

# Agenda

## Planning and regulatory committee

Date: **Wednesday 2 December 2020**

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Time: **10.00 am**

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Place: **Online meeting**

[www.youtube.com/HerefordshireCouncil](http://www.youtube.com/HerefordshireCouncil)

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

For any further information please contact:

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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](mailto: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 Terry James**  
**Councillor Tony Johnson**  
**Councillor Graham Jones**  
**Councillor Mark Millmore**  
**Councillor Jeremy Milln**  
**Councillor Paul Rone**  
**Councillor John Stone**  
**Councillor William Wilding**

## Agenda

		Pages
1.	<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence.</p>	
2.	<p><b>NAMED SUBSTITUTES (IF ANY)</b></p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p><b>DECLARATIONS OF INTEREST</b></p> <p>To receive declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.</p>	
4.	<p><b>MINUTES</b></p> <p>To approve and sign the minutes of the meeting held on 10 November 2020.</p>	13 - 64
5.	<p><b>CHAIRPERSON'S ANNOUNCEMENTS</b></p> <p>To receive any announcements from the Chairperson.</p>	
6.	<p><b>200299 - LAND ADJACENT GARNOM, BIRCH HILL, CLEHONGER, HEREFORDSHIRE</b></p> <p>Proposed erection of two dwelling houses with shared vehicle access.</p>	65 - 88
7.	<p><b>202974 - HOOKS COTTAGE, LEA BAILEY, ROSS-ON-WYE, HR9 5TY</b></p> <p>Proposed extension and alterations.</p>	89 - 94
8.	<p><b>203159 - 41 POOL COTTAGES, LOWER LYDE, HEREFORD, HR1 3AQ</b></p> <p>Proposed erection of a single-storey extension to form annexe accommodation.</p>	95 - 102
9.	<p><b>202406 - 28 MOUNT CRESCENT, HEREFORD, HEREFORDSHIRE, HR1 1NQ</b></p> <p>Proposed extension and alterations.</p>	103 - 112
10.	<p><b>DATE OF NEXT MEETING</b></p> <p>Date of next site inspection – 15 December 2020</p> <p>Date of next meeting – 16 December 2020</p>	



## 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 Terry James	Liberal Democrat
Councillor Tony Johnson	Conservative
Councillor Graham Jones	True Independents
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.



**The Seven Principles of Public Life  
(Nolan Principles)**

**1. Selflessness**

Holders of public office should act solely in terms of the public interest.

**2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**4. Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**6. Honesty**

Holders of public office should be truthful.

**7. Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.



## Minutes of the meeting of Planning and regulatory committee held at Online meeting on Tuesday 10 November 2020 at 10.30 am

**Present:** Councillor John Hardwick (chairperson)  
Councillor Alan Seldon (vice-chairperson)

**Councillors:** Paul Andrews, Polly Andrews, Sebastian Bowen, Toni Fagan, Elizabeth Foxton, Terry James, Tony Johnson, Graham Jones, Mark Millmore, Jeremy Milln, Paul Rone, John Stone and William Wilding

**In attendance:** Councillors Jonathan Lester, Nigel Shaw and Elissa Swinglehurst

### 30. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Graham Andrews.

### 31. NAMED SUBSTITUTES

Councillor Bowen substituted for Councillor Graham Andrews.

### 32. DECLARATIONS OF INTEREST

None.

### 33. MINUTES

**RESOLVED:** That the minutes of the meeting held on 4 November 2020 be approved.

### 34. CHAIRPERSON'S ANNOUNCEMENTS

None.

### 35. 192765 - MONKS BURY COURT BARN, MONKHIDE, HEREFORDSHIRE HR8 2DU

*(Proposed erection of seven dwellings with garages and associated development.)*

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, Mr J Hughes of Yarkhill Parish Council spoke in opposition to the proposal as a virtual attendee. Mr R Durnan, a local resident, spoke in objection to the application as a virtual attendee. Mr O Fry, the applicant's agent spoke in support of the application as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Lester, spoke on the application. In summary, he expressed particular concern about the impact

on the landscape, on existing residents and flooding issues. He considered the proposal was contrary to policies in the Core Strategy, paragraphs 155 and 163 of the National Planning Policy Framework and the Yarkhill Neighbourhood Development Plan.

The Committee discussed the application.

The Development Manager commented that the site was identified as suitable for development in policy RA2 and within the settlement boundary. He acknowledged that the Committee had identified concerns about the nature of the particular development in terms of design, land drainage and landscape impact.

The local ward member was given the opportunity to close the debate. He reiterated his opposition to the proposal.

A motion was proposed that the application be refused, contrary to the officer recommendation.

**RESOLVED: That planning permission be refused on the grounds that the development was contrary to policies SS1, in terms of design, SS4, SS6, LD1, LD4, SD3, paragraphs 155 and 163 of the NPPF and policies 2,7,8,9 and 11 of the Yarkhill NDP and officers named in the Scheme of Delegation to officers be authorised to detail the conditions and reasons put forward for refusal by the committee.**

*(The meeting adjourned between 12:00 and 12:10pm)*

### **36. 200500 CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG**

*(1) change of use of the barn from agricultural to office space. Works undertaken include replacement beams and glazing to open north gable end of barn. 2) formalise an historic change of use from riding arena to car park - works included tarmacking the arena. 3) access road. (all works retrospective).)*

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, Mrs J Bromley of Whitbourne Parish Council spoke in opposition to the proposal as a virtual attendee. Mrs L Kershaw a local resident, spoke in objection to the application as a virtual attendee. Mr J Evans, the applicant submitted a recorded statement. This was played to the meeting.

In accordance with the Council's Constitution, the local ward member, Councillor Shaw, spoke on the application. In summary, in relation to the works to the building he stated that if the application were to be approved there should be an additional condition requiring the use of appropriate blinds or curtains after nightfall. In relation to the car park if the committee were minded to approve the application he proposed additional conditions requiring the car park to be vacated one hour after the permitted time for amplified music at the venue, that cars be parked facing away from the valley to reduce light pollution issues and the wording of condition 15 from the original permission governing the loading and unloading of service vehicles be applied. He also requested a condition requiring mitigation to reduce the noise from cattle grids on the road serving the venue.

The Committee discussed the application.

The Development Manager commented that the application needed to be dealt with on its own merits and separately from the subsequent application on the agenda papers relating to the property (194408). Additional conditions could be considered as proposed if the Committee considered them appropriate.

The local ward member was given the opportunity to close the debate. He reiterated his request for additional conditions.

It was proposed that the application should be approved with the additional conditions requiring the car park to be vacated one hour after the permitted time for amplified music at the venue, that cars be parked facing away from the valley to reduce light pollution issues and condition 15 from the original permission governing the loading and unloading of service vehicles along with a condition requiring mitigation to reduce the noise from cattle grids on the road serving the venue (to include hedgehog ramps).

**RESOLVED: That planning permission be granted subject to the conditions below, with additional conditions requiring the car park to be vacated one hour after the permitted time for amplified music at the venue, that cars be parked facing away from the valley to reduce light pollution issues, condition 15 from the original permission governing the loading and unloading of service vehicles along with a condition requiring mitigation to reduce the noise from cattle grids on the road serving the venue (to include hedgehog ramps) and any other conditions considered necessary by officers named in the scheme of delegation to officers:**

- 1. C07 - Development in accordance with the approved plans**  
The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. Location Plan; Barn Conversion - As Existing dated March 2020 and Barn Conversion - As Proposed dated March 2020, and the schedule of materials indicated thereon.

**Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.**

- 2. C95 – Details of temporary boundary treatments**  
By 31 March 2021, temporary boundary treatments, shall be submitted to and approved in writing by the Local Planning Authority, comprising a plan indicating the position, type, design and materials of the boundary treatment to be erected. The boundary treatment shall be implemented within three months of the approved details and shall be retained for a period of 10 years following installation.

**Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and to conform to Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.**

- 3. C98 – Planting**  
By 31 March 2021, a plan detailing a scheme of planting shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall prescribe that at least 5 species of native woody shrubs shall be planted and it shall include details of the species, sizes, quantity,

**density of planting with cultivation details. All planting shall be carried out in accordance with those details and planted and implemented in the first planting season following approval of details by the Local Planning Authority.**

**The planting shall be maintained in perpetuity. During the first ten years of maintenance, any shrubs that are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of a 10-year maintenance period.**

**Reason: In order to maintain the visual amenities of the area and to conform with Policy LD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.**

- 4. CK5 – Landscape Maintenance Plan**  
**By 31 March 2021, a schedule of landscape maintenance for the lifetime of the development shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with this approved schedule.**

**Reason: To ensure the future establishment of the approved scheme, in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.**

- 5. CAD – Access gates**  
**By 31 March 2021, the access gates to the approved car park shall be removed from the site in perpetuity.**

**Reason: In the interests of highway safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.**

- 6. CD2 - Habitat Enhancement Scheme**  
**By 31 March 2021, information such as an Ecological Clerk of Works report, demonstrating the installation of significant biodiversity net gain enhancements of appropriate habitat boxes for bat roosting, bird nesting and encouraging pollinating insects located within land under the applicant's control should be supplied to and acknowledged in writing by the local authority. The approved scheme shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external or radiated lighting from the development should illuminate any biodiversity net gain features.**

**Reason: The enhancement and potential to improve protected species and biodiversity assets is a necessary requirement to ensure that diversity is conserved and enhanced in accordance with the requirements of the NERC Act 2006 and Policy LD2 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.**



**7. C57 - Restriction on Use**

The building shall be used as an office only and for no other purpose (including any other purpose in Class B1a of the Schedule to the Town and Country Planning (Use Classes) Order 1987 as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

**8. C64 – Restriction on separate sale**

The building; car park and access road and the site known as Crumplebury Ltd shall not be sold, leased or let separately from each other.

Reason: It would be contrary to the policy of the local planning authority to grant permission for a separate dwelling in this location having regard to Policy SD1 of the Herefordshire Local Plan - Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

**9. CNS - Protected Species, Dark Skies and Intrinsically dark landscapes (external lighting)**

a) At no time shall any external lighting except in relation to safe use of the approved or existing buildings within the application site be installed or operated; and no permanently illuminated external lighting shall be operated at any time, without the written approval of this local planning authority.

b) No external lighting should illuminate any, boundary feature, highway corridors or adjacent habitats.

c) All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals

Reason: To ensure that all species and Dark Skies are protected having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), Herefordshire Local Plan - Core Strategy policies SS6, LD1, LD2 and LD3 and the Dark Skies initiative (DEFRA-NPPF 2013/19) and Policy LU9 of the Whitbourne Neighbourhood Development Plan.

**INFORMATIVES:**

1. IP1 – Application Approved Without Amendment
2. I18 – Rights of Way
3. I33 – General Ecology
4. The applicant’s attention is drawn to the changes to the Use Class Order 2020, in that this application was made to the Local Planning Authority before 1 September 2020.

(The meeting adjourned between 13.35 and 13.50.)

**37. 194408 - CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG**

*(Proposed removal of condition 4 and variation of condition 16 of planning permission p163902/f (demolition of 5no. Existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: function suite, fine dining restaurant and lounge, conference space and 16no. accommodation suites)).*

*(Councillor Bowen indicated that he had not been present for the entire discussion. Accordingly he had no right to vote)*

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.

The update included counsel's advice on behalf of the applicant. Representations from local residents objecting to the application including legal opinion were also included.

In accordance with the criteria for public speaking for virtual meetings, Mrs J Bromley of Whitbourne Parish Council spoke in opposition to the proposal as a virtual attendee. Mrs L Kershaw a local resident, spoke in objection to the application as a virtual attendee. Mr B Greenaway, the applicant's agent submitted a recorded statement. This was played to the meeting.

In accordance with the Council's Constitution, the local ward member, Councillor Shaw, spoke on the application. He expressed detailed reservations. In summary, he highlighted the concern of local residents about the adverse effect on local amenity. He questioned the assertion that there was no difference between the impact on amenity of conferences and weddings. He noted that there had been no reference to weddings in the original application. He considered that a condition restricting the use of the function room was reasonable. He referenced the legal opinions on the application included in the schedule of updates. If the Committee was minded to approve the application any permission should be temporary to allow the impact to be assessed.

The Committee discussed the application.

The Development Manager commented that a principal consideration was the balance between residential amenity and the continued economic viability of the business. If the Committee were minded to refuse the application paragraph 180 of the NPPF would appear to be one ground for refusal. He subsequently sought and received clarification that the Committee was minded to refuse the application on grounds of both amenity and highway safety

The local ward member was given the opportunity to close the debate. He commented that, whilst a difficult decision, on balance he considered refusal would be the correct course. The applicant could submit an application that was more limited in scope, mindful of local concerns. He noted also the suggestion that consideration be given to the use of acoustic rather than amplified music. He supported policies RA6 and SD1 as grounds for refusal along with policy MT1 given concerns about highway safety.

A motion that the application be refused, contrary to officer recommendation, on the basis of policies RA6, SD1 and MT1 and paragraphs 109 and 180 of the NPPF was carried.

**RESOLVED: That planning permission be refused on the grounds that the development was contrary to policies RA6, SD1 and MT1 and paragraphs 109 and 180 of the NPPF, and officers named in the Scheme of Delegation to officers be authorised to detail the conditions and reasons put forward for refusal by the committee.**

*(The meeting adjourned between 15.35 and 15.40.)*

**38. 201254 - THE PIGGERIES, LLANGARRON, HEREFORDSHIRE**

*(Erection of two dwellings and associated works including the demolition of the piggery building.)*

*(Councillors Paul Andrews, James and Millmore left the meeting and were not present during consideration of this application.)*

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

In accordance with the criteria for public speaking for virtual meetings, Mr N Moore of Llangarron Parish Council spoke in opposition to the proposal as a virtual attendee. Mr C Caligari a local resident, spoke in objection to the application as a virtual attendee. Mr M Tompkins, the applicant's agent spoke in support of the application as a virtual attendee. .

In accordance with the Council's Constitution, the local ward member, Councillor Swinglehurst, spoke on the application. She commented that in principle the site was suitable for development. The Committee had recently approved other applications adjacent to it. The site was adjacent to and within the settlement of Llangarron and within the settlement boundary in the emerging Neighbourhood Development Plan. However, consideration needed to be given to cumulative impact on highway safety. The size of the proposed dwellings was relevant in this context but did not form part of an outline application, along with housing need in the area that was also a relevant consideration. She also expressed concerns about the drainage arrangements.

It was proposed that the application should be deferred and further detail sought.

The Development Manager commented there were sometimes circumstances where officers sought a full application, rather than an outline application, to assist in determining the matter. However, he considered that in this case it was appropriate for the Committee to determine the outline application.

**RESOLVED: That consideration of the application be deferred, pending receipt of further information.**

**39. DATE OF NEXT MEETING**

Noted.

**Appendix - Schedule of Updates**

The meeting ended at 4.16 pm

**Chairperson**



# **PLANNING AND REGULATORY COMMITTEE**

**Date: 10 November 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

**192765 - THE PROPOSED ERECTION OF SEVEN DWELLINGS WITH GARAGES AND ASSOCIATED DEVELOPMENT AT MONKS BURY COURT BARNS, MONKHIDE VILLAGE ROAD, MONKHIDE, HEREFORDSHIRE, HR8 2TU**

**For: L.T.F Properties Ltd. per Mr Graham Clark, Shiretown House, 41-43 Broad Street, Hereford, Herefordshire, HR4 9AR**

### ADDITIONAL REPRESENTATIONS

None

### OFFICER COMMENTS

During the site visit, a query was raised regarding the agricultural land classification of the site. Officers can confirm this to be Grade 2 (Very Good).

### NO CHANGE TO RECOMMENDATION

**200500 - 1) CHANGE OF USE OF THE BARN FROM AGRICULTURAL TO OFFICE SPACE. WORKS UNDERTAKEN INCLUDE REPLACEMENT BEAMS AND GLAZING TO OPEN NORTH GABLE END OF BARN. 2) FORMALISE AN HISTORIC CHANGE OF USE FROM RIDING ARENA TO CAR PARK - WORKS INCLUDED TARMACKING THE ARENA. 3) ACCESS ROAD. (ALL WORKS RETROSPECTIVE) AT CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG**

**For: Mr Edward Evans, Dial House, Whitbourne, Worcester, WR6 5SG**

### ADDITIONAL REPRESENTATIONS

Following completion of the report and whilst in the process of being published, committee members were emailed by a third party on 31 October 2020 with an additional representation, submitted on behalf of local residents. This is appended as Appendix 1 to this Schedule of Updates and also published on the application webpage.

### OFFICER COMMENTS

The representation raises no new material planning considerations, replicating the same considerations which have been covered off throughout the officer's report for this agenda item at Section 6, although members will note a photograph supplied by the third party taken

at night time to illustrate concerns. Officers feel the conditions suggested, in respect of boundary treatments and landscaping, address these matters.

As suggested during the site visit by the local member (Ward Cllr Shaw), officers recommend an additional condition to secure a timely departure of all vehicles from the car park following completion of events for the day. This is in the interests of residential amenity, particularly from an aural and visual perspective.

#### **CHANGE TO RECOMMENDATION WITH ADDITIONAL CONDITION**

*10. The car park and access road hereby approved shall not be used for any activities, including the parking of vehicles or deliveries, between the hours of 00:30-08:00.*

*Reason: In the interests of residential amenity and in accordance with Policies SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.*

**194408 - PROPOSED REMOVAL OF CONDITION 4 AND VARIATION OF CONDITION 16 OF PLANNING PERMISSION P163902/F (DEMOLITION OF 5NO. EXISTING REDUNDANT AGRICULTURAL OUTBUILDINGS TO FACILITATE EXPANSION OF EXISTING RESTAURANT AND FOLLOWING EVENTS FACILITIES: FUNCTION SUITE, FINE DINING RESTAURANT AND LOUNGE, CONFERENCE SPACE AND 16NO. ACCOMMODATION SUITES) AT CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG**

**For: Mr Edward Evans per Mr Ben Greenaway, PO Box 937, Worcester, WR4 4GS**

#### **ADDITIONAL REPRESENTATIONS**

Following completion of the report and whilst in the process of being published, committee members were emailed by a third party on 31 October 2020 with an additional representation, submitted on behalf of local residents. This is appended as Appendix 2 to this Schedule of Updates, and also published on the application webpage.

Members will have also received further correspondence directly from the applicant on 5 November 2020, which addresses the comments raised in Appendix 2. This is appended as Appendix 3. There is also a legal opinion which the applicant has provided on their own behalf, appended as Appendix 4. The applicant is happy for this to be published in the public domain.

#### **OFFICER COMMENTS**

The third party seeks clarification as to why only objecting consultees were reconsulted in September 2020. Whilst not a material consideration, to provide context, re-consultation was undertaken with technical/statutory consultees, who previously objected and could make additional representation following the additional information supplied by the applicant's agent in August 2020. This included Whitbourne Parish Council, the Local Highway Authority and new site notices for public awareness.

The third party also considers the proposed removal of condition 4, would mean unregulated use of the site. This is incorrect. Officers would advise that the Condition 25 of the recommendation, only allows use of the site within the parameters of the proposal description, not being unregulated.

All other matters raised by the third party are dealt within the officers' report throughout.

The comments raised by the applicant, is largely a rebuttal to the third party representation. The applicant has submitted a legal opinion which they have sought, to confirm in their view, that the application is lawful and within a parameters of a Section 73 application.

The applicant wishes to point that there are other similar venues in Herefordshire – including those who primarily host wedding events, whom rely on a sui generis use and not a D2 use.

Finally, officers would like to update members that legal have recently received a draft of the Section 278 technical agreement back from the developer's solicitors, in respect of passing places. Officers understand the agreement should be finalised shortly.

#### **NO CHANGE TO RECOMMENDATION**

**201254 - THE ERECTION OF TWO DWELLINGS AND ASSOCIATED WORKS INCLUDING THE DEMOLITION OF THE PIGGERY BUILDING AT THE PIGGERIES, LLANGARRON, HEREFORDSHIRE**

**For: Mr & Mrs Farr per Mr Matt Tompkins, 10 Grenfell Road, Hereford, HR1 2QR**

#### **ADDITIONAL REPRESENTATIONS**

Following completion of the report, Natural England have responded to their consultation on the completed Appropriate Assessment for the site with no objections.

Full Comments below:

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.

#### **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.

### **OFFICER COMMENTS**

This representation does not raise any new material considerations, but confirms that the proposed planning conditions suggested by the Local Authority Ecology Officer are acceptable.

### **CHANGE TO RECOMMENDATION**

**That planning permission should be granted, subject to the recommended conditions, and any other further conditions considered necessary by officers named in the scheme of delegation to officers.**

## **Appendices**

- **Appendix 1 – Letter from Ms. L Kershaw dated 31<sup>st</sup> October 2020 in relation to application P200500/F**
- **Appendix 2 – Letter from Ms. L Kershaw dated 31<sup>st</sup> October 2020 in relation to application P194408/F**
- **Appendix 3 – Letter from applicant dated 5<sup>th</sup> November 2020 in relation to application P194408/F**
- **Appendix 4 - Legal opinion submitted by applicant in relation to application P194408/F**
- **Appendix 5 – Consultation response from Natural England in relation to application P201254/O**



## SUMMARY INFORMATION FOR PLANNING AND REGULATORY COMMITTEE MEMBERS: 10.11.20

### Application P200500/F: Crumplebury WR6 5SG

#### Change of use from barn to office space

#### Creation of car park from riding arena

#### Creation of access road

All works commenced and/or completed without planning permission, applications are retrospective.

