

Agenda

Planning and regulatory committee

Date: **Monday 18 January 2021**

Time: **10.00 am**

Place: **online meeting**

www.youtube.com/HerefordshireCouncil

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

For any further information please contact:

Tim Brown, Democratic Services Officer

Tel: 01432 260239

Email: tbrown@herefordshire.gov.uk

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

Agenda for the meeting of the Planning and regulatory committee

Membership

Chairperson Councillor John Hardwick
Vice-Chairperson Councillor Alan Seldon

Councillor Graham Andrews
Councillor Paul Andrews
Councillor Polly Andrews
Councillor Toni Fagan
Councillor Elizabeth Foxton
Councillor 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>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the minutes of the meeting held on 16 December 2020.</p>	13 - 24
5.	<p>CHAIRPERSON'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairperson.</p>	
6.	<p>192672 - LAND ADJACENT TOWN HOUSE B4352, MADLEY, HEREFORDSHIRE</p> <p>Proposed residential development of 10 dwellings.</p>	25 - 84
7.	<p>200662 - METHODIST CHURCH, 145 THE HOMEND, LEDBURY, HEREFORDSHIRE, HR8 1BP</p> <p>Change of use of former methodist chapel to a4 wine bar with food facility, also managers flat.</p>	85 - 108
8.	<p>193707 NEW HOUSE FARM GRAFTON LANE GRAFTON</p> <p>Permission to incorporate laser clays sporting option to existing area involved with existing established clay shooting layout, replacement of a portable cabin with a small lodge and viewing area (part retrospective).</p>	109 - 116
9.	<p>202499 - LAND ADJACENT TO GALEN HOUSE, CHERRY ORCHARD, KINGS ACRE, HEREFORD</p> <p>Proposed new dwelling and detached garage.</p>	117 - 136
10.	<p>203581 - 45 WALKERS GREEN, MARDEN, HEREFORD, HR1 3DZ DEN, HEREFORD, HR1 3DZ</p> <p>Widening of existing dropped kerb to form access onto driveway.</p>	137 - 142
11.	<p>DATE OF NEXT MEETING</p> <p>Date of next site inspection – 2 February 2021</p> <p>Date of next meeting – 3 February 2021</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 as an Online meeting on Wednesday 16 December 2020 at 10.00 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, Mark Millmore, Jeremy Milln, Paul Rone, John Stone and William Wilding

In attendance: Councillors Kema Guthrie and Elissa Swinglehurst

50. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Graham Andrews and Graham Jones.

51. NAMED SUBSTITUTES

Councillor Bowen substituted for Councillor Graham Andrews.

52. DECLARATIONS OF INTEREST

Agenda item 8: 201738 – The buildings at Tretawdy Nature Reserve, Llangrove

Councillor Fagan declared an other declarable interest as a member of the Herefordshire Wildlife Trust. She left the meeting for the duration of this agenda item.

Councillor Swinglehurst declared that she was a member of the Herefordshire Wildlife Trust but noted that she was present to fulfil the role of local ward member.

53. MINUTES

RESOLVED: That the minutes of the meeting held on 2 December be approved as a correct record.

54. CHAIRPERSON'S ANNOUNCEMENTS

None.

55. 201300 - LAND TO THE WEST OF ASHDOWN HOUSE, MARDEN, HEREFORDSHIRE

(Proposed erection of 5 no. Dwellings and associated works.)

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

He reported that Natural England had confirmed they had no objection to the submitted Habitat Regulations Assessment (HRA) Appropriate Assessment. The wording of the recommendation had been amended accordingly. He confirmed an amendment to this wording in that the application was for full planning permission, not outline. He also noted that Marden Parish Council had submitted a reviewed draft Neighbourhood Development Plan (NDP). This was at Regulation 14 stage and could be afforded limited weight.

In accordance with the criteria for public speaking for virtual meetings the following spoke at the meeting as virtual attendees: Mr R Lees of Marden Parish Council, who spoke in objection to the scheme, Mr M Britten, a local resident, speaking in objection; and Mr S Rhodes, the applicant, and Mr M Tompkins the applicant's agent speaking in support of the application.

In accordance with the Council's Constitution, the local ward member, Councillor Guthrie, spoke on the application. She spoke in opposition to the application citing a number of policy grounds for refusal including provisions within the Marden Neighbourhood Development Plan (NDP).

The Committee discussed the application.

The Lead Development Manager clarified that two previous applications on the site that had been refused had been considered under the provisions of the former Unitary Development Plan to which the proposals were contrary. That Plan had now been superseded by the Core Strategy which identified Litmarsh as a location suitable for housing development. He reiterated that the Marden NDP could only be afforded limited weight. He did not consider that there were grounds to refuse the proposal on drainage, design or highways matters. He suggested there should be an additional condition relating to rainwater collection.

The local ward member was given the opportunity to close the debate. She reiterated that she considered there were policy grounds for refusal.

A motion to refuse the application was lost.

A motion to defer the application was lost.

A motion to approve the application was then carried on the Chairperson's casting vote.

RESOLVED (on the Chairperson's casting vote): That planning permission be granted subject to the following conditions, an additional condition relating to rainwater collection, and any other further conditions considered necessary by officers named in the scheme of delegation to officers:

1. **C01 - Time limit for commencement (full permission)**
2. **C07 - Development in accordance with approved plans and materials**
3. **C13 - Samples of external materials**
4. **CBK - Restriction of hours during constructionHours of construction**
5. **C58 - Domestic use only of garages**
6. **C68 - Obscure glazing to windows**
7. **CAB - Visibility splay required (2.4m x 71m)**

8. CAE - Vehicular access construction
9. CB2 - Secure covered cycle parking provision
10. CK3 - Landscape scheme
11. CK4 - Landscape maintenance plan
12. CE6 - Efficient use of water
13. CBM - Scheme of foul and surface water drainage strategy
14. As detailed in the Foul Drainage Strategy by Hydro Logic Services ref L0284 dated 26/10/2020 all foul water shall discharge through connection to new private foul water treatment systems with final outfall to mound soakaway drainage fields on land under the applicant's control 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 SS1, SS6, LD2 and SD4.

15. All surface water shall be managed through a Sustainable Drainage Strategy as detailed in the Surface Water Drainage Strategy by Hydro Logic Services ref L0284 dated 26/10/2020 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 SS1, SS6, LD2 and SD3.

16. Prior to commencement of any construction approved under this consent, written confirmation from the Environment Agency on the acceptability of the mound soakaway drainage system approved under this planning consent shall be supplied to, and be acknowledged in writing by the Local Planning Authority.

Reason: In order to ensure compliance with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), and Herefordshire Core Strategy (2015) policies SS1, SS6, LD2, SD3 and SD4.

17. Prior to any construction above damp proof course level, details of how all shared elements of the foul water drainage and surface water schemes will be managed for the lifetime of the whole development approved under this consent shall be supplied to the Local Planning Authority for written approval. The approved management scheme shall be hereafter implemented in full unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure ongoing compliance with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2019), NERC Act (2006), and Herefordshire Core Strategy (2015) policies SS1, SS6, LD2, SD3 and SD4.

18. CE2 - Renewable energy installations

- Solar panels
- Air source heat pumps

- 19. Before any work, including any site clearance or demolition begins, equipment or materials moved on to site, a fully detailed Construction Environmental Management Plan (CEMP) and named 'responsible person', including detailed ecological risk avoidance measures based on current site conditions and all protected species known to be locally present – including Otter, reptiles and amphibians, shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed.**

Reason: In order to comply with Conservation of Habitats and Species Regulations (2017), Wildlife & Countryside Act (1981), National Planning Policy Framework, NERC Act (2006), NPPF (2019) and Herefordshire Council Core Strategy (2015) policy SS6, LD2 and LD3.

- 20. Prior to any construction above damp proof course levels, a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including significant provision for bat roosting, bird nesting, pollinating insect homes and hedgehog houses and movement corridors should be supplied to and acknowledged by the local authority and then implemented in full. The approved scheme shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. No external lighting should illuminate any habitats on or off the site, boundary features or biodiversity net gain enhancements.**

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), Habitat Regulations 2017, Core Strategy SS6, LD2, National Planning Policy Framework (2019), NERC Act 2006 and Dark Skies Guidance Defra/NPPF 2013/2019.

INFORMATIVES:

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

- 2. I11 Mud on highway**

56. 193227 - LAND AT WHITE GATES FARM, LITMARSH, HEREFORD, HR1 3EZ

(Proposed erection of 2no. Dwellings with garaging.)

The Senior Planning Officer gave a presentation on the application.

In accordance with the criteria for public speaking for virtual meetings the following spoke at the meeting as virtual attendees: Mr R Lees of Marden Parish Council, who spoke in objection to the scheme, and Ms K Saunders who spoke in support of the application on behalf of the applicant.

In accordance with the Council's Constitution, the local ward member, Councillor Guthrie, spoke on the application. In summary, she commented that the site was close to the site of application 201300, the previous application on the agenda, and there were similar issues of concern including conflict with the Neighbourhood Development Plan. However, there were also other elements to take into consideration including local support from local residents. Two previous applications on the site had been approved.

The Committee discussed the application.

