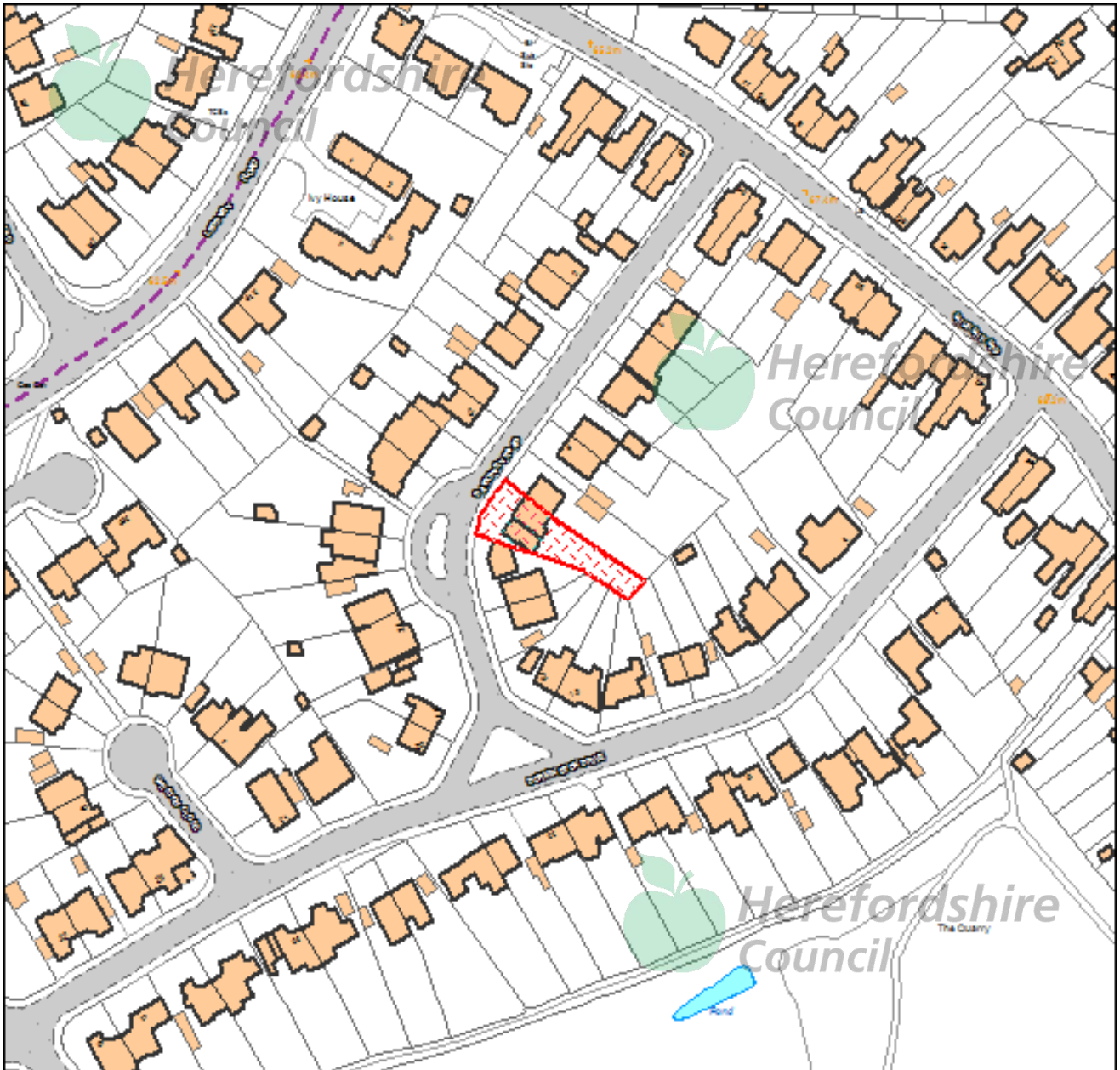
- 1. C01 – Time limit for commencement (full permission)**
- 2. C07 – Development in accordance with approved plans and materials**
- 3. CBK – Restriction of house during construction**

INFORMATIVES:

- 1. IP1 - Application Approved Without Amendment**

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 202253

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Further information on the subject of this report is available from Ms Laura Smith on 01432 383244