This summary provides an overview of objections to Application P200500/F and recommends refusal on the following grounds:

- All three elements have been developed without planning permission being sought at any point prior to being reported as unlawful development to HC Planning Enforcement
- Any development of the barn should have been preceded with the correct bat surveys and ecological impact studies.
- The glazed end of the barn is a substantive change from the previous brick, and will further increase the light pollution from this venue
- HC Highways have objected to the car park and access road
- The car park creates light and noise nuisance from early morning until late and all sounds are clearly audible across the valley. It bears no resemblance to the impact of the original small riding arena.
- The access road is on a gradient, headlights are intrusive and the cattle grids create a substantial noise nuisance
- Extra car parking for staff and delivery vehicles should have formed part of the original application and have been assessed correctly

### 1. BARN

No application was submitted before work commenced even though the Applicant was aware he should apply for a change of use and adhere to correct process.

As work started in the winter during bat hibernation season and without any ecological survey separate to the 2017 surveys on the rest of the venue, there is no way of knowing if bats were in residence and forced to break hibernation – a significant risk to their survival.

It is not acceptable that a building like the barn should have been tampered with in the winter without prior investigation into wildlife habitation.

HC Ecology commented: *'As a retrospective application on a site already known to support bat roosting (Bat survey report June 2017 - for Cow Green Kitchen Application 163902) the LPA can only hope that no breach of the Wildlife & Country Act occurred. The previous ecology report did not cover this additional development area...'*

The barn will have a glazed end (currently exposed) in between the timbers, adding another large expanse of glazed area to the extensive run of glass which is detrimental to dark skies and local nocturnal wildlife.

### 2. CAR PARK

The application form states that the application is for *'Permission for change of use from riding arena to car park. Whilst the area in the centre of the site has been used as a parking / storage area for a number of years, we would like to regularise to confirm that the area will be used as staff and estate office car parking.'*

Originally, the area was a 'Riding for the Disabled' arena with an occasional stored car or caravan. The riding sessions caused no nuisance to the neighbours, being of short duration and during day/working hours. The parked cars/caravan were stationary for long periods and there were no lights.

The car park is used in a radically different way and is very intrusive within this (previously) dark and silent area: the use of the area as a storage area in the past should not be viewed as a pre-existing use that merely needs 'regularising'.

Staff will always be the first people on a hospitality site to arrive and the last to leave, potentially in the early hours of the morning. Staff conversations can be clearly heard. Car headlights shine directly into properties opposite the car park and the noise of cars and delivery lorries over cattle grids is audible over a significant distance.

Deliveries are made to this area, often earlier than the legal start-point of 8 am. The area generally is busy throughout the day as deliveries and staff arrive and leave.

The original Crumplebury application included a number of parking spaces. This area was not mentioned in the application as a potential parking area at any time.

HC Highways have objected to the application: *'the applicant has submitted no evidence that additional car parking is required. The original planning application (ref: 163902) including adequate parking for staff and visitors therefore evidence is required to show a need for the additional car parking. Until such evidence is provided the LHA object to this element of the application due to the additional car parking potentially increasing traffic to and from the development.'*

### **3. ACCESS ROAD**

The access road is only there to enable vehicles to reach the car park. The access road is on a gradient and so all headlights point directly across to houses opposite. To access the car park via this road involves crossing two cattle grids which are intrusive and noisy, particularly at night and in the early morning. HC Highways' objection, above, covers the access road as well as the car park.

### **4. DISREGARD FOR THE PLANNING PROCESS**

This application P200500/F is the fourth retrospective planning application connected with the Crumplebury venue that has been brought about either through planning breaches, or not seeking planning permission in the first place. If issues had not been bundled together, as in P200500/F, the numbers of applications would have been greater.

Additionally, important highway safety conditions which should have been discharged before the venue opened have not been discharged (and cannot currently be discharged as stated in the decision on planning application P200858/XA2).

It appears that there has been an overall disregard for planning rules with regard to this venue throughout the application, construction and operation. Granting retrospective permission for this application (and others) just because the development exists or the actual use of the development

has happened, creates a very dangerous planning precedent in our county, particularly when the area around the venue was so unspoilt. No one should be above the law.

Document prepared by Elizabeth Kershaw on behalf of local objecting residents 31.10.20.

Photograph (below) of the impact of a single staff car in the context of an otherwise dark valley.





## **SUMMARY INFORMATION FOR PLANNING AND REGULATORY COMMITTEE MEMBERS: 10.11.20**

**Application P194408/F – Removal of Conditions 4 and variation of Condition 16 regarding planning permission granted to Crumplebury, WR6 5SG (original application P163902/F) on 3<sup>rd</sup> August 2017.**

This summary provides an overview of objections to Application P194408/F and recommends refusal on the following grounds:

- The necessity for Condition 4 and Condition 16 has not diminished. Herefordshire Council Planning Officers imposed conditions in 2017 to protect residential amenity and public safety. These considerations should still be of primary concern to Planners.
- Herefordshire Council's Highways Department have objected twice to the application on the grounds of '*an unacceptable impact to highway safety.*'
- There has been a constant and serious disregard for planning conditions and/or the need for planning permission throughout the development process.
- The potential loss of business to local holiday lets and hospitality accommodation based on a USP of peace and tranquillity will outweigh any economic benefits to the area from weddings at the Crumplebury venue.
- The location is in an acoustically sensitive, dark skies environment on the edge of a natural amphitheatre in a beautiful, unspoilt area of Herefordshire. All sound travels up and across the valley.
- The building is not adequately sound-proofed, even though the Applicant had made assurances that there would be '*no noise*'.
- The original application of 2016/7 upon which planning permission was based does not reflect the current scale of operation at the site, or that weddings/parties were intended. The removal of Condition 4 will intensify use still further.
- The local Parish Council, who have extensive local knowledge of the area, have unanimously objected twice to the application with evidenced reasons based on planning law.
- The basis for this application is demonstrably invalid both factually and in terms of planning law.
- Light pollution and other issues endanger local wildlife.

This summary has been sent to all Planning Committee members. As both the original and current applications are discussed, they have been distinguished by dates: the original application P163902/F (2016/7) and the current application P194408/F (2020). Direct quotations from documents are in italics.

This application has a complex history and serious implications. To cover the issues, this document is necessarily comprehensive and lengthy. I would like to thank you on behalf of local objecting residents for taking the time to read and consider it.

### **1. HISTORY**

In 2013 the Applicant set up a restaurant in an agricultural outbuilding on his family estate and obtained retrospective change of use Planning Permission.

In December 2016, the Applicant (application P163902/F) applied for permission to build a new facility to expand the restaurant operation. This application did not accurately reflect the current use of the venue, the prospective numbers of guests or the actual quality of the building.

- The development was **represented as a modest scaling up** of the existing restaurant operation as well as *'in exceptional circumstances'* 12 larger events per annum with 160 guests per event.
- The application stated that *'no noise would emanate from the site'* and the new facility would be *'unlikely to result in any increase in [...] light pollution'*.
- No attempt was made to seek D2 planning permission and there **was no reference to 'weddings' within the application at any point.**
- **There was no reference to 'weddings'** in the Applicant's presentation to the Parish Council.
- Local residents were largely supportive. The Parish Council supported the application.
- Highways initially objected but were given assurances by the Applicant (covered in section 3.1) and eventually gave conditional approval.

The Planning Permission granted on 3<sup>rd</sup> August 2017 included 22 conditions.

- **Condition 4** stated that: *'The premises shall be used for restaurant, guest accommodation and a conference centre and for no other purpose.'* [...] *Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.'*
- **Condition 16** stated that: *'No amplified or other music shall be played in the premises outside the following times 12.00hrs to 23.00 hrs. Reason: In order to protect the amenity of occupiers of nearby properties and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.'*

These conditions were imposed by Herefordshire Council (HC) after full investigation into all the implications of the venue's operation **as outlined by the Applicants in the relatively modest 2016/7 application.**

The conditions therefore reflect the content of that 2017 application and discussions. **Stricter conditions or even refusal would have been a possibility if wedding/party use and the true projected number of guests had been transparent.** The Applicant has stated that he discussed weddings anecdotally with Planning officers at the time. If so, the conditions imposed appear to reflect HC Planning's concern for the residential amenity of local people based on this discussion.

In 2018, building and marketing of the venue commenced. The heavy marketing of the complex from the start as a wedding and party venue (Hereford Times, social media, wedding directories etc) **has never reflected the terms of the original application or the existing planning permission. It is a drastic shift.** Over 40 weddings are booked in for 2021 already.

In November 2019, the venue opened, and the first wedding was held on 23<sup>rd</sup> November. Three Christmas parties were held in December. The extreme noise disturbance (and light pollution) caused numerous objections to be made to Environmental Health (covered in section 3.2.1). The music at the wedding also overran far beyond the legal cut-off time.

At this point, HC Planning Enforcement investigated these infringements of planning permission. The Applicant then applied in the current application P194408/F to have Condition 4 removed as the holding of weddings and music-centred parties was clearly against existing planning permission, and continuing to hold weddings would constitute a breach. He also applied to have the music cut-off time moved to midnight. **In short, to make unlawful activity lawful.**

The application was due to come before Committee in May 2020 but was withdrawn after the Planning Officer's recommendation was factually and legally challenged by residents after taking



Specialist Legal Counsel (letters available on the P194408/F application site under 'Correspondence'). Since then, the two previously objecting bodies were asked to reconsult (Highways and Whitbourne Parish Council) and have issued strengthened objections. Consultees who did not object were not asked to reconsult and Whitbourne Parish Council have flagged this in their second objection. **Residents are confused as to why only the objecting bodies were asked to reconsult.**

Throughout this period, weddings have still been heavily marketed, and bookings/deposits taken for 2021, 2022 and possibly beyond. Outside of Covid restrictions, weddings have also been held.

## **2. THE BASIS OF THIS APPLICATION AND IMPLICATIONS OF THE REMOVAL OF CONDITION 4**

This application is for the removal of one condition and the variation of another. **It is important to remember throughout that the operational scale of this venue as revealed in practice is vastly greater to that implied in the original application.**

The Applicant argues that as the original application description refers to 'events facilities', the implication is that all 'events' are allowed by default. The residents' Specialist Legal Counsel has advised: *'It is an established principle of planning law that planning conditions take precedence over the description of development when interpreting a planning permission. Any suggestion of a conflict between the two (which in this case is not accepted in any event) does not mean the condition is unreasonable. The reasonableness of the condition must be assessed, inter alia, on the basis of it being imposed for planning reasons, and being directly related to the proposal.'*

The planning reasons for its imposition are clearly stated within the original representations, including the original planning officer's decision and delegated report, HC Highways' comments and others. **Throughout, in 2016/17, these officers were concerned with protecting residential amenity and public safety.**

Furthermore, the Applicant is arguing that weddings, parties and conferences are all 'events' and therefore interchangeable in character. This argument has been demolished many times in residents' objections. It has no merit whatsoever in 'real life' terms.

Apart from drastic differences in hours of operation etc., at conferences, people are in professional mode, and there is, in general, a 'corporate brake' on behaviour. Too much rowdiness, drunkenness, fights etc could impact on a career, and people will normally retire earlier and behave in a more controlled manner. At weddings and parties, there is no such brake, and the celebrations could go on all night (only the amplified music has an official cut-off time). Behaviour is more likely to be disinhibited and rural venues are even more vulnerable to this lack of boundaries as guests do not perceive there to be neighbours.

The Applicant has argued that only part of the venue facilities can be used if weddings are not allowed. **This is directly contradicted by all the Applicant's marketing** which shows all spaces being used for both weddings and conference events.

If Condition 4 is removed, the use of the venue, and the extent to which it is used, will be **entirely unregulated**, with no chance of other regulatory conditions to be applied. **The original application was never assessed as a D2 planning class wedding/party venue. All assessments were based on a more modest use.**

### **3. SUMMARY OF OBJECTIONS AND AREAS OF CONCERN**

#### **3.1 HIGHWAYS**

**In 2016, HC Highways refused the initial application P163902/F.** They were concerned about intensification, sub-standard visibility at both ends of the access, a particularly dangerous junction with the 'Parish Road' and the A44, and the gate at the end of the Parish Road.

The Applicant then assured Highways that the gate would be removed, that the intensification was modest (1920 extra guests p.a. specified as a maximum), and that a hedge would be removed. **The Applicant did not then, and does not now, own the land on which the gate and hedge is situated. The landowner has not and will not give permission for either the gate (needed for stock farming operation) or the hedgerow to be removed.** On the basis of the Applicant's assurances, conditional approval was given by HC Highways to the original application in 2017.

**In January 2020 HC Highways objected** to the current application P194408/F on the grounds of intensification of traffic (the true **potential guest numbers** at the venue – **around 75,000 pa** based on advertised availability and capacity – now being known), sub-standard visibility and unsuitable single-track roads.

**In September 2020, having been asked to reconsult, Highways issued a longer, strengthened objection.** Specifically: removal of Condition 4 would allow for unconstrained use of the site and no ability to oppose conditions; that the gate is in situ and will not be removed; that the potential intensification of use is vastly greater than the original application specified.

HC Highways' view is that:

*'The original application stated that the gate on Norton Lane at the junction with the A44 would be removed but the gate remains in-situ and it is not within the control of the applicant, therefore it will remain. This could further exacerbate the highway safety issue that potentially exists at this junction due to poor visibility to the north for vehicles exiting Norton Lane onto the A44 and both poor visibility and poor geometry for eastbound vehicles turning left into Norton Lane and vehicles turning right out of Norton Lane.'*

*'The unconstrained use of the site would increase the number of vehicles using the Norton Lane/A44 junction. This would give rise to an increase in the number of conflicts that may occur (e.g. a conflict could occur every time a vehicle turns out of Norton Lane onto the A44) which in turn increases the risk to highway safety that the junction poses.'*

*'The LHA consider there to be **an unacceptable impact on highway safety** as a result of the potential intensification of use of the Norton Lane/A44 junction.'*

Policies RA6 of the Core Strategy, MT1 of the Core Strategy and Paragraph 109 of the NPPF are cited as underlining this decision.

Furthermore, in 2017, 3 important Highways conditions were applied to the original planning permission. One was pre-build (8) and one was pre-use (21). Only one of these conditions (20) has been discharged. The others were **refused** by HC Highways on application for discharge in April 2020.

Additionally, in the latest objection from HC Highways (September 2020) it was stated that, given the vast increase in numbers from the 2016/17 application to the current, the conditions applied then are not now adequate : *'The conditions applied to the original planning consent and the level of highway improvements required were commensurate with the level of trips generated by the uses applied for and detailed within the application. Additional use of the site would require **the level of highway improvements to be reassessed which this application does not allow for.**'*

Local people avoid the Parish Lane/A44 junction and are aware of the dangers. Large numbers of wedding guests, possibly arriving in the dark, following Sat-Navs and/or each other are likely to try to turn left off the A44, resulting in becoming jammed in the hedge. Turning right off the A44 would result in queuing traffic on a fast A road with poor visibility. This is a popular route for motorcycles. If the gate were closed, the opportunity for conflicts would be even greater. The Applicant has advised people coming from the Bromyard direction on the A44 to turn in the Wheatsheaf public house car park, but this is private property (not owned by the Applicant) and currently for sale for development/reopening.

A fatality is highly likely to occur at this junction. If so, it is the opinion of the Residents' Counsel and legally-qualified residents that there could be serious legal repercussions for Herefordshire Council should the Highways' objection be overridden and this removal of Condition 4 approved.

## **3.2 NOISE**

### **3.2.1 MUSIC**

The venue held its first wedding on 23<sup>rd</sup> November 2019 and three Christmas parties (in December) and another wedding since (Saturday February 29<sup>th</sup>).

Until this point, residents had expected the venue to be sound-proofed, and had made no complaint about the long months of construction noise, thinking that the opening of the venue would improve matters.

However, the first four events generated **several noise complaints to Environmental Health** even though the weather was appalling with 38mph winds on one occasion. The fifth took place on the weekend of Storm Jorge with winds of over 50mph.

- Music could be heard indoors with windows closed.
- Music could be heard above a normal television volume and even when a resident was wearing headphones to block it out.
- Every lyric and band announcement was clearly audible and reported to EH as a 'playlist'.
- Children were woken up – or couldn't get to sleep. Adult residents could not sleep.

At that time of year residents were not in their gardens, had windows closed (often double-glazed). Despite the time of year and weather, the noise was intrusive to an alarming degree. **Residents have described it as 'devastating' and 'life-changing'.**

On still summer, this venue will affect even more residents, further afield.

The application of 2017 promised that: *'The proposed facilities buildings will benefit from modern sound proofing and insulation to ensure that **no noise** would emanate from the site.'* **This has proved to be the reverse of the actual situation.**

**The building design is fatally flawed in terms of sound-proofing:**

- Full length glazed windows, one double-storey
- Roofing cladding that only blocks 25 decibels\*
- Wall cladding that only blocks 41 decibels\*
- No air conditioning so that windows and doors will have to be opened
- Speakers direct sound down to a hard floor – the sound then bounces back
- The entire building is angled away from the Applicant’s own land and estate residences so that the ‘open’ glazed ends point towards the opposite side of the valley and local residents. The Applicant himself described this as a ‘giant speaker’.

(\*information from the manufacturers – the roofing manufacturer believes it is not possible to soundproof one of their buildings as they are not designed for this purpose.)

As an attempt to improve noise leakage, the Applicant installed a removable curtain across the glazed end of the Great Hall, but **this will not address the problems of wall/ceiling/open window leakage**. Even inside, rain/wind is clearly audible. In the summer, doors/windows will be open, and the curtain potentially not drawn or even erected.

**The venue sits in a natural amphitheatre.** The nearest residence is some 200 metres: not the ‘vast distance’ as stated in the 2017 application. **All sound carries clearly across the valley** – even normal speech or a radio played at normal volume.

**No professionally monitored noise tests** were done prior to the opening of the venue or to this application. The Noise Impact Assessment ‘tests’ included in the documentation were performed informally by the Applicants in the first instance, and further tests in March 2020 did not comply with the testing requirements originally specified by the Environmental Health Officer, and were not conducted by a member of the Institute of Acoustics, as specified. However, the EHO chose to disregard her own requirements. In the view of the residents, the EHO has approached this application from a statutory nuisance perspective, rather than from the perspective of planning law/guidelines with its concentration on residential amenity and this response should be questioned.

The residents commissioned two noise assessment reports from a qualified member of the Institute of Acoustics. This report stated clearly that: ***“The issued noise impact assessment report cannot be considered a professional report, contains no information about the measurement equipment used, is lacking in technical detail, contains no measurement data of any kind, provides no objective assessment, and is not seen to be suitable to support a planning application of this nature.”***

*“Based on the lightweight metal construction, it is deemed highly unlikely that loud events, such as a live band or professional disco, would be inaudible at the nearby receptors. It is deemed highly likely that these events would cause noise nuisance.”*

The reports can be found in full on the Application site in the representations by Mr and Mrs J Hutchings (24<sup>th</sup> June 2020) and Mrs L Kershaw (24<sup>th</sup> March 2020).

### **3.2.2 NOISE OF GUESTS AND EXTERNAL CELEBRATIONS**

Discussion with the Applicant around noise emissions has centred on the acoustic curtain, but the curtain will have no effect on external noise from guests, staff, traffic etc.

The 2016/7 application stated that: *'Crumplebury staff will ensure that all customers leave the site swiftly and quietly at the end of all events.'*

However, this has not proved to be the case. There has already been one loud, aggressive argument between departing party guests which intruded on the sleep and peace of a local resident.

When hot inside, guests have already been coming outside, propping doors open etc. It will be impossible for staff to police this. This has been the experience in the winter in cold, inclement weather – summer will cause even greater problems, and guests will congregate outside. There is no air-conditioning in the building.

Staff obviously stay after guests depart – there has been noise reported about staff conversations, noisy bottle bins etc. and there has been considerable traffic chaos with taxis/cars trying to arrive and depart at the same time on a single track road.

### **3.3 PLANNING BALANCE AND LOCAL ECONOMY**

In 2016/7 the main argument for this development was that it would increase local jobs and bring tourist revenue into the area.

The Applicant's Agent stated in September 2020 that *'the business presently employs 22 staff from the local area'*. This is not broken down into roles or substantiated. Two residents have been informed separately by Crumplebury staff that the jobs total around 10 with occasional casual extras. The original application said that 18 staff would be required *'in exceptional circumstances.'* Both the previous and newly-appointed General Managers were recruited from other parts of the UK.

It is important to remember that **most, if not all, of the permanent jobs are not dependent on the removal of Condition 4**. The Applicant's restaurant requires permanent catering and waiting staff and the accommodation block requires housekeeping staff.

Any benefit from employment at Crumplebury will be far outweighed by the devastation the noise and disruption at Crumplebury will bring to other local businesses that are **wholly dependent on the USP of the area: beauty, tranquillity and dark skies**.