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

RESOLVED: That outline 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. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.**

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990

- 2 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.**

Reason: Required to be imposed by section 92 of the town and country planning act 1990.

- 3 Approval of the details of the scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.**

Reason: To enable the local planning authority to exercise proper control over these aspects of the development and to secure compliance with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 4 Plans and particulars of the reserved matters referred to above relating to the layout, scale, appearance and landscaping shall be submitted in writing to the local planning authority and shall be carried out as approved.**

Reason: Required to be imposed by Section 92 of the Town and Country Planning Act 1990

- 5 C06 – Development in accordance with the approved plans**

- 6 C13 – Materials**

7 CCK – Details of slab levels

8 No development shall commence until the Developer has prepared and agreed a scheme for the comprehensive and integrated drainage of the site showing precisely how foul water will be dealt with; this shall be inline with the drainage report by Exploration & Testing Associates dated 30/06/2020 with all foul water shall discharge through new plot-dwelling specific package treatment plants with final outfall to a shared soakaway drainage field on land under the applicant’s control and, the scheme must include the provision of a drawing showing the layout of the two foul drainage fields and package treatment plants , that demonstrates compliance with BS 6297. The scheme shall be submitted to and agreed in writing by the local planning authority, the work shall be carried out in accordance with the approved scheme.

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

9 All surface water shall be managed through a Sustainable Drainage Scheme on land under the applicant’s control unless otherwise agreed in writing by the Local Planning Authority.

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

10 Prior to the commencement of the development, a detailed Construction Environmental Management Plan (CEMP) incorporating:

- a) a Construction Traffic Management Plan (CTMP),**
- b) Construction Phasing and Routeing Plans, including construction traffic arrival and departure times,**
- c) onsite construction working hours**
- d) a method for ensuring mud is not deposited onto the Public Highway**
- e) a scheme for the management of all waste material arising from the site (i.e. stockpiles, waste soils, materials movements etc)**

shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter all construction activity in respect of the development shall be undertaken in full accordance with such approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, neighbouring amenity and to conform to the requirements of Policies MT1 & SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

11 Prior to the first occupation of any of the residential development hereby permitted written evidence / certification demonstrating that water conservation and efficiency measures to achieve the ‘Housing – Optional Technical Standards – Water efficiency standards’ (i.e. currently a maximum of 110 litres per person per day) for water consumption as a minimum have been installed / implemented shall be submitted to the Local

Planning Authority for their written approval. The development shall not be first occupied until the Local Planning Authority have confirmed in writing receipt of the aforementioned evidence and their satisfaction with the submitted documentation. Thereafter those water conservation and efficiency measures shall be maintained for the lifetime of the development.

Reason: To ensure water conservation and efficiency measures are secured, in accordance with policy SD3 (6) of the Herefordshire Local Plan Core Strategy 2011- 2031

- 12 The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity net gain enhancements, as recommended in the ecology report by Wilder Ecology dated March 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. All fruit trees planted should be on full vigorous or 'seedling' rootstock 'full standard' trees as relevant to fruit type being planted**

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

- 13 CAB (Visibility splays measuring 2.4m by 70m in each direction)**

- 14 CAE (Specification of Access)**

- 15 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, an amendment to the Method Statement detailing how this unsuspected contamination shall be deal with.**

Reason: To prevent pollution of controlled waters and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 16 All planting, seeding or turf laying in the approved landscaping scheme pursuant to condition three) shall be carried out in the first planting season following the occupation of the building or the completion of the development, whichever is the sooner.**

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

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

- 17** Before the development is first occupied, a schedule of landscape management and maintenance for a period of five years shall be submitted to and approved in writing by the local planning authority. Maintenance shall be carried out in accordance with the approved schedule.

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

- 18** Prior to first occupation of any property approved under this permission the legally binding details of how all the shared aspects of the foul drainage scheme will be managed for the lifetime of the approved development will be supplied to the Local Planning Authority for written approval. The approved management scheme shall be hereafter implemented in full unless otherwise agreed in writing by the Local Planning Authority

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

- 19** The reserved matters submission submitted pursuant to Condition 1 shall be accompanied by written and illustrative details of the number, type/specification and location of Electric vehicle charging points of at least one per dwelling, shall be submitted to and approved in writing by the local planning authority. The Electric vehicle charging points shall be installed prior to first occupation and be maintained and kept in good working order thereafter as specified by the manufacturer.

Reason: To address the requirements policies in relation to climate change SS7, MT1 and SD1 of the Herefordshire Local Plan Core Strategy, to assist in redressing the Climate Emergency declared by Herefordshire Council and to accord with the provisions at paragraphs 108 & 110 of the National Planning Policy Framework.

- 20** Details of any external lighting proposed to illuminate the development shall be submitted to and approved in writing by the local planning authority before the dwellings are occupied. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

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

- 21** The stable building adjoining plot 2 as identified on the approved site plan, shall not be used for the housing of any livestock or animals from the date of the first occupation of either dwelling and shall remain so henceforth.

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

INFORMATIVES:

- 1. IP2**

2. **Any waste leaving the site shall be disposed of or recovered at a suitably permitted site in accordance with the Environmental Permit Regulations (England and Wales) 2010.**
3. **Use of waste on site will need suitable authorisation issued by the Environmental Agency in accordance with the Environmental Permit Regulations (England and Wales 2010).**

57. 201738 - THE BUILDINGS AT TRETAWDY NATURE RESERVE, LLANGROVE, ROSS ON WYE, HEREFORDSHIRE, HR9 6EY

(Councillor Fagan left the meeting for the duration of this agenda item.)

The 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 the following spoke at the meeting as virtual attendees: Mr P Lodge of Llangarron Parish Council, who spoke in objection to the scheme, Mr C Lyster, a local resident, speaking in objection; and Mr J Hitchcock speaking in support, on behalf of Herefordshire Wildlife Trust the applicant,

In accordance with the Council's Constitution, the local ward member, Councillor Swinglehurst, spoke on the application. In summary, she commented that there was considerable local opposition to the proposal, the consideration of which involved striking a balance between economic gain and the environmental cost. She considered that there were a number of objections to the proposal including that the local road network and the access to the site were inadequate for what would be a car dependent development making the proposal contrary to policy MT1; the existing buildings would not be capable of conversion without major reconstruction making the proposal contrary to policy RA5; the potential to support the local economy was limited; and there would be an adverse effect on the amenity of a neighbouring property; the design entailed a lot of glazing that would introduce light pollution; and the proposal would be contrary to policy LD2 (c) in that it would harm the nature conservation value of the site or species of local nature conservation interest. Any economic benefit would be limited.

The Committee discussed the application.

The Lead Development Manager commented that he considered it to be a well-designed proposal for modest holiday use. If the proposal were to be approved he suggested an additional condition relating to refuse collection.

The local ward member was given the opportunity to close the debate. She reiterated that there would be limited economic benefit to the local economy and this could not weigh heavily in the planning balance against the extent of the works that would be required to achieve the conversion of the existing buildings. She considered the grounds for refusal she had outlined, MT1, RA5 and LD2 stood.

The Lead Development Manager expressed reservations about advancing policies MT1 and LD2 as grounds for refusal given the consultation responses from officers set out in the report. Policy RA5 offered the most appropriate ground for refusal but he also had concerns about this given the views set out in the report.

A motion that the application be refused contrary to the officer recommendation on the grounds that the development was contrary to policies RA5, MT1 and LD2 was carried.

RESOLVED: That planning permission be refused on the grounds that the development was contrary to policies RA5, MT1 and LD2 and officers named in the Scheme of Delegation to officers be authorised to detail the reasons put forward for refusal by the committee.

58. DATE OF NEXT MEETING

Noted.

Appendix - Schedule of Updates

The meeting ended at 1.26 pm

Chairperson

PLANNING AND REGULATORY COMMITTEE

Date: 16 December 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

201300 - PROPOSED ERECTION OF 5 NO. DWELLINGS AND ASSOCIATED WORKS AT LAND TO THE WEST OF ASHDOWN HOUSE, MARDEN, HEREFORDSHIRE

ADDITIONAL REPRESENTATIONS

A total of 11 further letters of objection have been received – all of these are further objections to those made previously.

Natural England have no objection to the submitted Habitat Regulations Assessment (HRA) Appropriate Assessment. They make the following comments;

Internationally and nationally designated sites

The application site is within the catchment of the River Lugg which is part of the River Wye Special Area of Conservation (SAC), which is a European designated site (also commonly referred to as Natura 2000 sites), 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 Lugg Site of Scientific Interest (SSSI).

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. 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

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal, in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of the sites in question. Natural England agrees with the assessment conclusions. The proposal is to install package treatment plants with associated drainage mounds. These drainage mounds would need Environment Agency consent which the council intends to secure through conditions. If the council is satisfied that that this is appropriate then we have no further comments to make.

OFFICER COMMENTS

Whilst no new material planning considerations are raised which have not already been addressed in the committee report, some representations refer to the request for a Section 106 agreement being made by officers. It is confirmed that no such request has been made and the standard online commenting form template includes a box to comment on infrastructure from Section 106 to consider, where this is relevant to the application.

In respect of the response from Natural England, this confirms that the body agree with the AA undertaken by officers. The recommendation is thus updated as set out below.