These businesses bring longer-term holiday-makers in for a week, or weekend, who are known to use other local hospitality businesses and shops, and who bring substantial income into the area. They include an award-winning glamping-pod business with solid 5\* reviews, all based around the peaceful area and views: *'Redhill holidays [...] gives you peace, tranquillity, beauty ..'* (Tripadvisor review, August 2020). The National Trust advertises its neighbouring Old Linceter property as: *'delightfully secluded and peaceful, with only the bleat and baa of the sheep and singing of the birds breaking the silence.'*

There have already been verbal comments from guests at holiday lets about the noise of the weddings and parties at the end of 2019. It is the residents' argument that the potential loss of custom to these businesses by bad reviews based on the noise and light emanating from the Crumplebury development will be a far greater loss to the local economy than any benefit brought by Crumplebury weddings should Condition 4 be lifted.

The wedding guests are 'self-contained', eat the Applicant's food (much of which is sourced from the Applicant's estate) and leave. There is little benefit to the wider local economy.

If Condition 4 is not removed, the Applicant can still run the restaurant and accommodation block unimpeded, but noisy weddings and parties will be prevented from destroying other valuable

businesses. The Applicant argues that weddings are needed for essential revenue to enable his operation to thrive. **If this is the case, then wedding use should have been transparently applied for in the first place.** Due diligence in market research would have revealed this at the outset. **This is a matter of commercial competence, not planning.**

It should be stressed that local residents and WPC have always supported the restaurant and accommodation block.

The Applicant has cited Covid 19 as a reason for planning to be granted. Obviously, Covid has had a devastating effect on hospitality businesses – including those also adversely affected by the Crumplebury development – but Covid is a temporary situation. Any decision to remove Condition 4 will mean **permanent** significant loss of amenity to local residents, and dangers to public travelling on the highways.

### **3.4 SIGNIFICANT OBJECTIONS**

#### **3.4.1 WHITBOURNE PARISH COUNCIL (WPC)**

In **March 2020, WPC unanimously objected to this application** following a meeting attended by over 30 members of the public. Fully aware of the impact of the unconstrained operation of this venue on *‘what is a beautiful and tranquil valley and where noise travels large distances’* their concerns centred around noise, light pollution, the dangerous Highways situation and knowledge of numerous breaches of planning permission and conditions.

On **7<sup>th</sup> October 2020**, having been asked by Planning to reconsult, WPC held another public meeting and **made additional, strengthened comments to the original objection by unanimous vote.** This focused on: the inadequacy of noise testing and of the Applicant’s noise report; environmental nuisance from both amplified music in an inadequate building and external noise from guests and increased light pollution; Highways safety; Conservation (the venue is near a Grade 2\* property); the *‘specious’* argument of conferences and weddings being one and the same; local economy (the USP of this area is its peace and tranquillity and other tourist businesses will be harmed).

The full objection is available to view near the top of ‘Representations’ on the P194408/F application site.

#### **3.4.2 RESIDENTS**

32 separate residents have put their name to objections. This is a scattered community, and the amount of names represents the strength of local feeling and knowledge. The representations on the P194408/F application site cover individual concerns and although numerous, are in general evidenced and reasoned.

#### **3.4.3 CPRE**

The Campaign for the Protection of Rural England officer visited the area to view/listen to the impact of noise etc. from the perspective of local properties: *‘The Applicant is operating this venue as a wedding party and dance hall without the appropriate planning consents and the **resultant light and sound pollution is already severely impacting the residential homes and wildlife in the extreme.** Policy SD1 of the Core Strategy is explicit in that it requires to safeguard residential amenity for existing residents.’*

#### **3.4.4 NATIONAL TRUST**

The National Trust own land bordering the Applicant’s estate and have seven long-term tenanted properties and holiday lets which are likely to be affected by the removal of this condition. They

therefore commented from both a landlord perspective, and more general perspective. Citing the Planning Practice Guidance (paragraph 006): *'The National Trust considers that **this area meets the criteria which Planning Practice Guidance suggests as being relevant in considering whether it is justified to protect an area for its tranquillity**: "For an area to justify being protected for its tranquillity, it is likely to be relatively undisturbed by noise from human sources that undermine the intrinsic character of the area. It may, for example, provide a sense of peace and quiet or a positive soundscape where natural sounds such as birdsong or flowing water are more prominent than background noise, e.g. from transport."* (Paragraph: 008 Reference ID: 30-008-20190722)'

### 3.5 BREACHES OF PLANNING AND NON-DISCHARGE OF CONDITIONS TO DATE

This is a significant concern to residents and is an important consideration for Councillors. **Since the beginning of the development, planning boundaries have been continually pushed or ignored.** Based on this experience, residents fear that any removal of planning conditions will create a completely unregulated development and will set a very dangerous precedent for other developers to imitate. Residents do not feel that a 'do it anyway and try to get retrospective after a backlash' approach is acceptable in any way when all other local people abide by the rules.

- The restaurant was set up in 2013 with no attempt to gain planning permission before opening.
- Planning permission was not granted for weddings and parties, but these events have already been held, are still being held and have been marketed from the start of the build.
- Planning permission was granted for amplified music to be played until 23:00. The wedding of 23<sup>rd</sup> November played music until 24:00 (breach of Condition 16)
- Planning permission was granted for one car park but two have been built (the latter is the subject of retrospective application P200500/F)
- Planning permission was not sought or granted for an access road to the second car park, but one has been built (retrospective application P200500/F)
- Planning permission was not sought or granted for work on a timber-framed barn, but work has already started (retrospective P200500/F)
- Planning permission was granted for one biomass boiler but two were installed. The second has now been granted PP retrospectively.
- Delivery and service vehicles regularly access the site before 8:00 am (breach of Condition 15)
- A historic hedgerow has been removed to build a ha-ha without permission.
- Two essential Highways conditions have never been discharged. One was pre-build, the other pre-use. The venue was constructed and has been operating regardless of this consequent disregard of Highway safety.

In the view of the residents' legal Counsel, the non-discharge of the Highway conditions deems the build not to have been commenced, and therefore **the original planning permission has potentially expired as three years have passed.** This representation can be seen on the P194408/F application site, submitted by Mr C Garvie on 6<sup>th</sup> October. We understand that this legal point has been under consideration by HC legal department.

### 3.6 LIGHT POLLUTION AND ECOLOGY

In 2017, the HC ecology report specified that, for approval: *'No external lighting should illuminate any of the enhancements or boundary features beyond any existing illumination levels and all lighting on the development should support the Dark Skies initiative.'*

The 2017 application's Planning Support Document stated: *'Low level lighting will be LED.'*

The reality is that there is **an extremely high level of illumination at this venue**, not only when it is in operation, but some lights are left on continually – and some shine into residents’ bedrooms. Apart from external lighting, the two huge glass gable ends are intrusive when the indoor lights are on. The development has **destroyed the dark sky environment of the valley** and the **extensive local bat population will now be disturbed** in their foraging grounds. There is also a large owl population and two unusual moths on Badley Wood Common, which adjoins the Crumplebury site.

In 2017 the HC Ecologist was concerned about the impact of foul-water run-off from the waste system and vehicle movements. These concerns were then based on an anticipated 12 larger events a year, not the far larger amount now evident. This foul water seeps down to the watercourses and will end up in the Teme.

### **3.7 ASSESSMENT OF P194408/F UNDER THE PRINCIPLES OF THE NPPF 2019.**

Residents are seeing (and hearing) their environment devastated for no other reason than the economic gain of a commercial company (Crumplebury Ltd). This is a radical change, and as such, should be subject to the ‘Agent of Change’ principle as laid down in the National Planning Policy Framework of 2019. This principle states in paragraph 180:

*Planning policies and decisions should also ensure that new development is appropriate for its location taking into account [ ... ] the potential sensitivity of the site or the wider area.*

**The Crumplebury Development has adhered to none of the NPPF principles.** As this 2020 application P194408/F comes after the new framework, **these new rules should apply before any planning variation is granted.**

### **4. VARIATION OF CONDITION 16**

The comments above in respect of noise and light pollution show that any extension of the music cut-off time will increase the destruction of residential amenity. Apart from the noise of the music itself, after the music stops, guests begin to depart, and all the external noises increase. Thus, any increase in cut-off time will impact on external noise nuisance. This venue, unlike some rural venues, has an aural impact on local residents due to proximity, topography and inadequate building.

### **IN CONCLUSION**

If this application is supported Councillors will be endorsing:

- **Ratification of a use for which planning permission was not transparently sought in 2017.** If D2 planning class weddings and parties were intended, **this should have been clear at the time and not only revealed by subsequent marketing material.**
- **An application refused by Highways on the grounds of danger to the travelling public.**
- **A commercial operation that has already breached existing planning several times and has shown to disrespect and disregard the planning process.**
- **An inadequately sound-proofed venue**, built and launched without professional noise testing, and where operations to date have resulted in enormous distress for residents and many complaints to Environmental Health and Planning Enforcement.
- The despoliation of a lovely part of Herefordshire by a venue which is responsible for **immense light pollution** and damage to the previous dark skies environment, as well as damaging local nocturnal wildlife habitat.
- A venue that is **actively damaging other businesses in the area.**
- A venue that is **actively damaging the peace and well-being of local residents.**
- **A development that runs counter to the National Planning Policy Framework 2019** and should be examined in the light of these new rules.



Document prepared by Elizabeth Kershaw on behalf of local objecting residents.  
30<sup>th</sup> October 2020

Photographs follow.

## SITE VISIT

The scattered dwellings on the slopes of the hill opposite Crumplebury, and within Badley Wood Common are vulnerable to the acoustics and topography of the area, but the extent of these households and their vulnerability is not immediately obvious from the perspective from the site itself – or in daytime conditions.

Residents would be grateful if Councillors could view the site from the perspective of the households suffering the nuisance – or could please take this into consideration, along with the conditions of darkness and silence which would be the ‘normal’ night environment.

Photograph showing the large glazed windows that now dominate the valley.



Photograph showing the venue, lit up, in the context of a previously completely dark valley.



Photographs (below) showing clear marketing as a wedding venue after planning permission excluding weddings had been granted. The initial build publicity (in 2018) and current Instagram page badged as 'wedding venue'.

NEWS

2nd November 2018

# New wedding venue under construction

By Rebecca Miles | [@rebeccamiles\\_HT](#)



Joe and Keeley Evans with builder Graham Smith

Facebook, Twitter, WhatsApp, 5 comments

## A NEW £2.5million wedding venue is being built in the east of the county.

Husband and wife duo Joe and Keeley Evans own the Green Cow Kitchens restaurant in Whitbourne and are behind the development to build a new luxury events venue.

The venue called Crumplebury will be complete by October next year.

Be a **bonus builder**

Discover your inner **builder**

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17:59



crumplebury



173 Posts

1,893 Followers

955 Following

### Crumplebury

Wedding Venue

- State of the art venue
- Farm-to-table restaurant
- 11 ensuite bedrooms
- Set in the Herefordshire countryside
- weddings | events | meetings

[linkin.bio/crumplebury](https://linkin.bio/crumplebury)

Crumplebury Farm, Whitbourne, Worcester, Worcestershire

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Weddings



Events



Corporate



**To: Members of the Planning Committee, Herefordshire Council**

**From: The applicant, Joe Evans, Whitbourne Estate**

**Re: Comments in reaction to the “Summary Information” document lodged on behalf of the residents objecting to Application P194408/F – Removal of Conditions 4 and variation of Condition 16 regarding planning permission granted to Crumplebury.**

Throughout the planning process, the applicant has sought to follow due process, engage positively and proactively with planning officers and address local concerns sensitively and directly.

While compelling and well argued, the opposing submission is rife with inaccuracies, falsehoods and misinterpretation and therefore the applicant feels that it is vital that members are furnished with the facts in order that they can make a balanced judgement.

It appears that those opposing this application are relying in part on matters of planning law. Therefore attached with this memo (and covered in Part 5), is the Legal Opinion to reassure members that the application as proposed is lawful.

1. Inaccurate statements cited as fact
2. Sound and Light
3. Highways
4. The intention of the use of Crumplebury
5. Materiality of use in law
6. Economic impact
7. The magnitude of the swell of objection
8. The character of the applicant
9. Implications of refusal

## **1. Inaccurate statements cited as fact**

Whilst there are a large number of tenuous assertions cited as fact in the document, the following points in particular must be corrected, as taking them as read could pervert due process.

- a) In numerous sections, the report states that the operational scale of the venue is “vastly” greater than implied by the original application. This is simply not true; the applicant has built Crumplebury as per the submitted plans.
- b) On page 6, a number of assertions are made about the building design and the sound performance of the construction materials. This is not based on fact but supposition and guesswork from a desktop study.
- c) The acoustic curtain has in fact been professionally tested and approved by an independent, certified acoustician and to imply otherwise is false.
- d) To state that doors and windows in the Grand Hall will be open in summer is false. The applicant has installed a state of the art air handling system which will be less effective if the fire doors are propped open.
- e) It is false to assert that the rejection of this application will not decimate the business.
- f) The many references which allege that the applicant has shown himself to be cavalier with respect to planning process are palpably wrong and offensive.
- g) To allege that foul water seeps into the watercourse is false. A new bio digester plant has been installed and signed off by the EA in line with the maximum occupancy of the site.

## **2. Sound and light**

The amenity angle in terms of sound and light is the single biggest issue underpinning the passion behind the objections to this application. It was noise emanating from Crumplebury that was the trigger that caused local upset and the mobilisation of a group of objectors. In response to this, and in acknowledgement of the legitimate concerns, the applicant immediately initiated a proactive programme to reduce noise leaking from the Grand Hall. Within 8 weeks of the first event that featured live music at Crumplebury, a professional acoustic curtain was commissioned, installed and independently tested by a qualified acoustician to ensure that the noise levels were brought within acceptable parameters.

The many references to sound “nuisance” cited in the objectors missive are regrettable but were reported before ameliorative measures could be taken. It is important that members note that a wedding with a live band and dancing was hosted on 29<sup>th</sup> February 2020 and no objections were raised; the curtain was in position and doing its job effectively.

Objectors instructed their own consultants to opine on the noise and light impact of Crumplebury as a desktop exercise. This report should not be given any credence as the consultants in question did not visit the site (an open invitation was extended) nor did they inspect the actual build quality and construction composition.

The many other references to dark skies, bats, owls and moths are irrelevant to this application as Crumplebury already has planning permission and within the existing conditions is able to use the venue at night and turn the lights on. Moreover, the installation of the acoustic curtain improves light emission from the site beyond the original permitted design.

## **3. Highways**

The applicant acknowledges that the A44 access at Norton Gated Road is suboptimal. However, the removal of Condition 4 will not give rise to any greater risk. Conferences are likely to represent the most intense impact on the junction. When Crumplebury hosts 200 delegates at a day time business conference (which is what opposers would assert is reasonable), there may be as many as 400 car



movements at peak traffic times. Conversely private events, including weddings, will result in fewer vehicular movements at less busy times of the day. Private party guests typically arrive in groups and sometimes all together in a single bus.

Crumplebury has been built and to now object to the appropriateness of the highways access is illogical. There is nothing within the existing permission that limits traffic movements via this junction and to argue otherwise is misleading and false.

The applicant would be eager to be a stakeholder in a group of councillors and neighbours to address general road safety concerns for existing and future users of the road (residents, Green Cow customers, Longlands Care Farm students, as well as Crumplebury visitors).

#### 4. The intention of the use of Crumplebury

Given the content of the opposition report, members could be forgiven for thinking that Crumplebury is retrospectively applying to become a wedding venue. This is not true. The applicant simply wishes to be able to utilise the property as per the site description.

If members were minded to agree with objectors that “conferences” should be defined as gatherings with people in “professional mode”, then Crumplebury would be forced to abandon plans for a plethora of exciting and varied events:

- Local and National art exhibitions
- Classical music recitals
- Screening of independent movies
- Car launches
- Film productions
- TED talks
- Wine tasting classes
- Mindfulness and yoga retreats

Much is made in the objectors report of advertising, marketing and social media presence, which supposedly positions Crumplebury as a wedding venue. It is true that Crumplebury was due to host a total of 45 weddings in the 24 months from Jan 2020 to Dec 2021 (most of these were sold off plan and have had to be rescheduled due to covid), and 6 weddings are booked for 2022. Weddings were the only type of event to sell off plan, as couples wanted to be ‘amongst the first’ to use the space. Since opening, the applicant’s calendar of events has significantly diversified. Most corporate events have shorter lead times and are sold using private channels, venue scouts and agents. The true range of events that were booked in during 2020 (pre covid) has no relation to the public marketing profile and this material should not be regarded as evidence of anything.

The applicant had understood the “conference centre” element of Condition 4 to be inclusive of a wide range of events in line with the site description. It was a surprise to be issued a notice of planning breach. In hindsight, this view has proven naïve given the toxicity of this application.

#### 5. Materiality of use in law

Mrs Kershaw cites that “the original application was never assessed as a D2 planning class wedding/party venue.” **Most similar venues in Herefordshire – including those that predominantly host wedding celebrations – do not have D2 permission** and rely on sui generis use. To name but a few: Dewsall Court, Bredenbury Court Barns and Lemore Manor. Compelling Crumplebury to be reassessed with respect to planning class could have a devastating economic impact on these venues as a result of new legal precedent.

The applicant has sought Legal Opinion, the report of which accompanies this memo. Timothy Jones, LLB FCIArb is on the RICS / NPIERS Panel for Neighbourhood Planning Examiners and sits as an examiner of Neighbourhood Plans and Neighbourhood Development Orders. He is a member of the Planning and Environment Bar Association and the Administrative Law Bar Association. He is a member of the Bars of England and Wales, Ireland and Northern Ireland. Mr Jones' report is clear in its conclusion:

***“If there is no difference material to land-use planning between a conference and a wedding reception (and I do not consider that there is), a condition preventing wedding receptions would not be necessary, or relevant to planning. It would therefore fail two of the six tests. The same applies to other events.”***

## **6. Economic Impact**

It is disappointing that the opposition report casts Crumplebury as a negative force in terms of its impact on the local economy.

The restaurant is ward winning, and for events requiring more than the 11 bedrooms on site, guests book into alternative accommodation offerings around the local area.

The applicant celebrates and promotes all owner run, self-catering and glamping businesses in the area and is confident that the £3m facility will deliver long term economic benefits through the tax system, rates, employment and its wide range of suppliers and partners.

As well as supporting farmers based on the estate, Crumplebury already has supplier relationships with Chase Distillery, Wye Valley Brewery, Worcester Produce, Lightwood Cheese, Knightwick Butcher, Toads Mill, Celtic Marches and many more.

The local plans and NPPF RA6 strive for; a rural economy that supports and strengthens local food and drink production, offers commercial facilities, and promotes sustainable tourism. The policy also supports the retention and diversification of agricultural businesses. Crumplebury in a nutshell.

Whilst covid has had a devastating effect on the business this year, Crumplebury still has 14 members of staff on payroll. The applicant has plans to increase to 24 FTE when normal conditions resume.

## **7. The magnitude of the swell of objection**

The report submitted implies that huge numbers of objectors share the views posited. Members will note that most of the written objections were lodged on the planning website before ameliorative measures were put in place. In fact, there are a number of strong supporters of Crumplebury who live in a closer proximity to the site than the principle objectors. Given the toxicity of the discourse it is unsurprising that few of these supporters have chosen to make themselves known. The applicant will rely on members being aware that contentious planning issues always receive disproportionately negative representation.

The PC has twice strongly opposed this application, but members should note that the applicant has submitted a complaint with respect to their submission on the basis that it is unbalanced and cites speculation and supposition as fact. The applicant is grateful that these matters have largely been addressed by the Planning Officers report.

## 8. The character of the applicant

The report suggests that the applicant has scant regard for planning process and the local community. In fact, the applicant lives a field away from Crumplebury and cares deeply that it is a force for good in the local area.

Councillors should be made aware that a full team of professional architects, planning consultants, M&E advisors, structural engineers and professional building contractors have been employed to deliver this complex and ambitious project. Whilst the applicant admits that along the way some technical errors have been made (for example installing two smaller biomass boilers rather than one large one, which was not permitted under the condition but has now been approved), this is not unusual in such a large project. The applicant has built what HC gave planning permission for and has proactively and positively worked with planning officers to regularise all outstanding issues.

## 9. Implications of refusal

On numerous occasions throughout the paper, the opposition implies that the ability for Crumplebury to survive as a business is not conditional on being able to operate as a multifaceted events venue. Mrs Kershaw states “most if not all permanent jobs are not dependent on the removal of condition 4”. Members should be aware that as well as being an employer, Crumplebury has significant obligations to its lender.

- 1) Hospitality businesses are notoriously low margin enterprises and to curtail the applicant’s ability to operate within the site description will be catastrophic.

Given that the planning officer report and the Legal Opinion recommends that this application be approved, the applicant is confident that any refusal at committee would be overturned by an inspector at appeal. However, the interim damage from a PR angle (The Hereford Times has already run an article suggesting that Crumplebury can’t host weddings which resulted in business being lost) and ongoing community angst could cripple the business as it also attempts to weather the economic devastation brought about by covid-19.

- 2) The objectors report states that the effect of approving this planning application would be “devastating” and “life changing” whereas the applicant would be able to operate as a restaurant and *professional mode* conference centre. Now that the noise concerns have been addressed, any negative impact of Crumplebury on neighbours has been determined by EHO as reasonable. Licensing powers exist to address any potential future nuisance claims and the applicant has already shown that he is positive and willing to work with the community and authorities to be a responsible neighbour.

Conversely the consequence of being required to cancel the events described in this report would immediately see the business fail. Crumplebury is an ambitious and risky project to diversify a traditional agricultural estate. The applicant’s financier was eager to support this vision, but has taken significant security to make it happen. Therefore, whilst not a planning policy consideration, the implication of Crumplebury failing will have a devastating impact not only on the applicant’s business and their employees, creating mass redundancies, but also on the long standing tenants and workers on the estate as the estate could be repossessed.

All this considered, the applicant is sensitive to the fact that they have a moral and neighbourly obligation to continually ensure that Crumplebury doesn’t cause unreasonable nuisance to residents on an ongoing basis. They remain committed to make Crumplebury a force for good in the local area.



- 2020 -

IN THE MATTER OF CRUMPLEBURY,  
WHITBOURNE HALL, BROMYARD,  
HEREFORDSHIRE

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# OPINION

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Timothy Jones

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# OPINION

1. This opinion relates to Crumplebury Farm, Whitbourne, WR6 5SG. On 3<sup>rd</sup> August 2017 Herefordshire Council (“HC”) granted planning permission for:

*“Demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16no. Accommodation Suites.”*

2. This was subject to 22 conditions and included 9 informatives. Condition 4 states:

*“The premises shall be used for restaurant, guest accommodation and a conference centre and for no other purpose (including any other purpose in Classes A3, C1 and D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.*

*Reason: The local planning authority wish to control the specific use of the land/premises, in the interest of local amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.”*

3. The development has been lawfully completed and opened at the beginning of this year. The operator has always intended to host weddings and other events that would not be described as conferences. This was made clear during the application in discussion with HC, so the applicants were surprised by the condition. Events other than conferences have been held and HC received complaints from local residents.

4. In an attempt to regularise matters my instructing professional made an application under section 73 of the 1990 Act that sought to remove condition 4. The

reasons for this were explained in his supporting statement. (It also sought the removal of condition 16, but that is not a matter upon which I have been asked to advise.)

5. The application was due to be heard at committee last month and was recommended for approval by officers. The day before the meeting it was removed from the agenda. HC said that, due to matters raised by objectors, they considered there was a realistic possibility of a judicial review. It did not detail any possible basis for a judicial review, simply referring to the level of public interest.

6. The Planning Officer then requested extensive further information, stating:

*“... the Council requires further information to be submitted detailing all intended uses, activities and frequencies for this site in terms of the level of use. This will include the numbers of events of wedding ceremonies; conferences; restaurant events; vehicle movements and frequency of each proposed use/element for this site and its intentions.”*

7. He also said that they were considering whether or not there would need to be a new full planning application instead of a section 73 application.

### **Scope**

8. I am asked to advise:

- (1) Whether there any basis for HC insisting that a full planning application is required rather than the section 73 application;
- (2) Whether the holding of events, other than conferences, results in a material change of use of the building;
- (3) Whether condition 4 meet the 6 tests; and
- (4) Whether there is an opportunity to take legal proceedings against HC should it continue to assert that the development, that has been expressly granted

planning permission as an events facility, may not hold events other than conferences.

### **Policy**

9. NNPF paragraph 55 sets out six tests in its first sentence: *“Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.”* These tests are repeated in the PPG.

### **Advice**

10. The Town and Country Planning Act 1990 confers power to amend or remove conditions. It may not be used to achieve a variation to the description of development,<sup>1</sup> but that is not sought here. Rather the application seeks to be able to use the grant without the limitation of the condition, not to go beyond the grant. This is a straightforward application to remove a condition and I can see no basis for requiring a full planning application. If the application succeeds it would not produce a result that was inconsistent with the grant.

11. Whether different events would result in material change of use is a matter of planning judgment, but that planning judgment must be justifiable. That means that in order to say that a change would be material there would have to be a significant difference between a conference on the one hand and the proposed event. Conferences often last all day and are followed by a substantial conference dinner at which there can be music and dancing. A wedding reception typically lasts several hours and involve a substantial meal, music and dancing. If HC were to determine that there were, for example a material difference in land-use planning terms between a conference and a

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<sup>1</sup> Finney v Welsh Ministers [2019] EWCA Civ 1868.



wedding reception (and I can see none) they would have to justify this. I can see no justification and HC has not given one.

12. If there is no difference material to land-use planning between a conference and a wedding reception (and I do not consider that there is), a condition preventing wedding receptions would not be necessary, or relevant to planning. It would therefore fail two of the six tests. The same applies to other events.

13. Section 78 gives a right of appeal against the refusal or conditional grant of planning permission, including planning permission applied for under s.73. Court challenges are seldom appropriate where a planning appeal is possible.

14. There are two realistic options:

- (1) Wait for the council to determine the matter and, unless good reasons appear, appeal any refusal.
- (2) Appeal for non-determination.

15. The more cautious approach is often to wait for the council's reasoning, but there may be strong business reasons for appealing non-determination that, especially in a case where there is no apparent reason for the LPA's position make that the preferable option.

TIMOTHY JONES



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15th July 2020.

Date: 06 November 2020  
Our ref: 331665  
Your ref: 201254



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**BY EMAIL ONLY**

[gemma.webster3@herefordshire.gov.uk](mailto:gemma.webster3@herefordshire.gov.uk)

Dear Mrs Webster

**Planning consultation:** HRA & Appropriate Assessment - The erection of two dwellings and associated works including the demolition of the piggery building  
**Location:** The Piggeries, Llangarron, Herefordshire

Thank you for your consultation on the above dated and received by Natural England on 22 October 2020.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**SUMMARY OF NATURAL ENGLAND'S ADVICE**

**NO OBJECTION**

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

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.

**Internationally and nationally designated sites**

The application site is within the catchment of the River Wye which is part of the [River Wye Special Area of Conservation \(SAC\)](#) which is a European designated site, and therefore has the potential to affect its interest features.

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

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have<sup>1</sup>. 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.

### **Other advice**

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

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries regarding this letter, for new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturallengland.org.uk](mailto:consultations@naturallengland.org.uk).

Yours sincerely

Sally Wintle  
Consultations Team

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<sup>1</sup> Requirements are set out within Regulations 63 and 64 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 63 and 64 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

## Annex - Generic advice on natural environment impacts and opportunities

### Sites of Special Scientific Interest (SSSIs)

Local authorities have responsibilities for the conservation of SSSIs under s28G of the Wildlife & Countryside Act 1981 (as amended). The National Planning Policy Framework (paragraph 175c) states that development likely to have an adverse effect on SSSIs should not normally be permitted. Natural England's SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the Natural England Open Data Geoportal. Our initial screening indicates that one or more Impact Risk Zones have been triggered by the proposed development, indicating that impacts to SSSIs are possible and further assessment is required. You should request sufficient information from the developer to assess the impacts likely to arise and consider any mitigation measures that may be necessary.

### Biodiversity duty

Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available here.

### Protected Species

Natural England has produced standing advice<sup>2</sup> to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

### Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. The list of priority habitats and species can be found here<sup>3</sup>. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found here.

### Ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

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<sup>2</sup> <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

<sup>3</sup> <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

## **Protected landscapes**

For developments within or within the setting of a National Park or Area of Outstanding Natural Beauty (AONB), we advise you to apply national and local policies, together with local landscape expertise and information to determine the proposal. The National Planning Policy Framework (NPPF) (paragraph 172) provides the highest status of protection for the landscape and scenic beauty of National Parks and AONBs. It also sets out a 'major developments test' to determine whether major developments should be exceptionally be permitted within the designated landscape. We advise you to consult the relevant AONB Partnership or Conservation Board or relevant National Park landscape or other advisor who will have local knowledge and information to assist in the determination of the proposal. The statutory management plan and any local landscape character assessments may also provide valuable information.

Public bodies have a duty to have regard to the statutory purposes of designation in carrying out their functions (under (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended) for National Parks and S85 of the Countryside and Rights of Way Act, 2000 for AONBs). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Heritage Coasts are protected under paragraph 173 of the NPPF. Development should be consistent the special character of Heritage Coasts and the importance of its conservation.

## **Landscape**

Paragraph 170 of the NPPF highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute Guidelines for Landscape and Visual Impact Assessment](#) for further guidance.

## **Best and most versatile agricultural land and soils**

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 170 and 171). This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in [GOV.UK guidance](#). Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [\*Construction Code of Practice for the Sustainable Use of Soils on Construction Sites\*](#), and we recommend its use in the design and construction of development, including any planning conditions. Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

## **Access and Recreation**

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered

where appropriate.

### **Rights of Way, Access land, Coastal access and National Trails**

Paragraphs 98 and 170 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way, coastal access routes and coastal margin in the vicinity of the development and the scope to mitigate any adverse impacts. Consideration should also be given to the potential impacts on any nearby National Trails, including the England Coast Path. The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer.

### **Environmental enhancement**

Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the NPPF (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). We advise you to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced or what new features could be incorporated into the development proposal. Where onsite measures are not possible, you should consider off site measures. Opportunities for enhancement might include:

- Providing a new footpath through the new development to link into existing rights of way.
- Restoring a neglected hedgerow.
- Creating a new pond as an attractive feature on the site.
- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Incorporating swift boxes or bat boxes into the design of new buildings.
- Designing lighting to encourage wildlife.
- Adding a green roof to new buildings.

You could also consider how the proposed development can contribute to the wider environment and help implement elements of any Landscape, Green Infrastructure or Biodiversity Strategy in place in your area. For example:

- Links to existing greenspace and/or opportunities to enhance and improve access.
  - Identifying opportunities for new greenspace and managing existing (and new) public spaces to be more wildlife friendly (e.g. by sowing wild flower strips)
  - Planting additional street trees.
  - Identifying any improvements to the existing public right of way network or using the opportunity of new development to extend the network to create missing links.
- Restoring neglected environmental features (e.g. coppicing a prominent hedge that is in poor condition or clearing away an eyesore).





<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>2 DECEMBER 2020</b>
<b>TITLE OF REPORT:</b>	<b>200299 - PROPOSED ERECTION OF TWO DWELLING HOUSES WITH SHARED VEHICLE ACCESS AT LAND ADJACENT GARNOM, BIRCH HILL, CLEHONGER, HEREFORDSHIRE</b>  <b>For: Mr Lewis per Mr DF Baume, Studio 2, Thorn Office Centre, Rotherwas, Hereford, HR2 6JT</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200299&amp;search-term=200299">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200299&amp;search-term=200299</a>
<b>Reason Application submitted to Committee – Redirection</b>	

**Date Received: 31 January 2020**      **Ward: Stoney Street**      **Grid Ref: 345180,237113**  
**Expiry Date: 27 March 2020**  
Local Member: Councillor David Hitchiner

## UPDATE

Members will recall that this Committee deferred consideration of this application on 5 August 2020 in order for comments to be sought from the Council's Landscape Officers.

Following the application being deferred in August consultation was undertaken with one of the Council's Senior Landscape Officers. Following a desk top study and site visit the Senior Landscape Officer objected to the proposal. Primarily this objection lay in the impact the proposed access and associated visibility splays would have on the character of the lane. Further comment was offered on the tree selection to the rear of the proposed dwellings. In response to the Landscape comments the applicant submitted the following additional or amended information:

- Revised site layout with location of single storey dwelling and two storey dwelling switched;
- Amended site sections;
- Visuals of the proposed development from Poplar Road.

The additional and amended details submitted by the applicant pro-actively sought to address matters of concern that arose in the Senior Landscape Officer's comments. The Senior Landscape Officer has reviewed the changes and maintains that the scheme would be harmful to local character, primarily the character of Poplar Road as a result of the loss of hedgerow and translocation of hedgerow, widening the lane. The Senior Landscape Officer does note the positive approach of the site layout, scale and landscaping which seeks to minimise the visual impact of the development.

The Parish Council maintain the original grounds of objection that the application site lies beyond the identified settlement boundary, concerns surrounding access location and loss of public amenity value associated with views from the top of Birch Hill.

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

Since August 5<sup>th</sup> the Clehonger Neighbourhood Development Plan has passed through independent examination. The examiner's report detailed no changes to the Neighbourhood Plan and as such it will go to referendum as set-out 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 the Clehonger Policies Map and as such there is an identified conflict with policy C2 of the draft Clehonger Neighbourhood Development Plan (dCNDP). 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 Clehonger Neighbourhood Development Plan the identified conflict with C2 combined with the already identified adverse landscape character impact of the proposal, contrary to CS LD1 and dCNDP C4 it is Officers recommendation that planning permission be refused.

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

- 1.1 The application site lies within the Parish of Clehonger on the unregistered 73412, named Poplar Road, which runs out of Clehonger to the East before turning South towards Cobhall Common. The site is located on the North Eastern side of the carriageway between the existing dwelling, Garnom, and the private access drive for Birch Hill House.
- 1.2 The site is currently part of the extended curtilage of Garnom and is laid to grass. The topography of the site slopes up to the highest point in the southern site corner at the junction of Birch Hill House's access onto the Poplar Road.
- 1.3 The proposal is for full planning permission for the erection of two dwellings, one detached two storey dwelling with 4 bedrooms and detached double garage and one detached bungalow with 3 bedrooms. Included in the proposal is a new access onto the Poplar Road, approximately midway along the southern western site boundary. A section of hedgerow is proposed to be removed with another section to be translocated behind the visibility splays.
- 1.4 The proposal includes a detailed landscape plan that illustrates a newly proposed hedge on the north eastern site boundary and a range of proposed trees across the site and site boundaries.

## **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
SS5	-	Employment provision
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
RA1	-	Rural housing distribution
RA2	-	Housing in settlements outside Hereford and the market towns
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
SD1	-	Sustainable Design and energy efficiency
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality

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

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

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy has been made on 9th November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account in forming a recommendation and coming to a decision.

## 2.2 **Cleghonger Neighbourhood Development Plan (awaiting referendum)**

(Plan attracts significant weight in decision making)

- Policy C1 - Sustainable development
- Policy C2 - Settlement boundary
- Policy C3 - Housing mix
- Policy C4 - Natural environment
- Policy C5 - Historic environment
- Policy C6 - Design

[https://www.herefordshire.gov.uk/directory\\_record/3044/cleghonger\\_neighbourhood\\_development\\_plan](https://www.herefordshire.gov.uk/directory_record/3044/cleghonger_neighbourhood_development_plan)

## 2.3 **National Planning Policy Framework (NPPF)**

- Chapter 2 - Achieving sustainable development
- Chapter 4 - Decision-making
- Chapter 5 - Delivering a sufficient supply of homes
- Chapter 9 - Promoting sustainable transport
- Chapter 12 - Achieving well-designed places
- Chapter 15 - Conserving and enhancing the natural environment

## 3. **Planning History**

- 3.1 SH830474PF – Extension to dwelling - 05-Jul-1983 - Approved

## 4. **Consultation Summary**

### 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.

### Internal Council Consultations

#### 4.2 **Area Engineer (Highways) – No objection**

No objections to the proposed.

- CAB - Visibility Splays 2.4m x 25.7m southbound and 2.4 x 26.8m Northbound.
- CAD - Access gates 5m
- CAE - Vehicular access construction

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

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

### **Commented further on the 22<sup>nd</sup> October 2020 (following amended plans)**

The proposed amended site layout drawings do not alter the previous highways assessment for the site, having regard to the speed survey and the content of the DfT's Manual for Streets 2 document. The previous highways comment still applies in respect to the conditions being recommended and condition CAB is particularly important to ensure that the appropriate visibility splays are delivered.

#### **4.3 Principal Natural Environment Officer (Trees) – No objection**

Having viewed the plans, tree report and proposed landscape plan I can confirm that I don't have an objection to the proposed erection of two dwellings.

As stated in the Arboricultural Impact Assessment the only trees on the site are a row of early mature Silver birch located on the western boundary. I am inclined to agree that they are of a low quality but they do act as an effective screen for the adjacent property.

This proposed development provides sufficient space and protective measures to ensure the trees will be retained and protected during development.

The landscape plan contains a range of native species of varying sizes that will provide mitigation for the loss of the section of hedgerow required to facilitate access and vision splays.

#### Conditions

Trees & Planting 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 & Hedgerow Survey & Arboricultural Impact Assessment – Macklay Davies Associates Limited, Proposed Planting Plan - Macklay Davies Associates Limited

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)

#### **4.4 Principal Natural Environment Officer (Ecology) – No objection**

The site is within the River Wye SAC and a Habitat Regulation Assessment process is triggered. The appropriate assessment completed by the LPA is subject to consultation with Natural England prior to any grant of planning consent.

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

The applicant has confirmed that foul water will be managed by plot specific private treatment plants with associated soakaway outfall drainage fields. This is supported by appropriate ground and percolation testing.

All surface water can be managed through on site sustainable drainage-infiltration systems.

The schemes can be secured by condition on any consent granted.

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

All foul water shall discharge through connection to new private foul water treatment systems with final outfall to suitable soakaway drainage fields on land within each specific plot; and all surface water shall discharge to appropriate SuDS - soakaway system; 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 LD2, SD3 and SD4.

The supplied ecology report with recommendations for appropriate mitigation measures and biodiversity net gain enhancements is noted and should be secured for implementation in full by a relevant condition.

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

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity net gain enhancements, as recommended in the ecology report by HEC dated November 2019 shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority. No external lighting should illuminate any boundary feature, adjacent habitat or area around the approved mitigation or any biodiversity net gain enhancement features.

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.

## 4.5 Land Drainage – No objection

### 31<sup>st</sup> March 2020

#### Surface Water Drainage

The Applicant has provided a surface water drainage strategy showing how surface water from the proposed development will be managed.

Soakaway testing has been completed using the Building Regulations test. The Drainage Strategy refers to this testing which has been completed by Wye Environmental Services. We request that the original survey sheets are presented to the Council.

The reported Vp value is 47 mm/s. The applicant has cited an equation in the Building Regulations that has been used to convert this Vp value to an infiltration rate.

Following a first principles review of the fore-mentioned equation we note that there is a factor of three within the equation that is used to inflate the permeability figure. The Building Regulations pre-date the BRE 365 guidance that is referred to in the SuDS Manual. We

consider that the use of this equation is not consistent with the modern approach to SuDS design. There is no survey data relating to groundwater levels.

Regardless of the survey data used to support the design, the strategy demonstrates that there is no increased risk of flooding to the site or downstream of the site 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.

#### Foul Water Drainage

We note that the adjacent site 142443 featured the use of a drainage field. The attached plan was issued at the time of the application, this shows a drainage field on the site of the proposed new houses.

We request that the applicant advises how the foul drainage system for 142443 will continue to function if the development proceeds.

There is a foul sewer close to the site. In accordance with Environment Agency guidance, the applicant should consider making a connection to the existing sewerage system in preference to utilising drainage fields.

The Applicant has undertaken percolation tests in accordance with BS6297 to determine whether infiltration techniques are a viable option for managing treated effluent (see Section 1.32 of Building Regulations Part H Drainage and Waste Disposal). There is however no survey data relating to groundwater levels.

We note that the drainage field has been designed in accordance with the Binding Rules, however we note that the field should be no closer than 3m from the highway.

#### Overall Comment

Prior to granting permission we await the provision of soakaway test results to BRE 355 and a test pit needs to be dug to establish the groundwater level.

The applicant should advise how the soakaway field for site 142443 operates and how this may be impacted by the proposed development. Subject to receipt of this information we consider that a joined up foul drainage strategy between the adjacent sites may be required.

#### **Commented further on the 3<sup>rd</sup> April 2020**

We have reviewed the drawing 06 1-200 Site Plan and now appreciate that the soakaways were designed adequately and installed adjacent to the existing properties.

We also note comments regarding the low level of groundwater in the email thread below.

We consider that there is sufficient evidence to demonstrate that the foul and surface water drainage strategies will be acceptable. A condition will however need to be included requesting soakaway testing to BRE 365 to support the surface water drainage strategy. We respect the comments regarding the sequence of approvals for the SuDs Manual and the Building Regulations documentation, however we wish to highlight that the panel members who jointly contributed to the SuDS Manual would have been aware of the formula within the Building Regulations and have chosen to omit it from the SuDS Manual.

#### **4.6 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.

#### 4.7 Senior Landscape Officer

##### 25<sup>th</sup> August 2020

I have read the relevant landscape application material, undertaken a desk top study and visited the site, and find that due to the visibility splays to achieve access to the site, there is a significant loss of established hedgerows (with associated earth mound); and expansive laying of tarmac, that adversely impacts the landscape character and wildlife corridor of a country lane. (Refer to figure 1). Therefore the access associated with the development is contrary to NPPF, chapter 15a; and Core Strategy (Local Plan) LD1, LD3 and SS6.

Although, there are proposed replacement hedgerows that literally follow the visibility splays lines the straightening of the hedgerow and protracted hard paved surface, result in a loss of a narrow and curved country lane. A representational sketch (Figure 2), has been prepared to assist in visualising the before and after effect.

Should the application proceed, it is recommended that the verified views or similar images be prepared by the applicant to demonstrate how the design and landscape would assist in mitigating the impacts. Note, it is important to understand what the lane will look on day one, and in 10 years.