CHANGE TO RECOMMENDATION

It is advised that the recommendation is changed to that as follows;

That outline 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:

201738 - PROPOSED DEVELOPMENT OF THE CONVERSION OF TWO SMALL REDUNDANT BARNs INTO A LUXURY 6-8-PERSON HOLIDAY LET. AT THE BUILDINGS AT TRETAWDY NATURE RESERVE, LLANGROVE, ROSS ON WYE, HEREFORDSHIRE, HR9 6EY

AD

ADDITIONAL REPRESENTATIONS

Climate change checklist completed in support of the application. Can be seen on the website under supporting documents.

Further objection received in relation to residential amenity and glazing fronting Tretawdy Farm House. This includes images available on Council's website.

OFFICER COMMENTS

The climate change checklist provides further detail of the sustainability measures the applicants are taking in this proposal, enhancing the policy support for the proposal.

The assessment of impact upon residential amenity is set out in paragraph 6.13 of the Officer's Report. It should be noted that the glazed addition to the roof in question would not impact residential amenity given the single storey nature of the buildings, whilst the first floor element to the west would be 1.91 metres from floor level to glazing.

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	18 JANUARY 2021
TITLE OF REPORT:	192672 - PROPOSED RESIDENTIAL DEVELOPMENT OF 10 DWELLINGS AT LAND ADJACENT TOWN HOUSE B4352, MADLEY, HEREFORDSHIRE For: Mr Powell per Mr D F Baume, Studio 2, Thorn Office Centre, Holme Lacy Road, Rotherwas, Hereford, Herefordshire HR2 6JT
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=192672&search=192672

Reason Application submitted to Committee – redirection

Date Received: 25 July 2019

Ward: Stoney Street

Grid Ref: 342102,238769

Expiry Date: 15 January 2021

Local Member: Councillor David Hitchiner

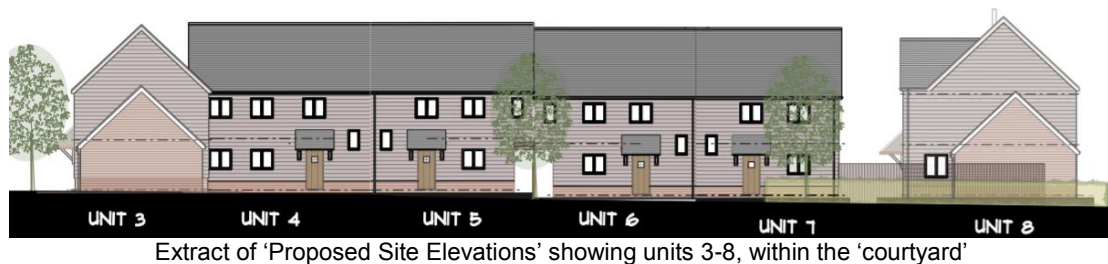
1. Site Description and Proposal

- 1.1 The site lies on the northeastern side of the B4352 at Madley, some 100 metres from its junction with the C1196 at Madley crossroads and comprises 0.53 hectares of uncultivated land surrounded by vegetation, set beyond a grassed highway verge. Its roadside frontage is approximately 50 metres in length and it has a depth ranging between approximately 69 and 92 metres. Levels rise into the site from the road and become more gradual from the southwest to the northeast.
- 1.2 A Public Right of Way (MY9) passes outside of the site, along its southeastern boundary, across agricultural land. To the west of the site lies the Grade II listed Town House and attached outbuilding, with a further separately listed Grade II barn some 27 metres to the northwest, which now comprises two dwellings following conversion (granted in 2009). Alongside, and immediately to the east of the listed barn conversions lie a further two semi-detached dwellings, one comprising a barn conversion and the other a new build (granted in 2009). Immediately beyond, to the north, of these three barn conversions and attached new build there are a further two detached dwellings (granted 2009). There are two modern agricultural buildings to the northeast of the site, the most northerly being of 21st century construction. To the southeast of the site, on the opposite side of the road, lies the Grade II listed Vicarage, with the Grade I listed Church of the Nativity of the Blessed Virgin Mary beyond to the southwest, some 85 metres distant. Mature vegetation demarks the roadside boundary and there are mature trees and vegetation along the southeast boundary.

- 1.3 Planning permission is sought, in full, for the erection of ten dwellings and associated driveways all to be served from a new vehicular access, located to the southern corner of the site, onto the B4352. The layout provides for detached, semi-detached and terraced units (numbered 3-10) around a central courtyard parking area and two detached dwellings (numbered 1 and 2) to the northwest of the vehicular access facing the road. The scheme proposes 3 x 2 bed units, 5 x 3 bed units, 1 x 4 bed unit and 1 x 5 bed unit, ranging between 98 and 189 square metres in gross internal floor area. Four of the dwellings would have garaging (detached/attached). All dwellings would be two storey, other than plots 2 and 8, which include bedroom/study accommodation within the roof void with rooflights and windows to their projecting rear gables.



- 1.4 The eight dwellings around the courtyard take the form of a historic farmstead typology and the palette of materials predominately comprises timber boarding, over brick plinths and tiled roofs. Parking is included either in garages and in plot spaces or in the courtyard, which also includes 3 visitor parking spaces. The two detached units facing the road would have vehicular access from the rear, shared driveway with pedestrian access directly on to the proposed footpath to the front. These units would be of a more overtly domestic design, with their principal elevations facing the road.





Extract of 'Proposed Site Elevations' showing Units 1 and 2 (facing the B4352)

- 1.5 The proposal also includes the provision of a footway, approximately 130 metres in length, along the existing grassed verge on the northeastern side of the B4352, from the proposed vehicular access to the village cross roads, including tactile paving and dropped kerbs and realignment of the footpath on the corner adjacent to 2, The Cross.
- 1.6 The following documents have been submitted with or during the consideration of the application: Design, Access and Planning Statement, Transport Statement (and ATC Survey Report and Designer's Response to Stage 1 Safety Audit), Ecological Appraisal and Impact Assessment, Great Crested Newt Method Statement, Great Crested Newt Survey and Report, Great Crested Newt Mitigation Proposals, Tree Survey, Heritage Statement (amended), Surface Water Management Plan/Foul Drainage (amended), Drainage information from Welsh Water and Climate Change and Biodiversity and Ecology compliance checklists.

2. Policies

- 2.1 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

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Ensuring Sufficient Housing Land Delivery
SS4	-	Movement and Transportation
SS6	-	Environmental Quality and Local Distinctiveness
SS7	-	Addressing Climate Change
RA1	-	Rural Housing Distribution
RA2	-	Housing in Settlements Outside Hereford and the Market Towns
RA3	-	Herefordshire's Countryside
H1	-	Affordable Housing – Thresholds and Targets
H3	-	Ensuring an Appropriate Range and Mix of Housing
OS1	-	Requirement for Open Space, Sports and Recreation Facilities
OS2	-	Meeting Open Space, Sports and Recreation Needs
MT1	-	Traffic Management, Highway Safety and Promoting Active Travel
LD1	-	Landscape and Townscape
LD2	-	Biodiversity and Geodiversity
LD3	-	Green Infrastructure
LD4	-	Historic Environment and Heritage Assets
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality
ID1	-	Infrastructure Delivery

2.2 National Planning Policy Framework (NPPF) 2019

Section 1	-	Introduction
Section 2	-	Achieving Sustainable Development
Section 4	-	Decision-Making
Section 5	-	Delivering a sufficient supply of homes
Section 8	-	Promoting healthy and safe communities
Section 9	-	Promoting sustainable transport
Section 11	-	Making effective use of land
Section 12	-	Achieving well-designed places
Section 14	-	Meeting the challenge of climate change, flooding and coastal change
Section 15	-	Conserving and Enhancing the Natural Environment

2.3 National Planning Practice Guidance

2.4 Natural England – Standing Advice for Protected Species

2.5 Natural England Guidance Note: European Protected Species and the Planning Process. Natural England's Application of the 'Three Tests' to Licence Applications

2.6 Madley Neighbourhood Development Plan

A Neighbourhood Development Plan Area was designated on 7 March 2015. The designation follows the Parish boundary.

The Madley Neighbourhood Development Plan was sent for examination on 25 February 2020. The examiner's report was received on 3 September 2020 and makes no recommendations for modifications. The draft plan can be afforded significant weight.

Policy M1	-	Sustainable development
Policy MH1	-	Housing delivery
Policy MH3	-	Madley settlement boundary
Policy MH4	-	Type and size of housing
Policy MH5	-	Housing in the wider countryside
Policy ME1	-	Landscape character and wildlife
Policy ME2	-	Building design
Policy ME3	-	Historic environment
Policy MSC4	-	Flood resilience and resistance

<https://www.herefordshire.gov.uk/downloads/file/21187/neighbourhood-development-plan-september-2020>

3. Planning History

3.1 None

4. Consultation Summary

Since its submission the scheme has been amended and supplemented by further documents. The representations received in relation to the original submission and subsequent amendments are reported below.

Statutory Consultations

4.1 Historic England

On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

It is not necessary for us to be consulted on this application again, unless there are material changes to the proposals. However, if you would like detailed advice from us, please contact us to explain your request.