In terms of the housing layout is anticipated that the buildings will be visible from key points along the lane. For example at the corner of the site, as indicated in figure 3. Again, should this application proceed, a view at this point with the proposed buildings would be useful to understand if the roof or facades are visible, and if so, action taken to alter the plan layout.

In general, with regards to landscape, it is recommended to review the tree strategy to ensure that the right trees are located in the right places, at the appropriate size and densities. For example, the clustering of apple and pear trees along the field boundary, may be better suited to larger native hedgerow trees to maintain local hedgerow tree characteristics, and the Principle Settled Farmlands landscape character.

##### **Commented further on the 18<sup>th</sup> November 2020 (following amended plans)**

I am satisfied that the applicant has responded to my comments, dated 25/08/2020, however I am still of the opinion that the impact on the lane is harmful to the landscape character and biodiversity. The setback of the hedgerow caused by the visibility splays and the removal a wide section of hedgerow harms the local countryside distinctiveness and reduces the coherence and effectiveness of the wildlife corridor.

The applicant has endeavoured to provide a layout and scale to reduce the mass of the development, with tree and hedgerow planting to mitigate the visual impact. Should this development proceed, the landscape is critical and therefore a comprehensive detailed landscape proposal will be required that respects the local landscape character, is adapted for climate change, and specifies the right trees and plants for the long term benefit of the countryside. A long term management and maintenance plan will be required to ensure the landscape is robust and successful.

## 5. Representations

### 5.1 Clehonger Parish Council – Objection

The Clehonger Parish Council has discussed the application and wish to OBJECT to the proposals for the following reasons:

- 1) The site is outside of the settlement boundary as identified in the emerging Neighbourhood Development Plan for Clehonger which has just passed Regulation 16.
- 2) There are concerns about the access to the site and visibility splays at the location are extremely compromised with blind corners and poor visibility.
- 3) Overcrowding of the site with consequent detriment to the enjoyment of existing properties on what is a tiny rural lane.
- 4) Loss of amenity value. The views from the top of Birch Hill are stunning and are enjoyed by the community. The building of the proposed properties will result in the loss of this viewpoint.

#### **Commented further on the 12<sup>th</sup> November 2020 (following amended plans)**

The Clehonger Parish Council has again discussed the application 200299 and wishes to reiterate that the PC OBJECT to the proposals for the following reasons, as detailed previously (and repeated below). The PC wish to make the additional comment that the \*Clehonger Neighbourhood Development Plan is now ready for referendum (delayed only by the Covid pandemic) and decreed to have significant weight afforded in planning decision making (as recently noted in the Gosmore Road application, 192855, where the NDP was referenced materially). This application 200299, whilst altered, is still outside the settlement boundary and the factors described below are still believed to apply.

### 5.2 Allensmore Parish Council (adjacent Parish) - Objection

Whilst this application is not in the parish of Allensmore, it is very close to the parish boundary.

Allensmore Parish Council objects to the proposal principally on the grounds that it believes the site is not appropriate for development for the following reasons:

Firstly, it is outside the settlement boundary as proposed by the Clehonger NDP which is currently undergoing examination and therefore has moderate weight. As is made clear in para 4.10 of the NDP, land outside the settlement boundary is defined as countryside and treated as such in planning terms.

Secondly, access to this site is from a very narrow lane, close to a blind bend on the brow of the hill. The additional traffic movements will exacerbate an already dangerous situation. Thirdly, it would have a detrimental impact on the amenity of the area. From this point there are remarkable views of the village and surrounding hills which are enjoyed by people in the area and would be eliminated if this proposal were to proceed. This view is specifically identified and protected by policy C4, item 3B in the NDP.

Lastly, the site is on an elevated position on the edge of the village, the large, two storey house, in particular, would dominate the skyline.

### 5.3 To date a total of 26 objecting responses have been received from 13 households, with 9 supporting responses from 9 households. The comments therein are summarised below:

Objecting comments

- Contrary to NDP which has now passed examination
- Revised scheme partly reduces impact on skyline but does not fundamentally change damage to open countryside.



- Local oversupply of dwellings
- Highways concerns, narrow lane, poor surface and topography
- Fencing erected without permission is restricting visibility
- Scale and design of the dwellings
- Landscape impact and loss of wider views from Birch Hill
- Inconsistent with other previous refusals on landscape grounds
- Potential commercial use of garage
- Carbon footprint
- Impact on amenity
- Outside of settlement boundary
- Heritage impact on historic field pattern and wider views
- Impact on ecology and habitats – numerous species present on the site
- Drainage and flooding
- Disruption due to construction
- Length of site notice
- Loss of ancient hedgerow
- Erection of fence

#### Supporting comments

- Provision of housing for a range of people
- Site level, below the road
- Adequate visibility
- Good design
- Long standing residents
- Biodiversity enhancements
- Employment of local trades and businesses
- For family member
- Away from flood plain
- Access to school and local services

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

[https://www.herefordshire.gov.uk/info/200142/planning\\_services/planning\\_application\\_search/details?id=200299&search-term=200299](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200299&search-term=200299)

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 Clehonger Neighbourhood Area, where the draft Neighbourhood Development Plan (dCNDP) has undergone independent examination and is awaiting referendum.

- 6.3 At this juncture, to evaluate the weight that can be afforded to the dCNDP 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 Clehonger 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, this was without modification.
- 6.4 The Decision Document confirms the Clehonger will go to referendum as examined 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.

#### *Principle of Development*

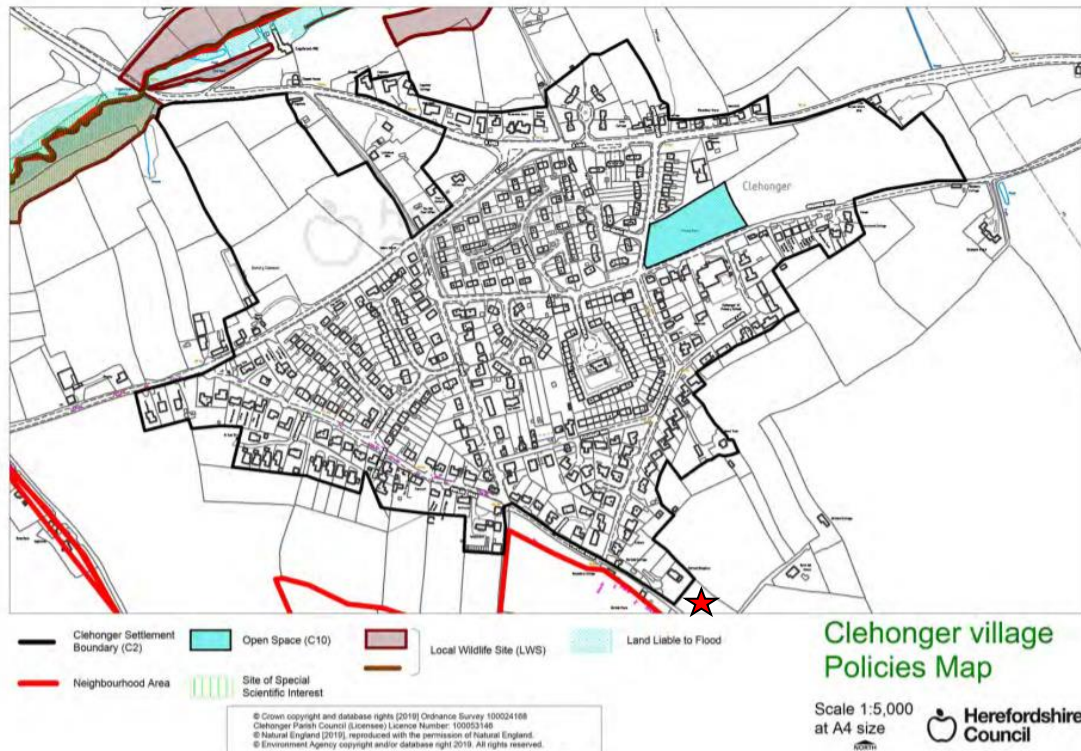
- 6.5 It is a matter of fact that currently the Council is unable to demonstrate a 5-year housing land supply, with the latest position statement quantifying a 3.69 years supply of housing across Herefordshire. This leads to the policies for housing supply being considered out of date. As set out in 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.
- 6.6 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. Clehonger is a settlement so defined by figure 4.14.
- 6.7 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.
- 6.8 Notwithstanding the above, the preamble to CS Policy RA2 states that NDPs will be the principal mechanism by which new rural housing will be allocated. However, as stated above, at

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this stage the NDP policies relevant to the provision of housing for Clehonger can only be afforded limited weight.

- 6.9 With the foregoing paragraph in mind, 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 with the black line of the settlement boundary contained at policy C2 of the dCNDP.



- 6.10 The application site lies to the South East of a string of ribbon development, to which Garnom currently represents the last dwelling and would form a further extension to this linear development pattern. While the site lies outside of the settlement boundary it is abutting it at the boundary shared with Garnom. Given the site lies at the southern edge, outside of the identified 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 of it.
- 6.11 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. There is no pedestrian link into Clehonger from the site and so residents would need to walk on the road to access the village on foot. Poplar Road is narrow and unlit which would discourage future residents from utilising this route, however, it is a relatively quiet local road and does not form a common route out of the village. Nevertheless, in common with existing dwellings in the locality, it is possible to walk to Clehonger from the site to access the services and amenities provided, including public transport. Bus routes are available from the nearby Gosmore Road stops to Hereford, Brecon, Hay-on-Wye and Madley. Given the provision of services within Clehonger and the availability of sustainable transport options the proposal is considered to adhere to the provisions of CS SS7.
- 6.12 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 however lies outside of the identified settlement boundary referenced in policy C2 of the dCNDP.

- 6.13 The following sections will go on to consider further material considerations to feed into the planning balance.

#### *Landscape Impact*

- 6.14 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 dCNDP policy C4. Paragraph 127 of the NPPF reinforces this further by stating that development should be sympathetic to local character including the landscape setting.

- 6.15 Policy C4 contained within the dCNDP, which is attributed significant weight, states that development proposals should protect, conserve and where possible enhance the natural environment of Clehonger. The policy then goes on to detail how proposals should achieve this aim which includes:

*3. respecting the prevailing landscape character, as defined in the County Landscape Character Assessment, and protect the following public views (see illustrative photographs overleaf):*

*A. views looking south from Ruckhall Lane, including of Old Clehonger and Belmont Abbey; and*

*B. view looking north from Birch Hill Road towards hills on the other side of the River Wye; and*

*C: view looking west from Clehonger bridleway 16 opposite Bowling Green Farm to Hay Bluff in the distance; and*

*4. promoting the conservation, restoration and enhancement of other sites and features of landscape value and biodiversity interest in accordance with their status, including those identified in the Priority Habitats Inventory, Local Wildlife Sites, irreplaceable habitats such as ancient woodland and veteran trees, hedgerows, ponds and watercourses, and historic field boundaries; and*

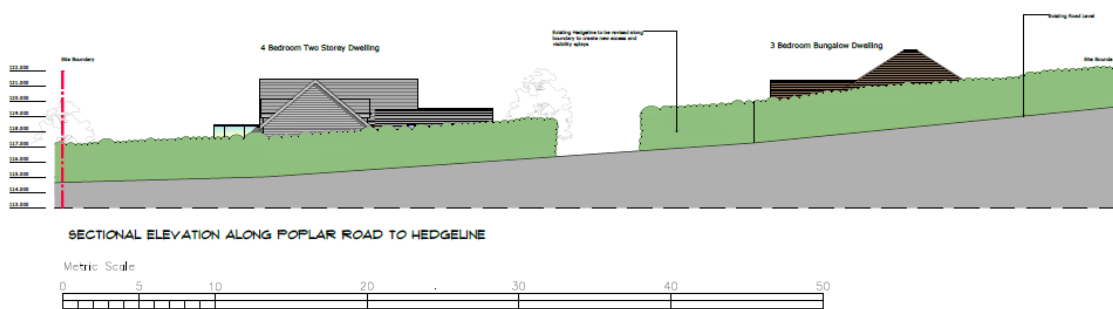
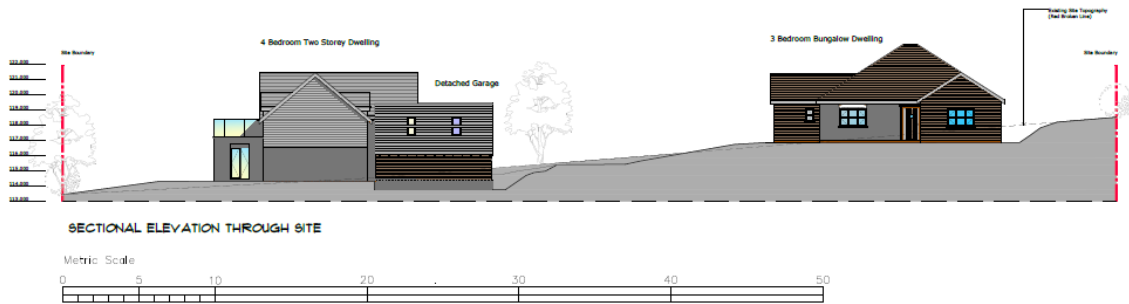
*5. maintaining, restoring and where possible enhancing the contribution of habitats to the coherence and connectivity of the Herefordshire Ecological Network, and taking into account their role as green infrastructure.*

- 6.16 The application site has the potential to disrupt view 3B (looking north from Birch Hill Road towards hills on the other side of the River Wye). Policy C4 seeks to protect this view and ensure development respects the prevailing landscape character. This is a long range view from Birch Hill, adjacent to the application site, across most of the settlement of Clehonger. The photo used to illustrate this public view was taken from the southern boundary of the application site and is included overleaf:



Photo taken from the dCNDP in reference to Policy C4, 3B.

- 6.17 The revised site layout proposes the bungalow on the southern half of the site. This revised layout is more sympathetic to the local landscape and topography as the bungalow is now proposed on the higher ground and the two storey dwelling on lower ground, thereby reducing the highest point of the development and its resultant intrusion into the landscape. This is acknowledged by the Senior Landscape Officer as being a positive change in landscape terms. However, it remains that the erection of dwellings on the application site adversely impacts the views from Birch Hill, North across Clehonger, which are sought to be protected via policy C4 contained within the dCNDP.
- 6.18 The extract from the proposed plans overleaf illustrates the height of the two proposed dwellings taking into account the site topography and existing roadside hedge:



- 6.19 The revised site layout has reduced the visual impact of the dwellings over and above the existing hedge line but there remains a conflict with the public view from the top of the site across Clehonger.
- 6.20 Therefore, given the public view from Birch Hill will be disrupted by the erection of the two dwellings, despite the mitigating factors identified in regards to layout, scale and landscaping, there is an identified tension with Policy C4 of the dCNDP. Policy C4 is clear that certain views should be protected in order to preserve the prevailing landscape character. The erection of dwellings on the site will largely remove/block this view from the public realm and so will cause significant harm to the protected view, which, being contained in the emerging dCNDP is attributed significant weight. A large timber fence has been erected covering the existing field access during the application, while this limits the protected view it is noted that this is a breach of Schedule 2 Part 2 Class A of the General Permitted Development Order 2015 ( as amended) and would therefore require planning permission, given its height and proximity to the highway. As such this fence does not represent a material fall-back position in regards to the protection afforded to the view cited in policy C4.
- 6.21 In regards to the more general provisions of CS policy LD1 the application site is formed of a parcel of land that is contained to the North West by existing residential development and to the South East by the private residential access of a neighbouring property. As such it is considered that it is a naturally contained site and will not have wider implications in regards to projecting, in an unrestrained inappropriate manner, into open countryside. Several public representations have cited the historic field pattern of the area, however it is quite clear the proposal does not disrupt or change the field pattern and maintains the existing boundaries of the field.
- 6.22 The site layout is responsive to the decreasing density of development on the southern edge of Clehonger, as seen along Poplar Road. In this vein the proposal is considered to demonstrate that the character of the landscape and townscape has positively influenced the design, scale and nature of the proposal.

- 6.23 The application proposes a range of landscaping on the site to help mitigate any harm and integrate the proposed dwellings with the wider setting and increase the level of tree cover. This includes the retention of the existing boundary trees at Garnom, a range of new trees planted along the NE, SE and SW boundaries as well as the proposed internal boundary between the dwellings. The tree planting includes Field Maple, Crab Apple, Oak, Damson, Cherry, and Callery Pear. The details of the planting scheme have been reviewed by the Council's Tree specialist who was satisfied with the range and mix of trees proposed.
- 6.24 To achieve the access midway along the South West boundary with Poplar Road a section of hedgerow will need to be removed, furthermore to achieve the visibility splays from the access in both directions a more significant length of hedgerow will be cut/re-planted behind the visibility splay. The effect of these works will be to widen Poplar Road along a 43m section and create a 4.5m gap in the hedge. The Senior Landscape Officer has identified conflict with CS LD1 here as the character of the lane is derived from its intimate character as a rural lane beyond the residential streets of Clehonger. Furthermore there is a conflict with policy C6 of the dCNDP which states that arrangements for access should be made without undue local environmental impacts. The proposal is not considered, in this regard, to be making a positive contribution to, or preserving, the, character of the landscape and does not appear to have been positively influenced by it and the creation of the access would have an undue local environmental impact. The visuals provided by the applicant seek to demonstrate the impact of the proposed access on the character of the lane, however, they fail to include the visibility splays. This is clearest in Visual 04 which does not provide a 2.4 x 26.8m visibility splay and does not replicate the proposed line of hedgerow as shown on the site plan.
- 6.25 Overall the proposal is not considered to be positively influenced by the landscape and townscape despite a range of positive attributes and mitigating factors achieved through the amended site layout and landscaping proposed. The creation of the access and visibility splay will alter the intimate character of this rural lane at an important transition between Clehonger and the open countryside to the South and conflicts with both CS LD1 and dCNDP C6. Furthermore the disruption of a public view that is protected within the emerging dCNDP is a clear conflict of policy C4, which is attributed significant weight.

### *Design and Amenity*

- 6.26 CS Policy SD1 states that development should be designed to maintain local distinctiveness, achieved through the incorporation of architectural detailing and the use of appropriate materials. Development should safeguard the 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. This refers to the overshadowing or overlooking of neighbouring properties and how overbearing a structure is.
- 6.27 This is supported by Policy C6 within the dCNDP which seeks to maintain and enhance the local distinctiveness of Clehonger by ensuring development respects and responds positively to the character of adjoining development with regards to siting, scale, height, massing, detailing, materials and means of enclosure.
- 6.28 The design of the proposed bungalow is simple in form. The result is an unobtrusive dwelling that retains some similarities to the surrounding built form by way of the proposed scale, massing, positioning on the site and materials, namely the proposed facing brickwork and timber clad exterior. The design of this dwelling while not distinctive does not conflict with the guidance of either policy SD1 or C6.

- 6.29 The two storey dwelling has a more detailed design and incorporates additional architectural features such as dormer windows, a part glazed gable end and a roof terrace with glass balustrade. The dwelling is large for this area of the settlement and the massing is accentuated by the uniform ridge height. However, there is a range of proposed planting surrounding the dwelling which will help to assimilate it and the architectural interest of the aforementioned aspects will help to break up the visual impact of the design. Furthermore the revised siting of the dwelling on the lower portion of the site will generally reduce its visual impact as a result of the lower topography and resultant ridge height.
- 6.30 There is no uniform character to dwellings local to the application site but a large proportion utilises facing brickwork. As the development plan and the dCNDP seeks to control aspects of the design only by reinforcing local character and not through a prescriptive design guide there is some flexibility to the acceptable style and materials. Overall the proposed dwelling design is considered to align with the requirements of both CS SD1 and dCNDP C6.
- 6.31 The revised site layout introduces a two storey dwelling adjacent to the existing bungalow named Garnom. Garnom currently sits adjacent to three further 1/1.5 storey dwellings recently built. As such the introduction of a two storey dwelling in this location will reside in a line of 4 bungalows to the North West and a further bungalow (proposed here) to the South East. This is a discordant introduction of a two storey dwelling contrary to the evolving character. Although it is noted this has little impact on the street scene, as is clear from the supplied visuals. In regard to the amenity of existing residents in Garnom the separation distance between the proposed dwelling and the existing ensure adverse effects are reduced. The retention of an existing tree on the common boundary further helps reduce adverse effects. Given the above there are not considered to be any material adverse impacts in regards to overshadowing, overlooking and overbearing. Hill Top located to the south west of the application site, on the opposite side of Poplar Road, is sufficiently separated by distance and intermittent planting along either side of the carriageway, which the proposed planting scheme will strengthen.
- 6.32 There will be a degree of overlooking within the application site from the North East elevation and roof terrace of the two storey dwelling across to the private amenity space of the bungalow. However, this is not severe due to the proposed boundary planting and separation distance of approximately 20m between the dwellings and will be further mitigated due to the change in levels between the dwellings. In either event the caveat emptor principle is relevant here and the proposed scheme is not considered to propose an unacceptable level of amenity for future residents.
- 6.33 The single storey dwelling is positioned on the higher portion of the site but as a result of its height and separation distance from surrounding dwellings will not materially impact the amenity of any neighbouring residents.

### *Highways*

- 6.34 The application proposes a single shared access in the approximate centre of the site, directly onto Poplar Road. Internal to the site there is a shared private driveway leading to gates for each dwelling, behind which there is parking and turning areas proposed. The larger 4 bedroom dwelling would also benefit from a detached double garage to the south of the dwelling.
- 6.35 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.
- 6.36 Furthermore MT1 and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can

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be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe' (NPPF para. 109).

- 6.37 The NDP does not have a policy specifically relating to highways. Policy C6 comments that arrangements for access should be made without undue local environmental impacts and include the provision for pedestrians, cyclists and powered disability vehicles.
- 6.38 The application is supported by a 7 day speed survey on Poplar Road which was used to inform the required visibility splays. The Local Highways Authority Area Engineer has reviewed the speed data and visibility splays and was satisfied that they met the requirements of the Core Strategy and NPPF.
- 6.39 Some local objections to the scheme have cited the narrow nature of Poplar Road as a potential hazard to creating a new access onto the lane. However, the applicant has demonstrated that the visibility splays are sufficient for the speed of vehicles travelling along the road. Furthermore the imposition of a condition would be a suitable way to ensure development does not commence without the provision of safe visibility splays. In either event the addition of two further dwellings and the resultant vehicle movements will be a small addition to the road network.
- 6.40 The internal layout of the application site provides sufficient parking and manoeuvring space so as to ensure the impact on the local highway network is acceptable and in line with both the CS and NPPF.
- 6.41 Conditions recommended by the Local Highways Authority are a suitable manner of controlling the provision of secure and covered bicycle storage for both dwellings to ensure there is a genuine range of transport options available to future occupants; technical details for the driveway and drainage and the provision of a construction management plan.
- 6.42 The applicant has demonstrated that the proposed layout and access details align with the requirements of both the CS and NPPF and if the proposal was to proceed the use of conditions to secure the provision of cycle storage which aligns with not only the CS and NPPF but also C6 of the dCNDP. The Local Highways Authority have reviewed the proposal and raise no objection subject to the imposition of the conditions of which the visibility splays was highlighted as particularly important in the revised comments.

#### *Ecology and Biodiversity*

- 6.43 The application is supported by a Phase 1 Ecological Survey which includes recommendations for appropriate mitigation and biodiversity net gain enhancements and an arboriculture impact assessment.
- 6.44 Policy LD2 covers the conservation, restoration and enhancement of biodiversity and geodiversity assets in Herefordshire. The policy states that development will not be permitted where it has 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 is also actively encouraged. Furthermore LD3 states that development proposals should protect, manage and plan for the preservation of existing and delivery of new green infrastructure.
- 6.45 This is supported by Policy C4 within the dCNDP which states that proposals should avoid likely harm to the River Wye Special Area of Conservation (SAC) while promoting the conservation, restoration and enhancement of other sites and features of landscape value and biodiversity interest in accordance with their status. Furthermore C4 states that proposals should seek to achieve the following principles: 'maintaining, restoring and where possible enhancing the

contribution of habitats to the coherence and connectivity of the Herefordshire Ecological Network, and taking into account their role as green infrastructure’.

- 6.46 The Ecology report found the application site to be generally of low ecological value, but identified moderate value in the associated hedge boundaries. It was concluded that the small field made a limited impact upon the local species populations. The recommendations included:
- Bats – Control of lighting during and post construction
  - Pre-construction badger walkover
  - Bird and bat boxes
  - Construction of habitat pile and insect hotel
- 6.47 The loss of hedgerow removes some wildlife connectivity however the range of enhancements and proposed planting on the site will sufficiently compensate for this loss.
- 6.48 The Council’s Ecologist has reviewed the report and found the mitigation and biodiversity enhancements to be appropriate and relevant for the development and application site. If the application were to proceed the use of planning conditions would suitably control this element of the proposal.
- 6.49 The protection measures and separation distance of the development from the existing Silver Birch trees on the shared boundary with Garnom are considered sufficient to protect their long term viability. While they are noted to be of low quality they do provide effective screening of the site from the adjacent dwelling and vice versa.
- 6.50 In regards to the proposed development and its impact on the local ecology and biodiversity it has been considered by the technical consultants who have concluded that subject to conditions the proposal would have an acceptable impact and align with the requirements of CS LD2 and LD3 as well as dCNDP C4.

#### *Habitat Regulations Assessment*

- 6.51 The application site is located within the Cage Brook sub-catchment of the wider River Wye SAC and as such the Habitat Regulations Assessment (HRA) process applies to this proposal. The Council’s Ecologist has reviewed the submitted proposal and undertaken the required Appropriate Assessment (AA) which concluded that there would be no likely effects upon the integrity of the River Wye SAC. The HRA AA was submitted to Natural England for review who returned a no objection response.

#### *Flooding and Drainage*

- 6.52 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). Furthermore the Land Drainage Engineer has confirmed it is not at risk of surface water flooding.
- 6.53 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).

- 6.54 The surface water drainage strategy proposes the use of a soakaway system. This strategy was supported by soakaway testing and reviewed by the Council's Consultant Drainage Engineer. It was concluded that the strategy demonstrates that there is no increased risk of flooding to the site or downstream of the site. The soakaway testing undertaken in support of the size of the required soakaways was conducted to Building Regulations Standards and not the SuDs manual. If the proposal is determined to be acceptable the use of planning conditions could feasibly secure revised soakaway testing and calculations to determine the required size. However given the size of the application site there is no overriding concern in regards to the deliverability of this element of the scheme.
- 6.55 The foul drainage strategy proposed utilises individual package treatment plants for the two dwellings with final outfall to an on-site soakaways. This has been supported by infiltration testing. The Council's Consultant Drainage Engineer confirmed that the scheme aligns with CS SD4 and raised no concern on this element.

### *Conclusion and Planning Balance*

- 6.56 In accordance with the statutory requirement, determination must be made in accordance with the Development Plan, unless material considerations indicate otherwise. The NPPF affirms at paragraph 12 that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 6.57 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 spatial strategy contained within the CS. This is because the site lies adjacent to a main built up part of the settlement, in accordance with policy RA2.
- 6.58 Next it is necessary to turn to the material considerations, to ascertain how these feed into the overall planning balance of the proposed development. The dCNDP is an important material consideration, and as set out before it can be afforded significant weight.
- 6.59 The application site lies beyond the proposed settlement boundary for Clehonger and is therefore in conflict with dCNDP policy C2 which is a positively worded condition seeking to focus development within the boundary. While the policy is not explicit on how proposals should be assessed beyond the limits of the boundary, the CS, through RA3, provides clarity that outside of identified settlements, as defined by NDPs, residential development should be exceptional. There is a clear conflict between the wording of RA2 and the emerging settlement boundary of C2.
- 6.60 The other key material consideration is the NPPF. As the application is for the supply of housing, specifically for two 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.

- 6.61 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 109 new dwellings in the Parish of Clehonger. As of April 1<sup>st</sup> 2019 those built and existing commitments amount to 188 dwellings. While, it is acknowledged the indicative housing growth target is a minimum threshold and not a maximum target the figures demonstrate there is no lack of local housing land supply. These figures demonstrate that the CS 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.
- 6.62 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 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. There may be some social benefits as a result from increased residents in the village and support for local facilities. Further social benefits are noted as a result of the proposed bungalow which is an inclusive design. It is considered that these benefits of the scheme for 2 dwellings would only be limited given the minimum growth target for the parish has been exceeded by some margin at this early stage of the plan period.
- 6.63 In terms of identified harm, the proposed access arrangements will adversely affect the character of Poplar Road. This has led to an objection from the Council's Senior Landscape Officer who notes the intimate rural character of Poplar Road would be diminished by the widening and removal of hedgerow to facilitate the access and visibility splays. This is an important transition from the outer edges of Clehonger to the open countryside beyond. As such the proposal is in direct conflict with the CS LD1 as the scheme has not been positively influenced by this aspect of local character; furthermore the removal a 4.5m length of hedgerow and the widening of the lane to achieve visibility creates undue environmental impacts which are considered to be unmitigated in their impact upon local character and this therefore is in conflict with dCNDP policy C6. As identified above there is also conflict with dCNDP Policy C4 because the development of the site would detract from the protected view (3B) through the introduction of dwellings in the foreground of the view thereby disrupting long distance views across to the hills on the other side of the River Wye. Cumulatively these adverse effects as a result of conflict with both the CS and emerging dCNDP, which is attributed significant weight, amount to moderate.
- 6.64 The scheme provides a range of enhancements to local biodiversity through net gain enhancements and the proposed landscaping, so this does not weigh against the scheme in environmental terms. Furthermore there is a good range of services in Clehonger including a school and local and long distance bus routes which would help to reduce reliance upon the private motor vehicle although these services are hard to access on foot given the poor pedestrian environment immediately outside the application site, this is therefore considered a neutral factor.
- 6.65 Bringing all of the above together the application site is beyond the identified settlement boundary contained within the emerging dCNDP and while it is considered to adhere to the spatial strategy of CS RA2 this policy is clear that NDPs should be the principal method of allocating housing growth within each Parish. Furthermore RA2 defers to the minimum growth

targets for each Housing Market Area to determine the level of development each settlement identified should receive. While these targets represent the minimum growth within a Parish it is indicative of the reduced need for further housing sites that this target has been far exceeded in the first half of the plan period. Therefore conflict with the emerging dCNDP at this late stage is unjustified. There are two component parts of the scheme's landscape harm: firstly the harm to the intimate character of Poplar Road at this transitional location and secondly the obstruction of a protected view. The small scale of the scheme does not result in significant benefits and the location of the site minimises the potential social benefits derived from the provision of a bungalow. Given the housing supply already achieved in Clehonger in combination with the fact the site lies beyond the settlement boundary, which is to be attributed significant weight, and the identified components of the landscape harm it is considered that the adverse impacts of the proposed scheme significantly and demonstrably outweigh the modest benefits of the scheme. It is therefore Officer's recommendation that the scheme be refused planning permission as set out below in the reasons for refusal.

## **RECOMMENDATION**

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

- 1. The application seeks approval for the erection of 2 dwellings in a location that is adjacent to, but outside of the settlement boundary for Clehonger. Locationally this accords with policy RA2 of the Herefordshire Local Plan – Core Strategy, but is in direct conflict with policy C2 of the draft Clehonger Neighbourhood Development Plan, which is afforded significant weight, following the Examiner's Report that does not recommend any modifications. The Clehonger Neighbourhood Development Plan Area has experienced considerable growth and the Plan provides for a considerable exceedance of the minimum proportional growth target and the Examiner saw no reason to expand the settlement boundary (including to accommodate the application site as per the applicants' representations). The proposed development fails to meet any of the exceptions for development outside settlement boundaries, as specified in policy RA3 of the Herefordshire Local Plan – Core Strategy. 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 identified adverse impact of direct conflict with the draft Clehonger Neighbourhood Development Plan as set out in this reason for refusal, and the following reason, significantly and demonstrably outweigh the benefits.**
- 2. The proposed development will adversely affect the landscape character in two material ways. Firstly, the proposed access arrangements, through the removal of 4.5m of hedgerow and the widening of the Poplar Road along a length of approximately 45m, will adversely effect the intimate rural character of Poplar Road in an important transitional location between the settlement of Clehonger and the open countryside to the South. This is contrary to both Policy LD1 of the Herefordshire Local Plan – Core Strategy and Policy C6 of the draft Clehonger Neighbourhood Development Plan, which is attributed significant weight. Secondly, the development of the site will obstruct a view that is protected via Policy C4 (3B) of the draft Clehonger Neighbourhood Development Plan thereby adversely affecting this protected landscape characteristic.**

## **INFORMATIVES:**

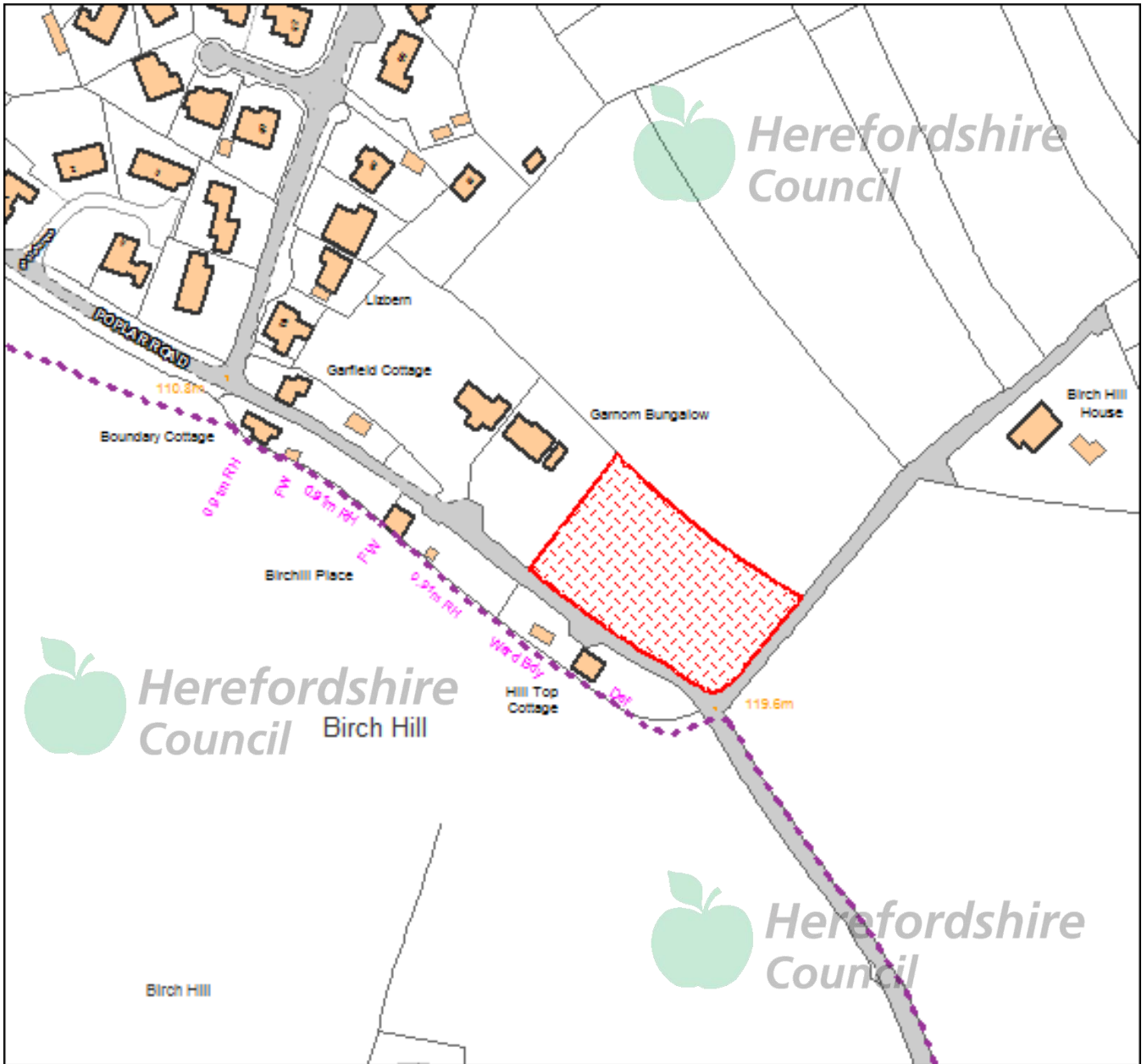
- 1. IP3 - Application Refused Following Discussion – Where there is no Way Forward**

Decision: .....

Notes: .....  
.....

**Background Papers**

Internal departmental consultation replies.



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

**APPLICATION NO:** 200299

**SITE ADDRESS :** LAND ADJACENT GARNOM, BIRCH HILL, CLEHONGER, HEREFORDSHIRE

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<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>2 DECEMBER 2020</b>
<b>TITLE OF REPORT:</b>	<b>202974 - PROPOSED EXTENSION AND ALTERATIONS AT HOOKS COTTAGE, LEA BAILEY, ROSS-ON-WYE, HR9 5TY</b>  <b>For: Mr And Mrs Wilding per Mr Tom Margrett, Old Field Barn, Green Farm, Hope Mansell, Ross-On-Wye, Herefordshire HR9 5TJ</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202974&amp;search-term=202974">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202974&amp;search-term=202974</a>
<b>Reason Application submitted to Committee – Councillor application.</b>	

**Date Received: 9 September 2020**

**Ward: Penyard**

**Grid Ref: 364806,220546**

**Expiry Date: 4 November 2020**

Local Member: Councillor William Wilding. (Councillor Yvonne Watson has fulfilled the local ward member role for this application.)

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

- 1.1 The application site is located within a linear residential cluster of dwellings at Lea Bailey. Hooks Cottage is on the northwest side of C1278 set back from and below the road level. The dwelling is a rendered cottage with an adjoining barn converted to an annexe.
- 1.2 The proposal seeks to construct a single storey lean-to extension to the south west elevation. This would project 3.3 metres with a depth of 4.5 metres, comprising a glazed opening to the side and window to the rear. The scheme also includes the construction of a balcony to the north-west elevation and entrance to the south east elevation via a porch.

## **2. Policies**

### **2.1 Herefordshire Local Plan – Core Strategy Policies**

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

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

- SS1 – Presumption in Favour of Sustainable Development
- SS6 – Environmental Quality and Local Distinctiveness
- LD1 – Landscape and Townscape
- LD2 – Biodiversity and Geodiversity
- SD1 – Sustainable Design and Energy Efficiency

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Further information on the subject of this report is available from Ms Elsie Morgan on 01432 260760

## SD4 – Waste Water Treatment and River Water Quality

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy has been made on 9<sup>th</sup> November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.

### 2.2 Weston Under Penyard Neighbourhood Development Plan (Adopted 20 May 2016))

#### D1 – Design Appearance

The Weston Under Penyard Neighbourhood Development Plan was made on 20 May 2016 and although adopted over 2 years ago, can be afforded significant weight for the purposes of decision making in relation to this application.

<https://www.herefordshire.gov.uk/directory-record/3118/weston-under-penyard-neighbourhood-development-plan-made-20-may-2016>

### 2.3 National Planning Policy Framework (NPPF)

Chapter 2 – Achieving sustainable development

Chapter 12 – Achieving well-designed places

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/810197/NPPF\\_Feb\\_2019\\_revised.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf)

## 3. **Planning History**

3.1 None relevant

## 4. **Consultation Summary**

### Statutory Consultees

4.1 None

### Internal Consultees

4.2 Ecologist

HRA screened out given householder application and site context.

## 5. **Representations**

### Weston under Penyard Parish Council

5.1 No objection

Although not detailed in the application it is understood that the proposed extension and alterations comprise:

1. A single storey extension to the south west side to living area.
2. On open porch on the south east side at the entrance to a sitting room
3. A second floor balcony on the north west side partly supported at ground level by two new columns.

The parish council does not object to the application on the conditions that material finishes match the appearance of the existing dwelling and that a proposal for surface water approved by HC.

5.2 There have been no third party representations

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=202974&search-term=hook%20cottage](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202974&search-term=hook%20cottage)

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 Weston under Penyard Neighbourhood Area. A Neighbourhood Development Plan (NDP) was adopted on 20 May 2016, and can be afforded significant weight. The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.3 The proposal would not result in built development that would be of an unacceptable scale or constitute over development. The size of the additions is considered to be acceptable in terms of mass, scale and height. The lean-to extension would be sited to the south west of the dwelling currently siting the entrance porch. This would be a single storey structure maintaining subservience to the host dwelling with a maximum height of 4 metres. Given the topography of the site sloping upwards towards the road, the visual impact of the structure is minimal and does not impact upon the wider setting context. Furthermore, the proposed balcony and porch are considered to be of appropriate scale and do not detract from the character of the host dwelling. Therefore, the proposed scheme is considered to suitably conserve local character and the character of the host dwelling in line with CS policies SD1 and LD1 and D1 of the NDP.
- 6.4 The extension would introduce a number of window openings, however due to the single storey nature of the proposal and positioning of fenestration to the existing building, the scheme would not detrimentally increase impact upon residential amenity. Furthermore, the balcony to the rear would not face any neighbouring dwellings. Given the scale of the proposal and sufficient distance between surrounding dwellings, there are no concerns with regards to overshadowing or overlooking. Therefore, the proposal is considered to adhere to the requirements of CS policy SD1.
- 6.5 The proposed development has been designed in a manner that reflects the host dwelling utilising materials to match that of the existing dwelling, stone and render and slate roof. This has been included by condition to ensure the appropriate use of material. The porch and balcony appear in

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Further information on the subject of this report is available from Ms Elsie Morgan on 01432 260760

keeping with the host dwelling and do not detract from the character of the cottage. As such, the proposal would harmonise with the host dwelling and not appear out of character. In regards to design and materials, it is therefore considered that the proposal adheres to SD1 and LD1 of the CS, and D1 of the NDP.