4.2 Natural England (HRA Response)

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.

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 Lugg 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.

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 have¹.

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.

4.3 Welsh Water

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

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

It is unclear as to how the additional surface water will be captured and disposed of from the proposed development. In the absence of a surface water strategy in which an assessment is undertaken to explore the potential to dispose of surface water by sustainable means, we cannot support the application in full. Therefore, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

Conditions

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

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

Advisory Notes The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water Industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"-7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

The applicant is also advised that some public sewers and lateral drains may not be recorded on our maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011.

Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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

4.4 Welsh Water – amended comments (following confirmation that surface water would not be to the mains)

On that basis I can change any requirement for a pre commencement condition to:

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

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

Internal Council Consultations

- 4.5 Public Rights of Way
The proposed development would not appear to affect the public footpath MY9. No objection.
- 4.6 Service Manager Built and Natural Environment (Ecology)
Approve with conditions

Habitat Regs. Assessment

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

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

Mains Sewer and Surface Water to Sustainable Urban Drainage

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

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire.

Nature Conservation – Ecology Protection and Mitigation and Biodiversity Net Gain

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the report by Worsfold & Bowen, dated July 2018 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 and biodiversity enhancement features.

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

Hedgerow protection during construction

Before any work commences and, equipment or materials moved on to site, appropriate hedgerow protection areas, (based on guidance in BS5837:2012) shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

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

- 4.6.1 Service Manager Built and Natural Environment (Ecology) –additional details
The updated Worsfold & Bowen Great Crested Newt Method Statement (dated November 2019) identifies the need to apply for a Natural England Great Crested Newt mitigation licence, following the findings that a Medium population of GCN is present in a pond located 2m from the applicant site boundary (Swift Ecology, May 2019).

As the GCN Method Statement confirms a NE licence will be applied for, I am satisfied that the NE licencing process will now adequately protect the on-site newt population and will ensure appropriate mitigation is put in place.

In addition, in terms of net gain and biodiversity enhancement, sections 7 & 8 in the ecology report (Worsfold & Bowen, July 2018), covers provision of bat and bird boxes per dwelling, and briefly outlines proposed lighting to minimise impacts to bats. I would request that a detailed Biodiversity Enhancement Plan is included, showing locations of bat and bird boxes, and also including locations of amphibian hibernaculae and refugia, and provision of e.g. hedgehog & insect homes, within the proposed layout.

As well as the conditions in my original comments (13/08/19), I would like to recommend the additional conditions:

Nature Conservation – Ecology Protection, Mitigation, Biodiversity Net Gain and Protected Species

The ecological protection, mitigation, compensation and working methods scheme including recommended Biodiversity Enhancements and required European Protected Species Licence (Great Crested Newt), as recommended in the ecology report (Worsfold & Bowen dated July 2018), and the Great Crested Newt Method Statement (Worsfold and Bowen dated November 2019) shall be implemented in full as stated, and hereafter maintained, unless otherwise approved in writing by the local planning authority and Natural England as relevant to the protected species licence.

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

Nature Conservation - Biodiversity Enhancement Plan (Net Gain)

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

Informative: Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

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

Nature Conservation protection – Lighting

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

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

Informative - Legal Duty of Care

The applicant has a legal obligation/duty of care regarding wildlife protection under the Wildlife and Countryside Act that applies throughout any site clearance or construction process. Any breach of this legal Duty of Care would be a criminal offence. If at any time protected species are found or suspected on site a suitably experienced ecologist should be consulted.

4.6.2 Service Manager Built and Natural Environment (Ecology) – further comments

In response to new information coming to light regarding presence of GCN (Medium population) in a pond less than 2m from the development site boundary (Swift Ecology dated May 2019):

The recommendations included within the GCN Method Statement (Worsfold & Bowen dated November 2019) are appropriate and should be followed, in addition to the recommendations with the original ecology report (Worsfold & Bowen July 2018).

Nature Conservation – Ecology Protection and Mitigation and Biodiversity Net Gain

The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the Ecological Appraisal (Worsfold & Bowen dated July 2018) and the GCN Method Statement (Worsfold- Bowen dated November 2019) shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

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

The additional conditions as proposed in previous comments still apply:

Mains Sewer and Surface Water to Sustainable Urban Drainage

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

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire.

Hedgerow protection during construction

Before any work commences and, equipment or materials moved on to site, appropriate hedgerow protection areas, (based on guidance in BS5837:2012) shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

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

Nature Conservation - Biodiversity Enhancement Plan (Net Gain)

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

Informative: Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

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

Nature Conservation protection – Lighting

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

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

Informative - Legal Duty of Care

The applicant has a legal obligation/duty of care regarding wildlife protection under the Wildlife and Countryside Act that applies throughout any site clearance or construction process. Any breach of this legal Duty of Care would be a criminal offence. If at any time protected species are found or suspected on site a suitably experienced ecologist should be consulted.

4.6.3 Service Manager Built and Natural Environment (Ecology) – Great Crested Newt Survey and Report

The ecology report: includes details of updated great crested newt survey information for the pond at Town House (Worsfold & Bowen, dated July 2020), in order to inform the GCN licence application. A maximum of 11 GCN were recorded, which is considered to be a 'Medium' population of great crested newts confirmed to be present. The ecology consultant (Worsfold & Bowen) have confirmed that they will be applying for a Natural England mitigation licence to capture and translocate great crested newt from the applicant site.

Where a European Protected Species (Great crested newt) are found to be present on a development site and will be affected by the development proposals, the Local Planning Authority has to consider whether the application satisfies the three tests prior to determining the application.

The three tests are:

- 1) That the development is “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment”.
- 2) That there is “no satisfactory alternative”
- 3) That the derogation is “not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”

The final details of the mitigation scheme will be subject to approval by the Natural England licensing process. However from the information supplied in the report, I am not entirely confident that the Third Test can be met, i.e. that 'Favourable Conservation Status' of GCN will be achieved by the proposed scheme, with regard to the proposed Receptor Area for translocated newts.

The following information has been supplied in the report by Worsfold & Bowen, regarding the Receptor area for great crested newts:

The report states that, 'Management of the site will have to be specified in the licence application. It is expected that it will entail allowing rough tussocky grass and managed scrub development. Control of scrub and rank vegetation might well be aided by seasonal grazing'.

It also states 'The receptor site will be enhanced by construction of two amphibian hibernaculae according to the design in the GCN Mitigation Guidelines (see Appendix 5). Creation of shallow ponds by excavation is considered unlikely to succeed, in view of the finding of no water table during soundings done in preparation for the SUDS scheme'.

I am in agreement with the comments from Swift Ecology (Letter dated 12th August 2020) regarding the Receptor site:

- a) The Receptor area is isolated from the breeding pond (by a concrete road and yard).
- b) There is no alternative breeding site (i.e. a pond) for newts translocated to the receptor site.
- c) Insufficient detail regarding the management and long-term security of the receptor area has been supplied (presently an arable field with headlands).

A Habitat Fragmentation - Access between receptor area and breeding pond

There is a degree of habitat fragmentation between the breeding pond and the receptor area, due to the presence of the concrete track and yard and farm storage buildings in between. There is a potential terrestrial habitat route, for GCN to travel from west to east using gardens and the farm track bordered by hedgerow to the north of the applicant site, but this requires the GCN to travel 150-200m east through gardens and turn a 90 degree corner northwards along the back of the farm sheds to reach the receptor site. I think that in reality a large proportion of newts may never do this. A potential solution could include installation of GCN road underpass to connect the north-west corner of the applicant site with the Receptor Area.

B Creation of an alternative breeding site within the receptor area

A GCN breeding pond should be included in the design of the Receptor Area, to compensate for the habitat/population fragmentation effect.

C Habitat management and long-term management of receptor area

A detailed habitat enhancement scheme for the receptor area including long-term (at least next 20 years) should be provided, to include grassland creation (to replace arable habitat) as well as locations and details of new receptor ponds and hibernaculae (over-wintering habitat piles).

As per previous comments (dated 13/08/2019) the following conditions apply:

Mains Sewer and Surface Water to Sustainable Urban Drainage

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

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire.

Nature Conservation – Ecology Protection, Mitigation, Biodiversity Net Gain and Protected Species

The ecological protection, mitigation, compensation and working methods scheme including recommended Biodiversity Enhancements and required European Protected Species Licence (Great Crested Newt), as recommended in the ecology report (Worsfold & Bowen dated July 2018), and the Great Crested Newt Method Statement (Worsfold and Bowen dated November 2019) shall be implemented in full as stated, and hereafter maintained, unless otherwise approved in writing by the local planning authority and Natural England as relevant to the protected species licence.

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

Nature Conservation - Biodiversity Enhancement Plan

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

Informative: Fixed habitat features include but are not restricted to features such as bat roosting opportunities, bird boxes, insect hotels/houses, hedgehog homes & hedgehog friendly boundary features and amphibian/reptile refugia. The applicant is advised to seek the advice of an ecological consultant when completing the Biodiversity Enhancement plan.