- 6.6 The application does not trigger the Habitat Regulations Assessment (HRA) process (in relation to foul and surface water discharges), including those that could increase foul water (phosphate) pathways in to the River Wye Special Area of Conservation (SAC), as these are considered as very low risk (de minimis). Thus householder applications such as this one are to be considered as screened out from any further Habitat Regulations Assessment process. Furthermore, the nearby ancient woodland is approximately 70 metres to the east of the site and as such there are considered to be no impacts in this regard given the scale of the proposed development which is considered to comply with the requirements of CS policies LD2 and SD4.
- 6.7 The Climate Change and Biodiversity Measures Compliance checklists have been completed, indicating the development is not within a designated site and is therefore unlikely to have an ecological impact. Furthermore, the extension is south facing with solar gain enhanced by folding triple glazed doors. The extension will utilise thermal insulation, as well as in other areas of the cottage, and underfloor heating. The existing dwelling incorporates solar PV panels.
- 6.8 In summary, the proposal has been designed to match the character of the host dwelling and preserves the character of the surrounding area. The visual impact, in relation to the layout and topography of the site, is limited due to both the scale and design. It is not considered that the proposal will have an undue impact upon the amenity of neighbouring residents with no concerns for overlooking or overshadowing, given the lack of neighbours to the north west of the site and single storey nature of the extensions. Appropriate consideration has been given to reducing the carbon footprint of the extension and no biodiversity impacts are identified. It is therefore my recommendation to grant planning permission 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. **C01 - Time limit for commencement (full permission)**
- 2. **C06 - Development in accordance with approved plans (Drawing nos. 1798.02 and 1798.03)**
- 3. **C14 - Matching external materials (extension)**
- 4. **CBK - Restriction of hours during construction**

## **INFORMATIVES:**

- 1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**

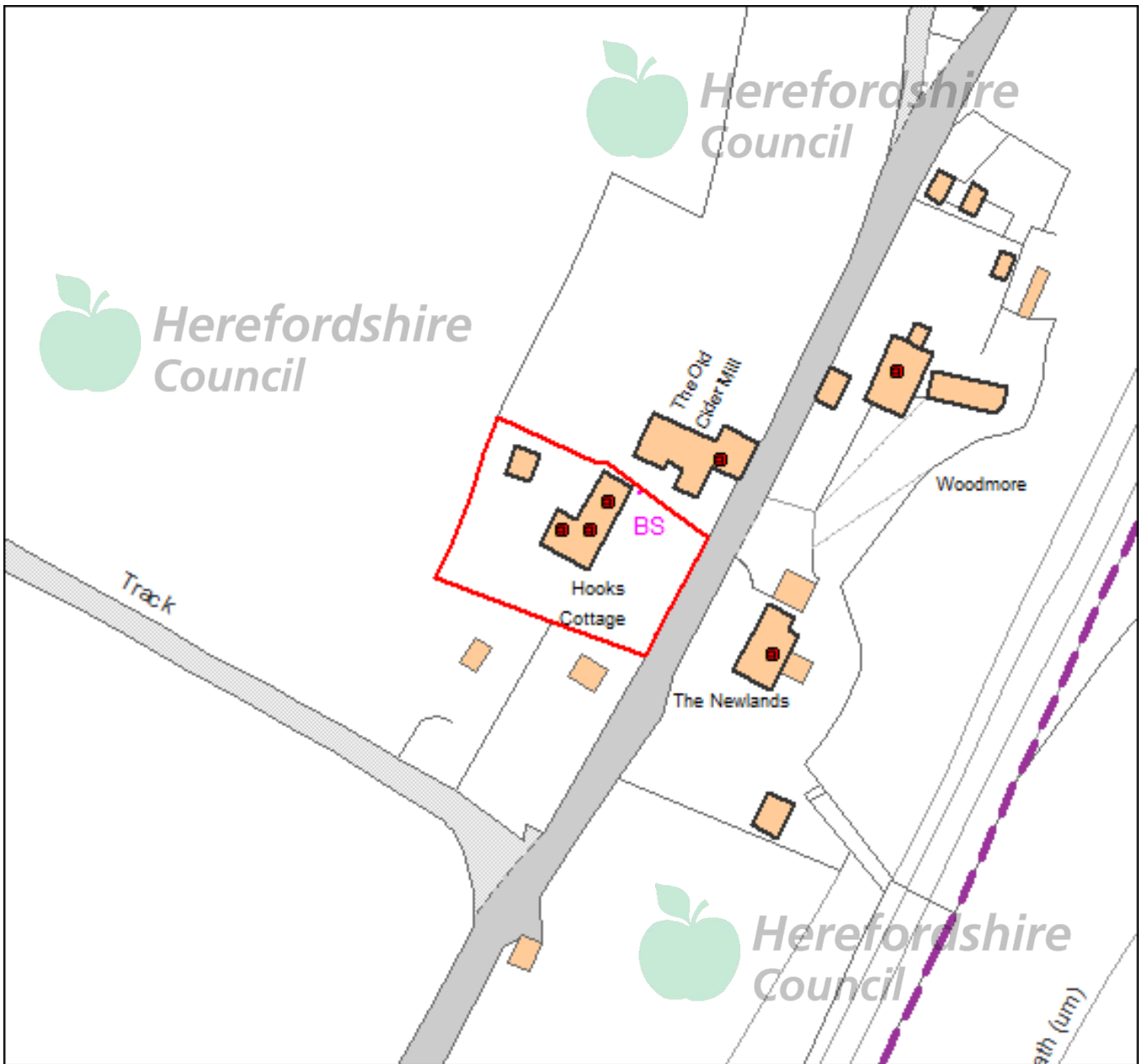
Decision: .....

Notes: .....

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## **Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** 202974

**SITE ADDRESS :** HOOKS COTTAGE, LEA BAILEY, ROSS-ON-WYE, HEREFORDSHIRE, HR9 5TY

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Further information on the subject of this report is available from Ms Elsie Morgan on 01432 260760

<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>2 DECEMBER 2020</b>
<b>TITLE OF REPORT:</b>	<b>203159 - PROPOSED ERECTION OF A SINGLE-STOREY EXTENSION TO FORM ANNEXE ACCOMMODATION AT 41 POOL COTTAGES, LOWER LYDE, HEREFORD, HR1 3AQ</b>  <b>For: Mr &amp; Mrs Fishlock per Mr Ed Thomas, 13 Langland Drive, Hereford, Herefordshire, HR4 0QG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=203159&amp;search-term=203159">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=203159&amp;search-term=203159</a>
<b>Reason Application submitted to Committee – Council employee</b>	

**Date Received: 17 September 2020    Ward: Queenswood    Grid Ref: 351569,244200**

**Expiry Date: 24 November 2020**

Local Member: Councillor Pauline Crockett

## 1. Site Description and Proposal

- 1.1 41 Pool Cottage is a two-storey detached dwelling with no environmental or historic designation, located in the parish of Pipe and Lyde. The cottage was formally a pair of cottages, now brought together as a single dwelling. The property is sited within a sizable plot with large gardens to the north, west and south and dense vegetation lining the property boundary to the north. The dwelling has two points of access both via a shared private track which adjoins the C1127, which leads to Holmer to the south and to the A49 to the west. The existing property is formed in stone on the north facing front elevation and a mixture of stone and red brick on the south facing rear elevation including concrete block walls to both lean-tos at each end of the existing cottage. The existing doors and windows are double glazed uPVC have been replaced recently during the refurbishment of the cottage.

1.2



Figure 1



Figure 2



Figure 3



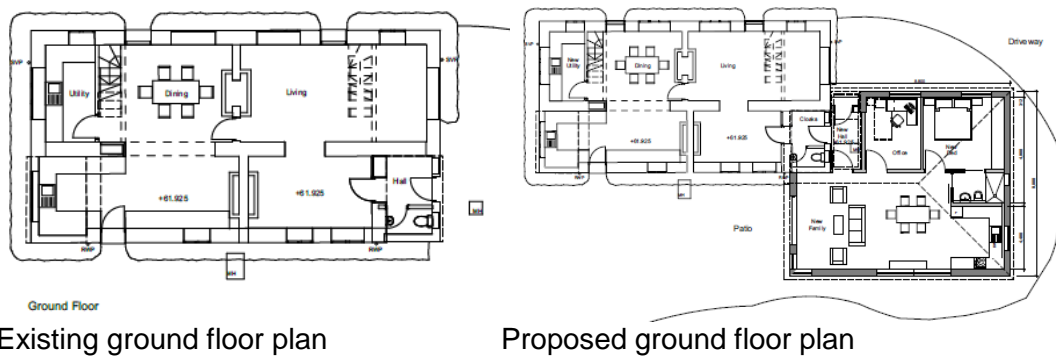
Figure 4

Figure 1 shows the rear garden and side elevation (west facing) of the property which is where the extension is proposed. Figure 2 shows the view to the north when stood in place of the proposed extension. Figure 3 shows the front garden of the property and dense vegetation on the boundary. Figure 4 shows the private access road to the front of the elevation, demonstrating the vegetation at each boundary.

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Further information on the subject of this report is available from Miss Emily Brookes on 01432 261825

- 1.3 The proposed development is the construction of a single-storey extension to the south-east corner of the dwelling. The extension is to be used as an annex for the applicant's elderly mother. The extension includes the provision of a new bedroom, bathroom, home office, kitchen and dining areas.
- 1.4 The proposed extension has a height to ridge of 4.9 metres, width of 8.8 metres (from the front elevation) and 10.8 metres (from the rear elevation) and depth of 9 metres. Additionally, the proposed extension is set back from the host dwelling by 3.5 metres (approximately). The extension is to be constructed of stone on the front and side elevation, north and east facing. The rear and west facing side elevation is to be constructed of red brick, to match that of the rear of the host dwelling. The roof will be pitched with slate tiles to match the host dwelling and all new windows and doors will be double glazed uPVC. The proposal also introduces 30nos. solar photovoltaic panels to be distributed between the south facing (rear) roof of the extension and the existing garage roof. The proposed extension will be connected to the existing 12 person package treatment plant with new soakaway. The existing parking, access and amenity space remain unaltered by the proposal.



Existing ground floor plan

Proposed ground floor plan





Existing elevations

Proposed elevations

## 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

2.2 Pipe and Lyde does not currently have a Neighbourhood Development Plan

### 2.3 National Planning Policy Framework (NPPF) – February 2019

Chapters:

- 2 – Achieving sustainable development
- 4 – Decision-making
- 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](https://www.herefordshire.gov.uk/info/200185/local_plan/137/adopted_core_strategy)

The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy has been made on 9<sup>th</sup> November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application.

### **3. Planning History**

- 3.1 **DCH932058/F** – Construction of garage and store & re-siting of vehicular access [approved 1994]

### **4. Consultation Summary**

#### Internal Council Consultations

- 4.1 None required

### **5. Representations**

- 5.1 Pipe and Lyde Parish Council met to discuss the application and there were no objections. The PC did comment that it was a 'large extension and that they hoped it would keep in character with the existing building'.

- 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=203159&search-term=203159](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=203159&search-term=203159)

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 The Herefordshire Core Strategy does not have a specific policy in relation to the provision of residential annexes. However, it is a generally accepted planning principle that in order to meet the definition of ancillary accommodation, an annexe must be subordinate to the main dwelling and its function supplementary to the main use of the existing residence. The most relevant CS policy in this regards would be SD1, which amongst other things requires that development proposals should respect surrounding development and uses whilst safeguarding good standards of amenity for both existing and proposed residents. 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 The provision of an annex to the property in principle is acceptable, however one must be very clear on the definition of an annexe. Case law is useful in providing clarity on what is to be considered as an annexe, Planning Inspectorate (“PINS”) case (APP/R5510/X/18/3206551, dated 8th January 2019) is outlined below.
- 6.5 It is commonly held that the term “incidental to the enjoyment of the dwellinghouse” implies that the intended use should be subordinate to the main residential use of the property. Primary accommodation such as bedrooms, kitchens or living rooms are generally regarded as forming part and parcel of a dwelling’s normal facilities as opposed to being “incidental” to the enjoyment of the dwellinghouse in the way that a garage or summerhouse would be for example. In this case, the proposal would involve the creation of an additional bedroom, an office, a living area, a kitchen and a bathroom. That would amount to additional primary accommodation that could not be described as incidental to the enjoyment of the existing dwellinghouse. However, even though the use may not be “incidental” it does not automatically follow that a material change of use would occur if those facilities were provided. The use of the land would still be residential and the key question to be considered is whether the creation of the annexe would result in the formation of a separate dwellinghouse and a new planning unit. Under section 55(3)(a) of the Act the use as two or more separate dwelling houses of any building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used. Thus, where a house is divided into two or more houses it is likely that separate planning units will be created. Similarly, if an outbuilding within the curtilage of a dwellinghouse was provided with all the facilities required for day to day living, including its own services, garden space and entrance door and subsequently occupied in a manner that was unconnected with the dwellinghouse it is likely that a separate planning unit would be created and planning permission would be required for the material change of use involved in the formation of a new dwellinghouse.
- 6.6 Moreover, in the *Uttlesford District Council v Secretary of State for the Environment & White* [1991] 2 PLR 76 judgement it was held that there is no reason in law why the provision of an annexe for an elderly relative containing all of the facilities for day to day living would automatically become a separate planning unit. The elderly relative was provided with her own bedroom, bathroom, a lavatory, small kitchen, somewhere to sit, and her own front door. The overall impression is of a modestly sized annexe containing all of the facilities required for independent living, albeit of a small scale, but an elderly relative who was still reliant upon support and facilities in the main house, notwithstanding the facilities that were available within the annexe.
- 6.7 In the present case, the annexe would be occupied by the mother of the current owners of 41 Pool Cottage who is elderly. The site would remain in the ownership of the applicant and would not be split as separate titles, or let to tenants. In terms of layout, the annexe is attached to the host dwelling, the access would serve both the house and the annexe and there would be no demarcation to separate the annexe from the house in terms of garden space or parking areas. The existing garden and hardstanding would be unaltered. There would be no separate postal address and water, gas and electricity would be provided from the main house with no separate billing. All of those factors would indicate that there is no intention to create a separate unit of occupation. The floor space dedicated to residential use within the annexe is also not unduly large in comparison to the associated dwelling. The occupation of the annexe can be restricted to ancillary uses only through the use of planning condition.
- 6.8 The single-storey annexe will have a maximum height of 4.88 metres, sitting below the roofline of the host dwelling at 6.36 metres, and is set back from the principal façade of the host dwelling ensuring the annexe is read as a subservient addition to the host dwelling. The proposal would project from and wrap around the south east corner of the dwelling, which is currently occupied by garden space. It is not considered that the proposal would result in built development that would be of an unacceptable scale or constitute over development with the size of the extension being considered to be acceptable in terms of mass and height, and therefore in accordance with Policy SD1 of the CS.

- 6.9 The materials proposed in the construction of the annexe reflect and complement that of the host dwelling. In addition, in the amended plans, drawing number 22LL-05 revision A, the windows proposed are proportional to those in the host dwelling, again reflecting and complementing the host dwelling. It is not considered that the proposal departs from the character of the host dwelling or surrounding area by virtue of its scale and design. The visual impact of the proposal is minimal due to the appropriate scale, location to the rear corner of the dwelling, vegetation and topography. Therefore, the proposed extension is considered to suitably conserve local character and the character of the host dwelling in line with policies SD1 and LD1 of the CS.
- 6.10 The annexe extension would introduce a number of openings which would maintain similar scale and positioning to the host dwelling. The two windows on the front elevation are proportional to the windows seen centrally on the host dwelling and are found in line with the windows at the ground floor. The proposal introduces a number of other window openings which are found to the side and rear elevations. The property is located in a sizable plot, largely bounded by trees and hedgerows. As such, the proposal would not detrimentally increase impact upon residential amenity with sufficient distance and visual barriers to alleviate concerns for overlooking, overshadowing and overbearing. Given the proposed use of the development, there is not considered to be a significant intensification of the site with minimal movements to and from the site, therefore there are no concerns with regards to increased noise nuisance. The scheme is considered to adhere to the requirements of SD1 of the CS.
- 6.11 The proposals also include the introduction of 30nos. solar photovoltaic panels to be distributed between the south facing (rear) roof of the extension and the existing garage roof. This represents a positive step towards improvement of the sustainability credentials of the existing property and demonstrates a positive response to SD1 of the CS.
- 6.12 The site continues to offer adequate turning space for vehicles using the garage within the curtilage of the property. The proposed use would not create detrimental intensification of the site given the personal use and scale of the accommodation. This development will therefore result in minimal impact on traffic management on the local network, thus complying with MT1.
- 6.13 In summary, the proposal has been designed to preserve the character of the host dwelling and surrounding area. The visual impact of the proposal is limited due to the scale of the proposal, location of the extension to the rear corner of the property, and substantial distancing to neighbouring properties and vegetation. It is not considered that the proposal will have an undue impact upon the amenity of neighbouring residents with no concerns for overlooking or overshadowing, given the distancing and boundary treatments. Any other issues have been suitably covered, and it is therefore my recommendation to grant planning permission subject to the below conditions.

## **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)**

**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. C07 - Development in accordance with approved plans and materials**

The development hereby approved shall be carried out strictly in accordance with the approved plans (drawing nos. 22LL-01 revision A; 22LL-02; 22LL-03 revision A; 22LL-04; 22LL-05 revision A; the design and access statement; the application form and the document titled “Brick for South & West elevations” dated 10 November) and the schedule of materials indicated thereon.

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

**3. C14 - Matching external materials (extension)**

The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

**Reason:** To ensure the external materials harmonise with the existing building 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. C79 - Occupation ancillary to existing dwelling only (granny annexes)**

The extension hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 41 Pool Cottages.

**Reason:** It would be contrary to Policy SD1 of the Herefordshire Local Plan – Core Strategy to grant planning permission for a separate dwelling in this location.

**INFORMATIVES:**

**1. IP1 – Application Approved Without Amendment**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

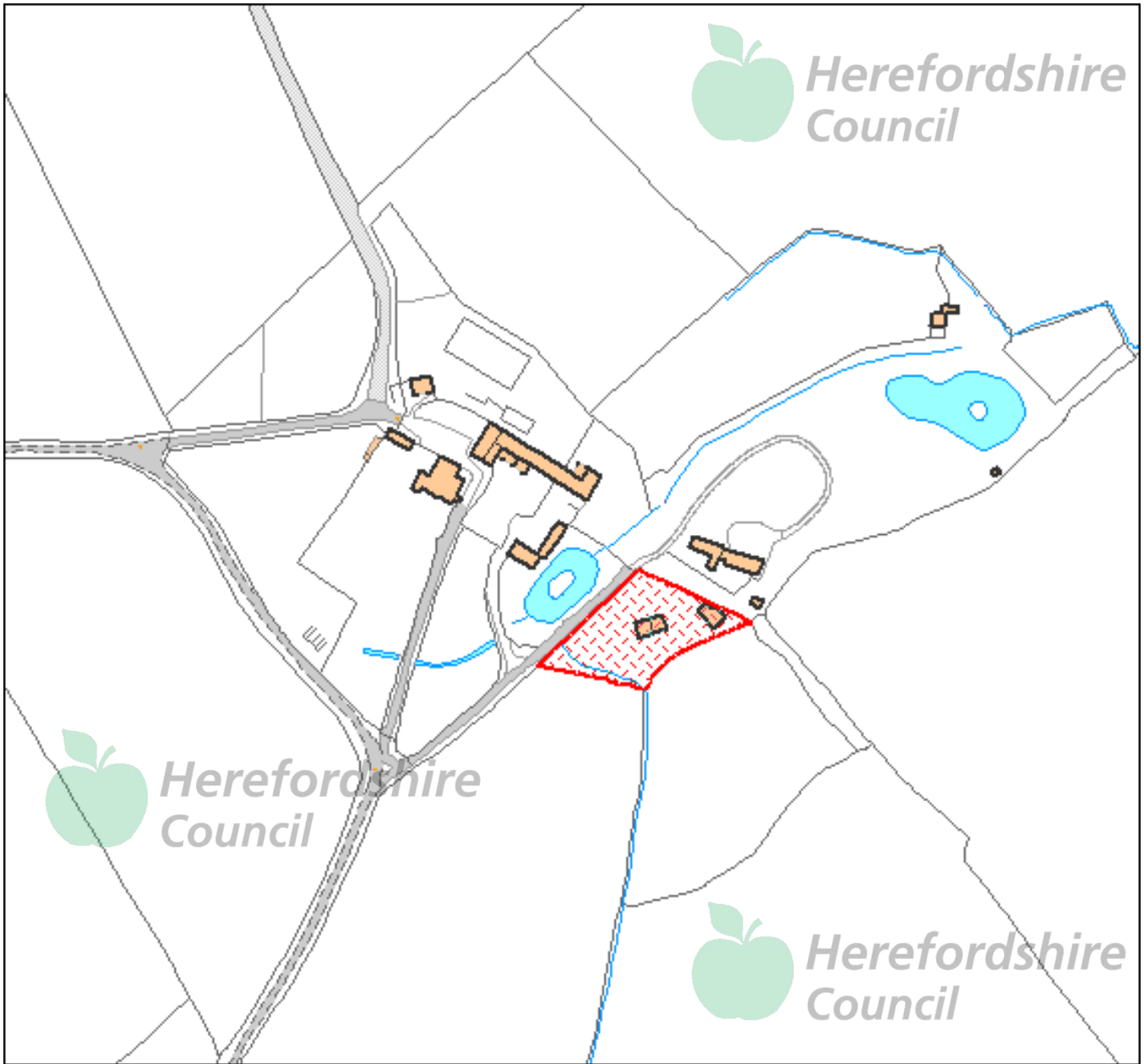
Decision: .....

Notes: .....

.....

**Background Papers**

Internal departmental consultation replies.



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APPLICATION NO: 203159

SITE ADDRESS : 41 POOL COTTAGES, LOWER LYDE, HEREFORD, HEREFORDSHIRE, HR1 3AQ

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<b>MEETING:</b>	<b>PLANNING AND REGULATORY COMMITTEE</b>
<b>DATE:</b>	<b>2 December 2020</b>
<b>TITLE OF REPORT:</b>	<b>202406 - PROPOSED EXTENSION AND ALTERATIONS AT 28 MOUNT CRESCENT, HEREFORD, HEREFORDSHIRE, HR1 1NQ</b>  <b>For: Applicant per Mr Ian Williams, 9 Lyall Close, Hereford, Herefordshire, HR1 1XG</b>
<b>WEBSITE LINK:</b>	<a href="https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202406&amp;search-term=202406">https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202406&amp;search-term=202406</a>
<b>Reason Application submitted to Committee – Application by member of staff</b>	

Date Received: 24 July 2020

Ward: Aylestone Hill

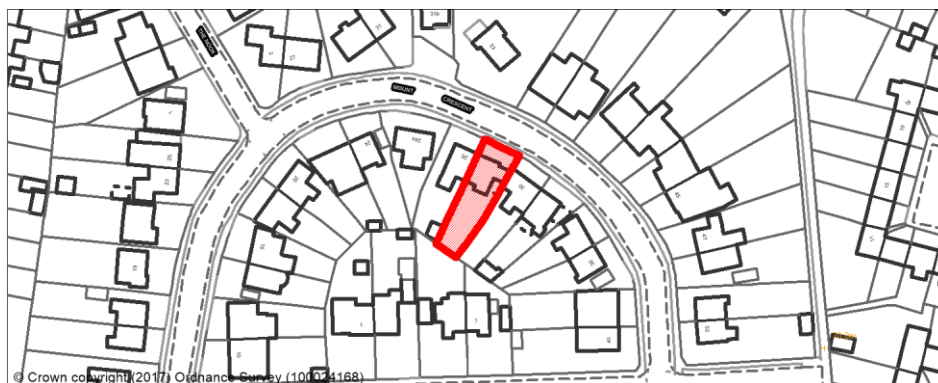
Grid Ref: 352731,240505

Expiry Date: 18 September 2020

Local Member: Councillor Ange Tyler

## 1. Site Description and Proposal

- 1.1 This full householder application relates to 28 Mount Crescent, a two-storey semi-detached dwelling situated within an established suburban setting. The dwelling is served by an existing driveway providing off-road parking for two vehicles. The dwelling has a hipped roof, roughcast render finish to the walls with an attached garage to the side; further it is noted to have a visually pleasing design aesthetic which is symmetrical and is reflective of the surrounding dwellings.



*Application site edged in red*

- 1.2 The proposal is for an extension projecting to both the side and rear of the dwellinghouse, including both a two storey wrap around extension (side and rear) and a single storey lean to rear extension. The proposed extension would project from the rear of the property by 3.5 metres, with

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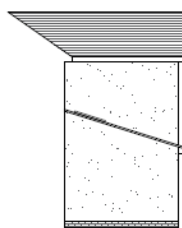
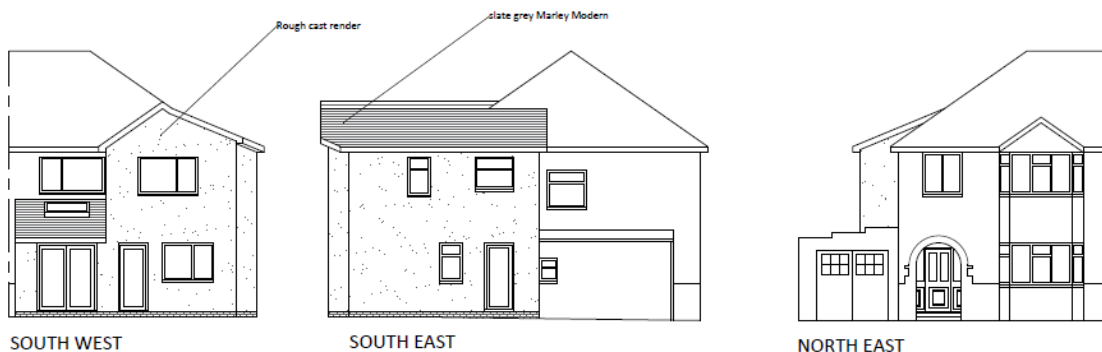
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a height to the eaves of the two storey element being 5 metres and the rear two storey projection including an asymmetric dual-pitch roof. The proposed two storey extension would also project from the south-east elevation of the dwelling by 1.5 metres and would include a number of windows serving an en-suite and bathroom at first floor level respectively. The proposal would provide for an enlarged kitchen/dining room, the provision of a family room within the former kitchen space and a W/C on the ground floor, with the first floor including a bathroom and a fourth bedroom with en-suite.

1.3 The proposed materials would be roughcast render for the walls and slate for the roof, matching the host dwelling. Rather than describe the proposal in extensive detail, I refer one to the plans under consideration, including (but not exclusively) the selection of plans included below for reference.



*Elevation Plans as existing*

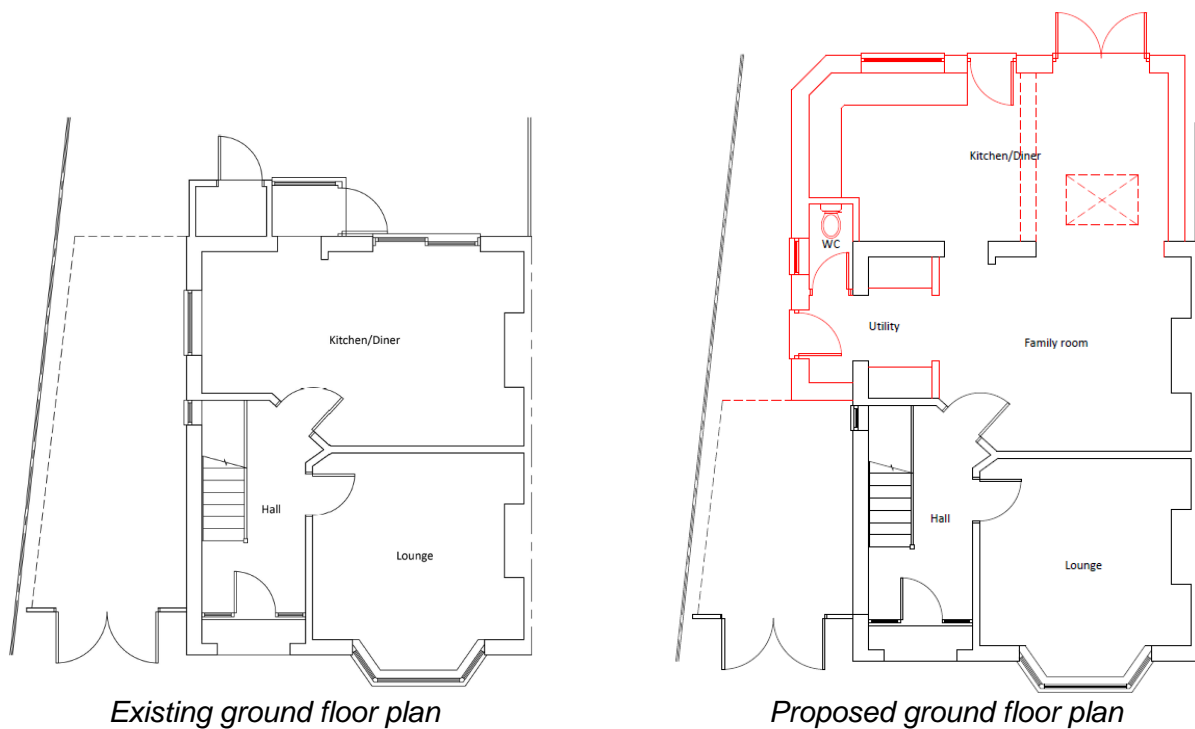


NORTH WEST

*Elevation plans as proposed*

0 MET





## 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
- SS6 - Environmental quality and local distinctiveness
- SS7 - Addressing Climate Change
- MT1 - Traffic Management Highway Safety & Active Travel
- LD1 - Landscape and Townscape
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Wastewater Treatment and River Water Quality

2.2 The Hereford Area Plan is at drafting stage and therefore is considered to carry no weight in decision making at this juncture.

### National Planning Policy Framework

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

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision Making
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

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

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 published National Design Guide is considered to be a material planning consideration for this application.

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

### **3. Planning History**

3.1 No site history

### **4. Consultation Summary**

4.1 No statutory or internal technical consultations

### **5. Representations**

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

5.2 One letter of objection and one further objection have been received. The main points raised are summarised as follows:

- The proposal will cause a loss of light and natural daylight through the [objectors] kitchen window.
- The proposal is dominant and overbearing.
- There is the suggestion that the proposal extends no further than the rear elevation and not to the side or extends to the rear and not to the side. The current proposal extends to both the side and rear creating unnecessary impact.

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=202406&search-term=202406](https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202406&search-term=202406)

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 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). The National Planning Policy Framework ('NPPF' or 'the framework' henceforth) is also a significant material consideration, but does not constitute a statutory presumption, unlike the development plan which carries the statutory presumption as set out above. The area is not covered by a Neighbourhood Development Plan; with the Hereford Area Plan currently being at the drafting stage and thus cannot be afforded any weight in planning considerations at present.
- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy has been made on 9<sup>th</sup> November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.
- 6.4 The principle of an extension is not objectionable, however a number of detailed site specific considerations are determinative as to the overall acceptability of the proposed extension scheme and these are considered below.

### **Design / Amenity**

- 6.5 In regards to the design of proposed developments, the decision maker 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.
- 6.6 When considering the design and visual impact of a proposed development, Policy SD1 of the Core Strategy is significant as it requires that development proposals to create safe, sustainable, well integrated environments for all members of the community. In so doing, all proposals should take into account the local context and site characteristics. Moreover, new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. Where appropriate, proposals should also make a positive contribution to the architectural diversity and character of the area, including through innovative design. They should also safeguard the residential amenity of existing and proposed residents in terms of overlooking, overshadowing and overbearing. Specifically regarding landscape matters,
- 6.7 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 framework 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.
- 6.9 The framework 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 considering what achieves good design in proposed developments. However design shouldn't be concocted as a reason for refusal when proposals accord with the design expectations of the framework, material considerations and development plan.
- 6.10 The National Design Guide's chapters on identity and built form state that development should be visually attractive; strengthen the local character of place; create a positive identity; a coherent pattern of development; sited and designed demonstrating an understanding of the existing situation. Additionally, paragraph 40 states that well designed new development should have an understanding of the wider context and the concerns and perceptions of local communities.
- 6.11 The proposed development is considered to be a poor design due to its ungainly roofline given the manner in which the side extension projects from the existing hipped roof, this issue is typified by the unprepossessing dual pitched asymmetric roof to the rear. The host dwelling is noted to be well proportioned, of a considered designed aesthetic and offers a balanced built form in the streetscene. The proposed development is considered to fail to respect the design characteristics of the existing building and the characteristic built form of the locale and adds an awkward form and massing to the side of the dwelling which appears contrived in the streetscene. This issue is exacerbated by the manner in which the proposal wraps around part of the rear and part of the side of the host dwelling, something that is alien to this suburban context. Officers consider the proposal would have a detrimental effect on the streetscene in the locale, as it does not reflect a sensitive addition to the dwelling given its context. It follows that the proposal is considered to represent poor design and so is in conflict with paragraph 130 of the framework.
- 6.12 The adjoining dwelling to the east is No. 30 Mount Crescent, which would adjoin the projecting two storey side extension. The adjoining dwelling has its kitchen with modest dining space at the rear of the property with a single window on the side elevation providing light to this space. The proposed side extension would lie approximately 3.8 metres from the kitchen window of the adjoining dwelling. Given the scale of the extension with an eaves height of 5 metres, projecting to both the rear and side of the dwelling and being sited to the west of the adjoining dwelling, the proposal is considered to impact upon the natural light reaching the window and habitable ground floor space of the neighbouring dwelling, thus having an overshadowing effect. Further the proposal is considered to give rise to an overbearing effect due to its height and proximity to the boundary. Officers conclude the proposed two storey rear and side extension, to the west of the neighbouring window, would detrimentally impact the amenity of the neighbouring property by virtue of blocking natural light, having an overshadowing and overbearing effect.



*Site photo of rear of No. 28 (host dwelling)*



*Site photo of rear of No. 30 (adjoining dwelling)*



*Site photos from within the kitchen of the adjoining dwelling No. 30, looking towards No. 28*



- 6.13 It follows that officers consider the proposal to be in conflict with the provisions of the development plan due to its poor design and detrimental impact on the internal natural light enjoyed by the adjoining dwelling, thus failing to accord with CS policies SD1, LD1 and SS6. Further the proposal fails to adhere to the well-designed new development principles set out in the framework, as well as the National Design Guide.

#### Habitat Regulations Assessment (HRA)

- 6.14 The application site lies within the catchment for 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 foul water drainage from the existing dwelling is managed via a connection to the main sewer network and is treated at Welsh Water's Eign treatment works. As the foul water is managed by the Eign treatment works and discharged to the River Wye, there is not considered to be the possibility of a likely significant effect on the Special Area of Conservation, thus the development is considered to be screened out of the Habitat Regulations Assessment and is not in conflict with CS policies LD2 and SD4.

#### Climate Change / Sustainable Design

- 6.15 Policy SS7 of the CS sets the strategic objective for all development proposals to include measures which help mitigate the impact upon climate change. This includes locating development in the most sustainable locations; reducing the need to travel; and designing development to reduce carbon production and promote the efficient use of resources. Policy SD1

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Further information on the subject of this report is available from Ms Megan Compton on 01432 260238

also states that development will be supported where it utilises physical sustainability features such as orientation of buildings, water conservation measures; cycle storage and renewable energy generation. In this case, the proposal is considered to adhere to the principles of SS7 in the sense that the site is sustainably located within a settlement that offers a range of services, facilities and public transport links given the close proximity to Hereford City Centre. Thus the proposal is not considered to give rise to significant conflict with policy SS7 of the CS.

### Highways

- 6.16 CS Policy MT1 addresses traffic management and highway safety. The policy states that where traffic management measures are introduced they should be designed in a way which respects the character of the surrounding area including its landscape character. They should also ensure that developments are designed and laid out to achieve safe entrance and exit and accommodate safe access. In support of this, Policy SS4 states that new developments should be designed and located to minimise the impacts on the transport network. The proposal is not considered to diminish the availability of off road parking in the area and any harm from construction traffic could be mitigated via condition, thus officers consider the proposal to accord with Policies MT1 and SS4 of the Core Strategy.

### Conclusion

- 6.17 The National Planning Policy Framework has at its heart a presumption in-favour of sustainable development, this is detailed at Chapter Two of the framework. Sustainable development is considered to consist of three key elements, those being the Economic, Social and Environmental objectives. Development proposals that are considered to meet these objectives (when taken as a whole) 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. Or 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, permission should be granted unless either of the following criteria are met.
- i. the proposed development will impact on protected areas or assets and the policies of the framework give a clear reason for refusal as set out at 11 d) i.
  - ii. any adverse impact of granting permission would significantly and demonstrably outweigh the benefits when assessed against the framework as a whole, as set out at 11 d) ii.
- 6.18 To conclude, the development plan has a statutory presumption in its favour and determination must be made in accordance with the plan unless material considerations indicate otherwise, in this case the Core Strategy review has not been initiated nor completed, with the policies most important for determining the application being out of date (as per paragraph 11 d of the framework). However policies are not disregarded and due weight should be given to them according to their degree of consistency with the framework, in this case the most important policies SD1, LD1 & SS6 of the Core Strategy are considered to be wholly consistent with the provisions of the framework and officers consider them to attract substantial weight in decision-making.
- 6.19 The public benefits from the proposal are considered to be limited, Hereford city already benefits from a diverse housing stock including larger dwellings and additional habitable space in the dwelling could be provided without causing the levels of harm identified above, making any harm avoidable. The harm identified is considered to be significant, impacting the amenity of current and future occupants of the adjoining dwelling and as a result of poor design which is contrary to paragraph 130 of the framework. It follows that the harm identified is considered to significantly and demonstrably outweigh the benefits of the proposal and the application should be refused, as it is contrary to the development plan, the framework and the National Design Guide.

**RECOMMENDATION**

That planning permission be refused for the following reasons:

- 1. The proposal would have an overbearing / overshadowing effect on neighbouring properties and would diminish the natural light to their habitable rooms; thus detrimentally impacting the amenity of adjoining dwellings. As such the proposal is wholly contrary to the intent of Herefordshire Local Plan Core Strategy Policy SD1, LD1 and SS6 and the relevant design policies of the National Planning Policy Framework.
- 2. The proposal by virtue of its form, size, scale, siting and design would present an incongruous addition which would have an unacceptable impact on the character and appearance of the host dwelling and local built form. Thus it would have a detrimental impact on the character and appearance of the street-scene, at odds with the sense of place that is experienced in the locale; thus being contrary to Policies SD1, SS6 and LD1 of the Herefordshire Local Plan – Core Strategy, the design guidance set out within Paragraphs 124, 127 and 130 of the National Planning Policy Framework, as well as the expectations of the National Design Guide.

**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 by identifying matters of concern with the proposal and discussing those with the Agent. Unfortunately, it has not been possible to negotiate a way forward for the current proposal. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal – which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.

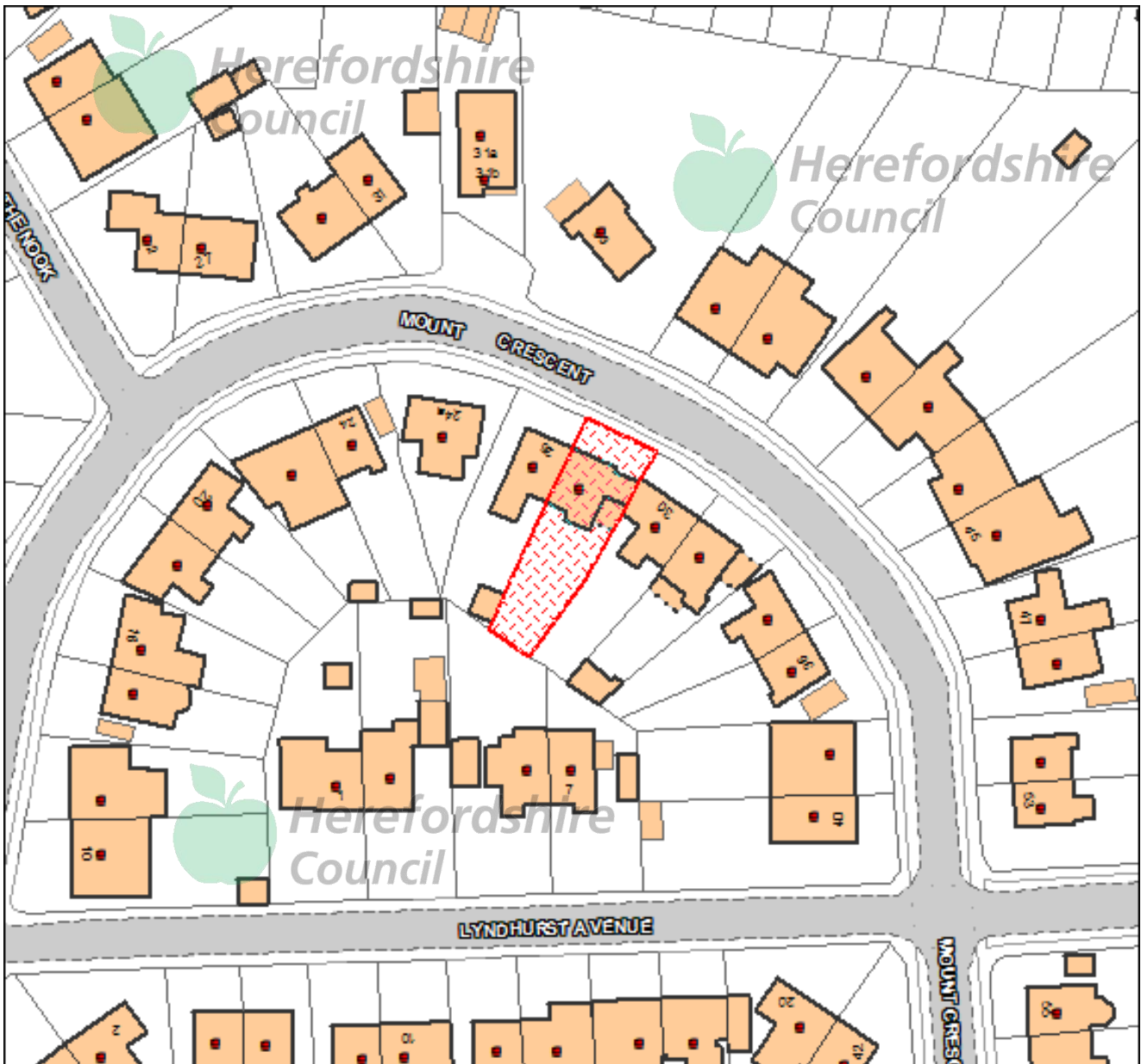
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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