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

Nature Conservation protection – Lighting

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

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

Hedgerow protection during construction

Before any work commences and, equipment or materials moved on to site, appropriate hedgerow protection areas, (based on guidance in BS5837:2012) shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

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

4.6.4 Service Manager Built and Natural Environment (Ecology) – Great Crested Newt Survey and Report

Great crested newts - Summary

The supplied great crested newt survey report (Worsfold and Bowen July 2020), confirms the presence of a GCN breeding pond with a few metres of the applicant site on the north-west boundary.

The optimal period survey data has been provided, and a recent report (Worsfold and Bowen 'Augmented Mitigation Proposals', dated 27th November 2020) has been submitted, to address issues raised by the ecologist in earlier comments (C.Winder dated 17/09/20).

Any loss of connected habitat suitable to provide hibernation and support the terrestrial phase of this protected species would not be acceptable. Mitigation and compensation must clearly demonstrate how any risk to Great Crested Newts and their ability for the local population to be fully sustained will be achieved, sufficient to demonstrate beyond all scientific and legal doubt that the required European Protected Species Licence application to Natural England will be achieved.

The required EPS Licence can only be applied for after the LPA has granted planning consent. The EPS Licence will have to be approved and issued by Natural England prior to ANY works commencing on site, including any site clearance or groundworks.

A Great Crested Newt Mitigation Strategy and Long-Term Management Plan is recommended to draw together proposed mitigation recommendations and long term site management proposals, as per the Great Crested Newt mitigation licence requirements.

In the recent 'Augmented Mitigation Proposals' report, (Worsfold and Bowen, dated 27th November 2020), the ecologist addresses the following issues identified in earlier correspondence (C. Winder, comments, dated 17/09/2020).

A - Habitat Fragmentation

In order for the proposed mitigation to be effective, there should be terrestrial habitat connectivity/access on land for great crested newts between the existing GCN breeding pond at Town House and the proposed Receptor site.

The ecologist has confirmed that amphibians will be able to cross the existing concrete track, and this principle is accepted. Therefore it is suggested that all site boundary treatments in the north western corner of the site will comprise native hedgerow planting, see Figure 1 below, such that a linear corridor for terrestrial newt movement to the north is provided. This should be secured by Condition, see below. If any additional fence panels are used, there must be a gap below fence panels through which a newt could potentially pass.

Condition (NSC/C95) - Hedgerow boundary treatments/Great crested newts

Boundary treatments will comprise native hedgerow planting, in order to maintain terrestrial habitat connectivity for great crested newts. If any additional fence panels are used, there must be a gap below fence panels through which a newt could potentially pass. The boundary treatment shall be completed prior to occupation (in accordance with a timetable to be agreed in writing with the local planning authority).

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



Figure 1. Proposed site layout showing proposed location of hedgerow 'boundary treatment' condition (red line indicates important boundary connection for great crested newts to land to the north, the proposed 'Receptor Area').

B - Provision of a Great crested newt receptor pond

A GCN receptor pond will be provided, within the Receptor area to the north of the applicant site, shown with a green-line boundary (Augmented Mitigation Proposals, Worsfold & Bowen dated November 2020). The proposals for the receptor pond are appropriate although I would make the following comments:

- The flood risk map (Hook Mason, Surface Water Management Plan, report L0129 Rep 1 (Rev 3), dated April 2020), indicates an area of flood prone land in the south-east corner of the site (Figure 2-6 Environment Agency Surface Water Flood Zones Map). This area could be used, as an alternative to the proposed the north-western field location.
- The principles of pond construction and dimensions are acceptable, although please note that amphibian ponds are ideally located with a southerly aspect and should not be bordered by mature trees to the extent that this causes shading (see Great Crested Newt Mitigation Guidelines (8.3.1, P.40).
- Pond marginal planting should include use of GCN favoured egg-laying plants, such as water mint, water forget-me-not, floating sweet grass and great willowherb.

The LPA must be satisfied that the detail provided within the mitigation proposals and proposed long-term habitat management scheme will secure the long term Favourable Conservation Status of GCN.

C – Habitat management and long term management of receptor area

The GCN receptor site will be provided to mitigate for loss of newt foraging habitat on the development site. This includes the area to the north of the applicant site, shown with a green-line boundary (Augmented Mitigation Proposals, Worsfold & Bowen dated November 2020).

This includes wide boundary field margins with trees and long grass, and proposed habitat enhancements (a receptor pond and no. 2 amphibian hibernaculæ), in conjunction with maintaining habitat connectivity with the known breeding site, is acceptable for the terrestrial habitat loss.

The provision and management of the receptor area must be secured by a legal agreement or condition, whichever is appropriate, e.g. long-term management and maintenance for e.g. 20 years, to ensure the favourable conservation of great crested newts.

Great Crested Newt Mitigation Strategy and Management Plan

In order to draw together recommendations within previous reports and comments, and in conjunction with an NE mitigation licence for great crested newts, a Great Crested Newt Mitigation Strategy and Management Plan is therefore requested, this should include further details regarding the above points A (Habitat fragmentation), B (Provision of a Receptor Pond) and C (Habitat Management and long-term management of the receptor area), and will contain details as agreed in the NE mitigation licence.

Recommended conditions:

Condition Eco (NSC) – Nature Conservation– Great Crested Newt Mitigation Strategy

Before any work, or site clearance begins a Great Crested Newt Mitigation Strategy (GCNMS) and Long-Term Management Plan, shall be supplied to the local planning authority for written approval, together with details of legal arrangements for long-term management. The approved GCNMS shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.

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

Condition Eco 12 – Nature Conservation - Ecological Working Methods

Prior to commencement of any site clearance, preparation or development a fully detailed and specified Ecological Working Method Statement (EWMS) including details of appointed Ecological Clerk of Works shall be provided to the planning authority. The EWMS should consider all relevant species but in particular consideration for Great crested newts. The approved EWMS shall be implemented in full unless otherwise agreed in writing by the planning authority.

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

Comments: The Ecological Working Method Statement report (Worsfold & Bowen, dated November 2019), has already been submitted. The following items should be included:

- hand search/destructive search of tussocky/dense vegetation, log piles, old tree stumps, rocks etc., supervised by GCN licenced Ecological Clerk of Works (ECW) prior to any works commencing on site. Any hedgerow removal checked by ECW.
- Vegetation removal should be undertaken during April-September, when newts are active and able to move to safety (i.e. not during periods of hibernation).
- Means of preventing GCN returning onto site during construction: e.g. Licenced TAF on site boundary, or maintaining short vegetation/bare ground with no places a newt could shelter or seek refuge.
- No storage of materials on site in a way that they could provide places for newt shelter or refuge, e.g. materials stored on pallets.

As per previous comments (dated 13/08/2019) the following conditions apply:

Habitat Regs Assessment – River Wye SAC

NB. It is noted that Land Drainage have raised concerns regarding surface water drainage (reports dated 20/08/2020 and 20/12/2020) but that these have now been resolved (report dated 01/05/2020), such that there is no need to amend the findings of the HRA AA sent to NE on (13/08/2019) and approved on (03/09/2019). The surface water drainage requirements listed in the abovementioned land drainage report (dated 01/05/20) should be met, prior to any drainage conditions being discharged.

Mains Sewer and Surface Water to Sustainable Urban Drainage

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

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire.

Biodiversity net gain/ enhancement

The ecological recommendations and enhancement as included in the original ecological appraisal (Worsfold & Bowen, dated July 2018), will form the basis of the requested Biodiversity Enhancement Plan:

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

In order to comply with Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), and Herefordshire.

Bats and Lighting

There are confirmed bat roosts at the farmhouse and barns to the north-west of the applicant site, including common and soprano pipistrelles, brown long-eared, natterer's, and lesser horseshoe bat.

The existing trees and hedgerows will form important foraging and commuting routes for bats and there should be no impact from the development on bat flight paths.

A condition should be attached to any planning consent to ensure that there is no detrimental impact of lighting on night foraging routes of bats.

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

- I. At no time shall any external lighting (except in relation to safe use of the property; and consisting of low lumens, warm LED 'down' lighting units on time limited PIR sensors) be installed or operated on the site without the written approval of this local planning authority.
- II. No external lighting should illuminate any boundary feature, adjacent habitat or area around the biodiversity enhancement features.

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

Hedgerow protection during construction

Before any work commences and, equipment or materials moved on to site, appropriate hedgerow protection areas, (based on guidance in BS5837:2012) shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

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

4.7 Principal Natural Environment Officer (Landscape)

The road leading into Madley from the south-east is lined with trees (Refer figure 1), and provides a green 'gateway' from a rural landscape into an urban settlement. The development proposes to remove a substantial percentage of these trees and will adversely impact on the arrival experience.

The applicant has identified that the trees are low quality with minor value (category C) and therefore may see this as a reason for their removal, however they fail to acknowledge their value in terms of landscape character and village identity.

It is recommended that the applicant review their proposal and provide a landscape treatment that enhances the landscape experience into Madley. A suggested approach is to establish a high quality specification hedge, similar to the existing neighbouring hedge (Refer figure 2) and to add suitably scaled and shaped trees behind the hedge to reinforce the village gateway.

Recommended conditions

CK3 Landscape Scheme

CK4 Implementation

CK5 Maintenance Plan (5 years)



Figure 1: View arriving into Madley (Proposed development right of road).

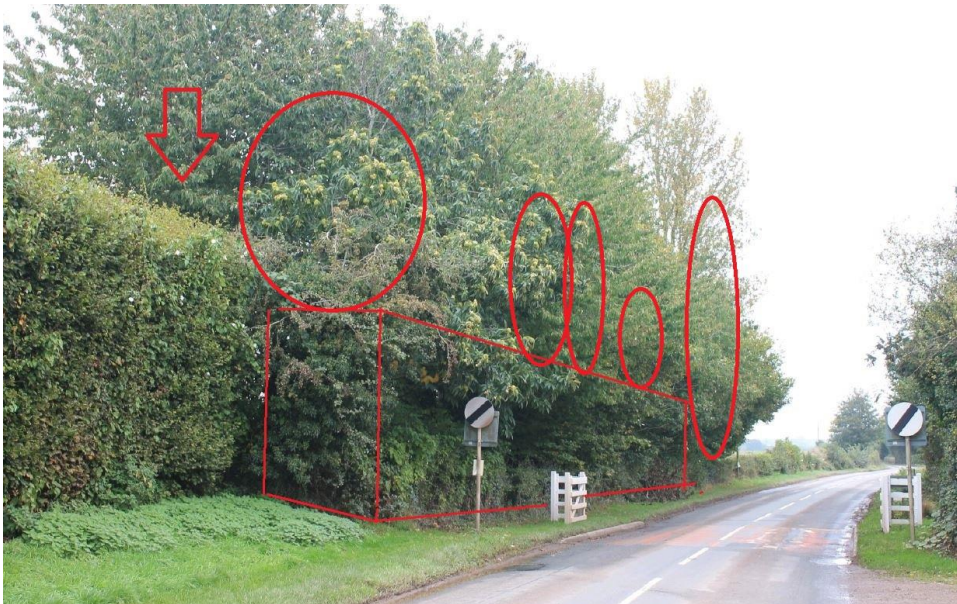


Figure 2: Existing Beech hedge (left foreground, denoted with an arrow) with indicative outline of new hedge and trees.

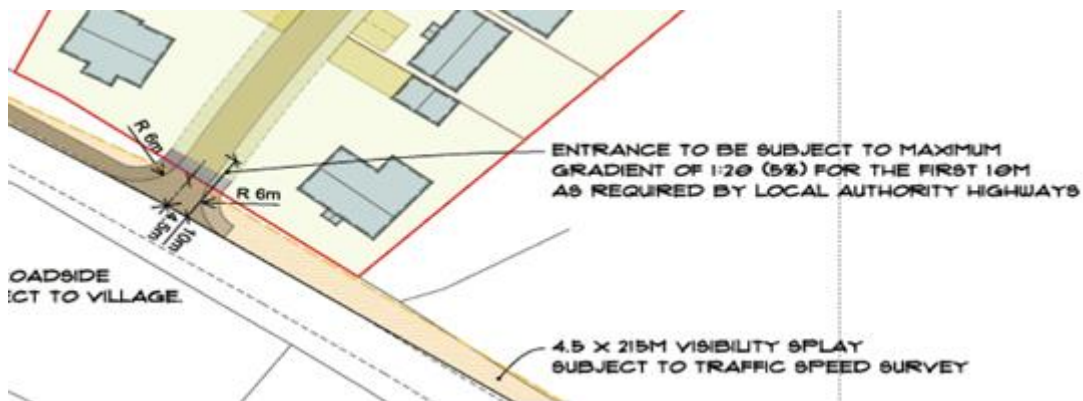
4.8 Principal Natural Environment Officer (Trees)

The pre app 171920 comments submitted by the ecological officer requested that a BS5837:2012 survey should be submitted with a full planning application.

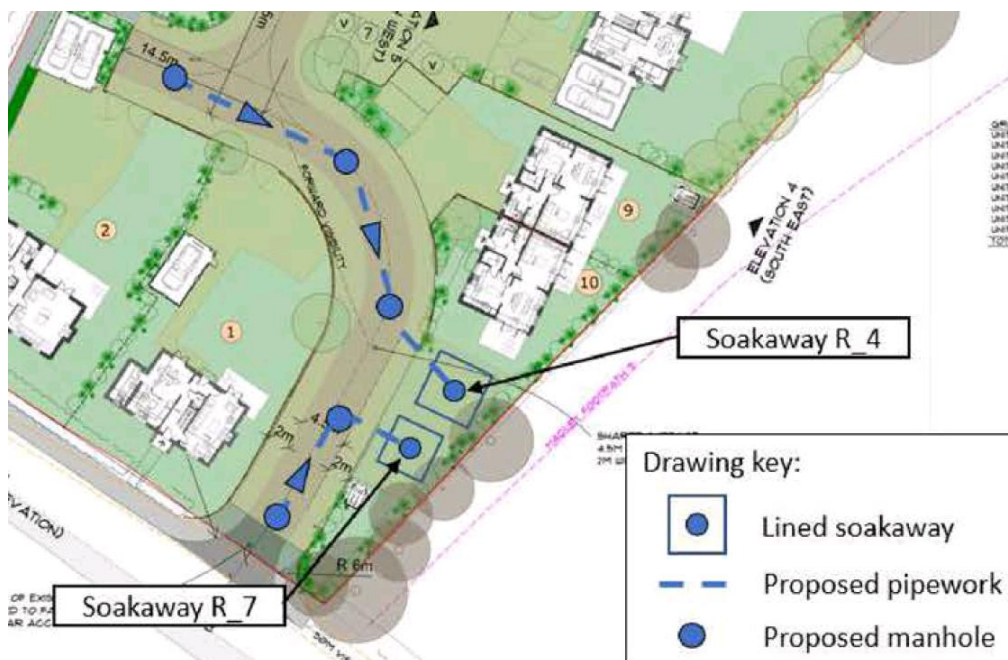
Having viewed the plans I agree that the tree report is required so that I can submit an informed comment.

Having looked at the plans I have the following comments to make which need to be considered when the tree survey is carried out.

- The southern boundary where access is intended looks to be made up of individual trees rather than a continuous hedgerow. More detail is required identifying which trees are to be removed for the access.



- The western boundary is lined intermittently by mature Poplars, their rooting area has potential to be constrained by access and plots 9 & 10.
- Similarly the proposed location of the soakaway appears to be in or close to the rooting area of the poplars.



Had the tree report been submitted with the planning application these issues could have been addressed. A well considered tree report containing the following information will be able demonstrate the viability of the proposed layout:

- Tree Survey
- Arboricultural Impact Assessment
- Tree Protection Plan
- Tree Method Statement (heads of terms)

4.8.1 Principal Natural Environment Officer (Trees) – further comments

Following a visit to the site I have the following comments regarding the proposed residential development of 10 dwellings.

The group of trees which front the site have been categorised as C in accordance with BS5837:2012, suggesting that they are of negligible quality. In my opinion this group doesn't offer significant amenity value and the proposal to remove a large quantity of them is accepted.

I would suggest that retaining 3 trees, as has been proposed, is a poor option:

The trees have established as a group and therefore rely on each other for stability and protection from high winds.

The retained trees all have asymmetrical canopies on account of growing in proximity to others and will offer poor public amenity value.

I propose that all trees are removed and replaced by either a hedge or a line of small/medium sized trees with a narrow form.

Hedge Option

This should consist of a native species such as beech or hornbeam is planted for continuity with the adjacent boundary feature.

Tree Option

The boundary could be lined with evenly spaced species such as Malus or Prunus. Examples of each are:

Malus Rudolph

Malus Tribolata

Prunus Amanogawa

Prunus x hillieri Spire.

4.9 Principal Building Conservation Officer - Support

Recommendations:

Recommend approval with conditions. The design of the proposals is appropriate for the location. Whilst there would be a change to the setting of the Townhouse, a G2 listed building, it is not felt that those elements of the setting which contribute to the significance of the building would be harmed and as such the proposals would accord with policy SS6 & LD4 of the adopted Herefordshire Core Strategy.

Conditions;

Roofing – CG4 -	A sample of the type of roofing material proposed; Treatment of gables and cappings; Treatment of verges and barge boards and so forth; And as shown on drawings to a scale of [, 1:5 ,] where necessary.
Walling – CH3	Sample Panel
Joinery – CH8	(includes roof windows)
RWP's – CI2	Rainwater goods
Cladding- CI5	Timber Cladding

Comments:

The proposals are for a courtyard development, loosely based on vernacular archetypes and with appropriate landscaping for this layout, although the restrictions on integrating the road and hammer head due to adoption of roads is noted, it is not felt that this detracts from the scheme to any great degree. The roadside buildings could be argued to be rather grand, however in terms of scale, mass and design they are appropriate for the location.

Background to Recommendations:

1178762 – Town House, Grade 2 – 30m to the West of the site. This is a C16 timber framed house with cross wings. From map regression, the area of the site was originally an orchard relating to the farmstead associated with the Town House.

1178786 – Vicarage, Grade 2 – 40m to the SW of the site.

1348768 – Church of the Nativity – Grade 1

1099780 – Barn to N of town House – Grade 2

Pre-application advice has been provided, this is précised below:

- Density and setting of the LB – the scheme is well considered and based on previous comments, however a reduction in density, especially on the roadside elevation would be appreciated. The views to and from the Town House and the appreciation site as part of the setting of the building should be a consideration.
- Garages within the courtyard – locating these elsewhere may allow the courtyard form to be better read and appreciated.
- Shared surfaces – could an open space which incorporates a turning head and parking be considered?
- Street elevation for 'barn' buildings.

- Landscaping – in terms of the setting of the LB, this area was originally orchard – could this be incorporated into the landscaping for the scheme to support and better reveal the setting of the listed building? The scheme at Dilwyn common was a good example of this sort of approach.
- Any application would need a heritage statement, we would recommend reference to the Historic England GPA's on the Setting of Heritage Assets and Decision Making for the Historic Environment.
- We would also recommend that the D&A statement includes a site analysis outlining the decision making process for the application site.
- Street scene elevations including the listed building would also be recommended.

4.9.1 Principal Building Conservation Officer – further comments

I can confirm that the heritage statement submitted is acceptable and meets the requirements of the NPPF.

4.10 Service Manager Built and Natural Environment (Archaeology)

Standard archaeological 'Programme of Work' Condition E01 / C47 or similar.

The proposal site, whilst of comparatively close proximity to the core medieval form of the village, and having a degree of sensitivity, is not considered to be problematic, archaeologically.

However, it is anticipated that some below ground remains of moderate local interest could be present here that would require recording as mitigation, were the application to be approved.

Accordingly, in line with Para 199 of the NPPF, it is advised that a suitable archaeological condition be attached to any permission, in order to secure that recording.

4.11 Team Leader Area Engineer

No objection in principle, however there are a few issues which need to be resolved before conditions and approval can be provided.

1. Please undertake a stage 1 Road Safety Audit. Brief to be submitted before audit is undertaken.
2. Move the relocated speed signs further along the B4352 (away from the centre of Madley). Gateway features have been recently installed, therefore all street furniture needs to be located away from the sites visibility splay.
3. Provide vehicle tracking for HGV's around the junction to make sure the altered kerb line can accommodate large vehicles.
4. Review the possibility of moving the solar speed sign to allow for a straighter footway to be provided.
5. Review the possibility of relocating the bus stop away from the junction, therefore this may change the location of the drop crossing.

4.11.1 Team Leader Area Engineer – amended/additional plans

Having reviewed the submitted plans please see the following comments: -

1. The plans submitted showing the new footway around the junction of the B4352 and C1196 does not seem to correspond to what is actually on site. The submitted plan does not appear to take into account the existing footway and fenced garden area. Therefore this will need to be reviewed and tracking provided with any alterations.
2. The crossing point should not be provided in front of a garage access.
3. Tactiles should be provided directly opposite each other.

4. The redesign of the footway along the B4352 should provide a straighter kerb line prevent the kerb line kicking out into the highway.
5. Please confirm the relocation of the gateway features with the speed limit.
6. The RSA stage 1 states about waiting restrictions around the junction, however the designers' comments response says "The auditors' recommendation is noted. This is dependent on the applicant being willing to fund a TRO" Please confirmed which way the applicant is viewing this comment. Please also confirm that the applicant will fund the relocation of the speed limit therefore requiring a new Speed limit TRO as well as funding a waiting restriction TRO.

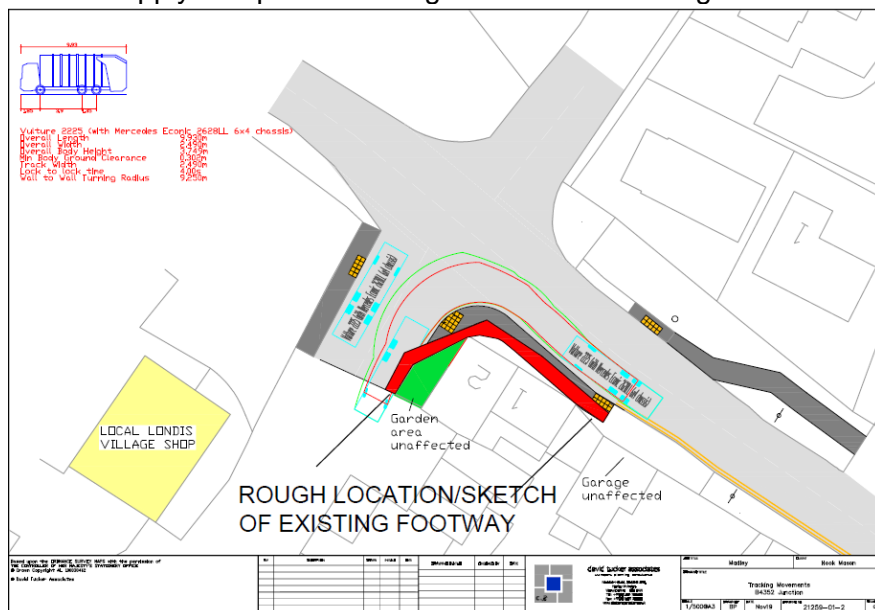
4.11.2 Team Leader Area Engineer – amended/additional plans

The submitted documentation regarding the footway at the junction has not removed the previous comments regarding the footway.

This sketch is provided to show the issue with the current junction and the proposed footway.

As shown in the sketch below, the tracking of the vehicle can not be achieved as the current/proposed layout reduces the ability of the turning vehicle.

Please supply an update drawing with vehicle tracking.



4.11.3 Team Leader Area Engineer – amended/additional plans

No objections to the proposed. A S278 agreement will be required for the works on the highways and a TRO will be required to move the speed limit out. The moving of the speed limits is required to enhance pedestrian safety to the proposed footway and crossing points on the B4352. The extension of the speed limit will also look to promote a change in the driving environment to allow for vehicles speeds to be reduced at the point where the new access is proposed therefore allowing the appropriate visibility splays.

Please condition as follows.

- CAB - Visibility Splays 90m x 2.4m
- CAE - Vehicular access construction
- CAH - Driveway gradient
- CAJ - Parking – Estates

- CAP - Highways Improvement/off site works
 1. Provisions of footway and crossing points as shown on submitted plans
 2. Extension of existing speed limit and relocation of gateway features.
- CAQ - On site roads - Submission of Details
- CAR - On site roads – phasing
- CAT - Construction Management Plan
- CAX - Direction of proposed lighting
- CB2 - Secure covered cycle parking provision

- I11 – Mud on highway
- I09 – Private apparatus within the highway
- I45 – Works within the highway
- I08 – Section 278 Agreement
- I07 – Section 38 Agreement & Drainage details
- I05 – No drainage to discharge to highway
- I49 – Design of street lighting for Section 278
- I47 – Drainage other than via highway system
- I35 – Highways Design Guide and Specification

4.12 Waste Management

The area is accessed by a 26 tonne refuse collection vehicle (RCV).

A swept path analysis should be provided to show, in principle, that the RCV can enter and exit the site in forward gear. Dimensions of the RCV:

Height: 3500mm

Width: 2250mm (2650 including mirrors)

Length: 7565mm

Please note, in the event that the roads within this development do not become adopted by Herefordshire Council:

The council will only agree to travel private roads for the purposes of waste collection if:

The council and its contractors determine that collections can be carried out safely; and

The council receive written confirmation from the landowner/developer that the roads over which the RCV will travel are built to a suitable specification for a 26 tonne vehicle to travel over on a frequent basis;

and

The council and its contractor(s) are indemnified against damage to property and general wear and tear, other than that caused through negligence.

4.12.1 Waste Management – amended plans

The tracking shows in principle that the RCV can access and turn within the development, so this is acceptable, provided the road is of a suitable construction for the RCV (see previous comments regarding unadopted roads).

4.13 Land Drainage

This response is in regard to flood risk and land drainage aspects, with information obtained from the following sources:

- Surface Water Management Plan (June 2019/L0129)
- Design and Access Statement (DB/6919)

We highlight that any planning application should be submitted in accordance with the Herefordshire SuDS Handbook and the Herefordshire Council Planning Applications Flood Risk & Drainage Checklist available on the Council's website:

https://www.herefordshire.gov.uk/info/200142/planning_services/66/about_planning_services/11

Site location and extract of flood map(s)

Figure 1: Environment Agency Flood Map for Planning (Rivers and Sea), August 2019



Development description

The Applicant proposes the construction of 10 dwellings. The site occupies an area of 0.53ha and is currently used for agricultural purposes. Site elevations vary between 80.0m AOD and 81.8m AOD and slopes from west to east.

Identifying the need for a Flood Risk Assessment

All Applicants must provide sufficient information to address the points listed below to enable an accurate assessment of flood risk and the need for a flood risk assessment to be made.

Information required	Reviewers comments
Confirmation of the site area in hectares or square metres	Site area confirmed as 0.53ha
Identification of all main rivers within 20m of the site boundary	There are not any main rivers in close proximity of the site, the nearest named watercourse to the site is the River Wye located approximately 1.8km north.
Identification of all ordinary watercourses and land drains within 20m of the site boundary	There are no known ordinary watercourses located in close proximity of the site. A brook is located approximately 300m north of the site.
Confirmation of the site's location in Flood Zone 1, Flood Zone 2 or Flood Zone 3, and taking climate change effects into account	Review of the EA's Flood Map for Planning confirms the location of the site in Flood Zone 1. The site is considered unlikely to be at risk with the effects of climate change are taken into account.
Confirmation and supporting justification of whether the site is at significant risk of flooding from other sources, including surface water flood risk or flood risk from minor watercourses with unmapped flood extents	The site is not located in an area at significant risk of surface water flooding.

Completing a Flood Risk Assessment

A Flood Risk Assessment (prepared in accordance with NPPF and EA Standing Advice) must support the planning application for any development:

- Located in Flood Zone 2 or Flood Zone 31.
- With a site area greater than 1 hectare.
- Located in an area identified to be at significant risk of flooding from other sources, including surface water flood risk or flood risk from minor watercourses with unmapped flood extents.

Review of the information summarised in Section 1 indicates that a FRA is not required to support the planning application for this development.

Surface Water Management Strategy

A surface water management strategy should be submitted that includes the following information:

- ✓ Information provided is considered sufficient
- * Information provided is not considered sufficient and further information will be required

Information required	Reviewer comments	✓ x
Strategy		
Summary of likely ground conditions including permeability and contamination risks	<p>Review of Soils Mapping shows soils to be freely draining however infiltration testing has been completed by the applicant at 3 locations within the site. The applicant concluded infiltration rates ranging between 0.0027 m/h (7.5×10^{-7} m/s) and 0.014m/h (3.9×10^{-6}) indicating lower permeability soils, although with an intention to use these rates to inform the design of the drainage system that will rely solely on infiltration to ground.</p> <p>We have completed our own review of the results of the infiltration testing. This indicates that the rates stated above are just based on the first test that was completed for each location. Subsequent tests were abandoned because no further infiltration occurred during a 17 hour period for all three locations. These results therefore indicate that infiltration is not a viable means of discharge for this site.</p> <p>We therefore recommend that an alternative strategy is provided prior to the Council granting planning permission.</p>	x

Foul Water Management Strategy

A foul water management strategy should be submitted that includes the following information:

- ✓ Information provided is considered sufficient
- * Information provided is not considered sufficient and further information will be required

Information required	Reviewers comments	✓ x
Description and illustration of the proposed foul water drainage system including location of manholes, external pipework, package treatment plants, drainage fields, pumping stations and discharge locations	No information regarding the proposed foul water drainage strategy has been provided. We recommend that this is provided prior to the Council granting planning permission.	x

Overall Comment

As discussed above, we recommend that the Council do not grant planning permission until a viable strategy for surface water and foul water drainage has been provided.

We stress that this should be in accordance with the Herefordshire SuDS Handbook and the Herefordshire Council Planning Applications Flood Risk & Drainage Checklist available on the Council's website:

https://www.herefordshire.gov.uk/info/200142/planning_services/66/about_planning_services/11

4.13.1 Land Drainage – additional information

This response is in regard to flood risk and land drainage aspects, with information obtained from the following sources:

- Surface Water Management Plan (November 2019/L0129)
- Design and Access Statement (DB/6919)

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

Previous comments were made on 20th August 2019 based on a limited amount of information for Flood Risk and Drainage. These comments suggested consideration of an alternative solution to infiltration be examined and that a foul strategy be provided.

We highlight that any planning application should be submitted in accordance with the Herefordshire SuDS Handbook and the Herefordshire Council Planning Applications Flood Risk & Drainage Checklist available on the Council's website: https://www.herefordshire.gov.uk/info/200142/planning_services/66/about_planning_services/11

Surface Water Management Strategy

A surface water management strategy should be submitted that includes the following information:

- ✓ Information provided is considered sufficient
- * Information provided is not considered sufficient and further information will be required

Information required	Reviewer comments	✓ *
Strategy		
Summary of likely ground conditions including permeability and contamination risks	<p>Previously submitted results indicated that infiltration is not a viable means of discharge for this site.</p> <p>Our previous response of 20/8/19 suggested that an alternative means of water disposal other than infiltration be considered.</p> <hr/> <p>The applicant has carried out further infiltration testing in November 2019</p> <p>The tests in two of the trial pits indicate permeability rates averaging 0.025m/hr (6.79x10⁻⁶ m/s) and 0.032m/hr (8.88x10⁻⁶ m/s). The report states the third trial pit, TP4, was abandoned as the test failed.</p> <p>These results show that permeability in the soil is varied but potentially feasible for the proposed infiltration basin location. However, the results are at the lower end of what is usually considered feasible and it is not clear if the two successful tests are at the exact location of the proposed infiltration basin. Given the variability of the soils as indicated by the failed tests, we recommend that prior to the Council granting planning permission the applicant either confirms that the tests were completed at the exact location <u>and depth</u> of the proposed basin, or that further tests at the exact location <u>and depth</u> of the proposed infiltration basin are undertaken in accordance with BRE365.</p> <p>We note that the access road is proposed to be discharged via a separate soakaway structure, indicated to be 2.5m deep. Prior to the Council granting planning permission we recommend that the applicant undertakes infiltration testing in accordance with BRE365 at the location <u>and depth</u> of this proposed soakaway. We also recommend that the applicant confirms that the base of the soakaways will be a minimum of 1m above groundwater levels.</p>	*
Confirmation of whether the site is located in a Source Protection Zone or Principal Aquifer	The site is not located in a SPZ or Principal Aquifer.	✓

Summary and illustration of the proposed surface water drainage system including location of SuDS features, manholes, external pipework, attenuation features, pumping stations (if required) and discharge locations	The applicant proposes to drain the majority of the development to an infiltration basin in the adjacent field and the impermeable area of the access road to two ring soakaways that are stated to be 2.5m deep. Whilst we agree with the strategy in principle, as discussed above we recommend that the applicant confirms infiltration potential and depth to the groundwater level at these locations. The impermeable surface areas from the dwellings will be conveyed to the infiltration basin via a swale. Whilst we agree with the strategy in principle, it is currently not clear from the information provided if an appropriate gravity connection between the site and infiltration basin can be achieved without pushing the invert level of the swale and pond down to an impractical level. Prior to the Council granting planning permission we recommend that the applicant provides indicative levels for the swale in addition to any plan dimensions to demonstrate the feasibility and practicality of the proposals.	✘
Demonstration that the SuDS hierarchy has been considered in accordance with NPPF and justification for the proposed method of surface water discharge	The submitted drainage reports demonstrates that the SUDS hierarchy has been considered in accordance with NPPF.	✓

Information required	Reviewer comments	✓ ✘
Confirmation that the system will be designed to prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event with supporting preliminary calculations	The report states that the proposed drainage infrastructure will be designed to ensure no flooding offsite for the 1 in 30 and 1 in 100 year event with 40% climate change allowance. <u>We recommend that detailed calculations to demonstrate no surcharging for the 1 in 2 year event and no flooding from the system for the 1 in 30 year event be submitted to the Council for approval as part of a suitably worded planning condition.</u>	✓ (with note)
Infiltration systems		
For infiltration to ground, detailed calculations of proposed soakaway and attenuation sizing demonstrating sufficient space within the site to ensure no increased flood risk up to the 1 in 100 year event and allowing for climate change effects	The report does contain calculations for the infiltration features. The correct rainfall parameters have been assigned however no plans showing that the soakaways and infiltration basin can be accommodated within the development boundary have been submitted. We note that the location of the proposed infiltration basin is located outside the proposed development boundary although understood to be on land owned by the applicant. Prior to the Council granting planning permission we recommend that Council clarifies that this approach is acceptable.	✘
Pollution		
Confirmation of the proposed methods of treating surface water runoff to ensure no risk of pollution is introduced to groundwater or watercourses both locally and downstream of the site, especially from proposed parking and vehicular areas	The strategy proposes a swale, gullies, infiltration basin and ring soakaways to drain the development. This is acceptable in principle for a development of this size, however as discussed above the applicant is required to demonstrate that the base of any infiltration structure is located a minimum of 1m above groundwater levels as this will also assist in managing pollution risks to underlying groundwater resources.	✓ (with note)

Exceedance		
Description and drawing demonstrating the management of surface water runoff during events that may exceed the capacity of the drainage system, including temporary exceedance of gullies, up to the 1 in 100 annual probability event with climate change (including assessment of where water is likely to emerge) and noting that surface water should be retained within the site boundary and not pose risk to the development	There is limited information regarding where water will be safely conveyed and stored during events that exceed the capacity of the system. <u>Given the size of this site this is not considered to pose a significant risk or constraint, however information regarding exceedance routes and storage areas will need to be provided for approval prior to construction as part of a suitably worded planning condition.</u>	✓ (with note)
Access, adoption and maintenance		
If access or works to third party land is required, details of these works and agreement in principle with necessary landowners/consenting authorities to cross third party land and/or make a connection to the proposed watercourse/sewer	The report states that the land to the east of the site is owned by the client and therefore crossing third party land is not deemed to be required.	✓

Information required	Reviewer comments	✓ ✘
Confirmation of agreement in principle of proposed adoption and maintenance arrangements for the surface water drainage system	The report states that the infiltration basin will be a shared asset for the development and jointly owned and maintained by the various households. As outlined in our SuDS Handbook, all shared assets need to be jointly owned by the respective homeowners. The land on which the infiltration pond is sited will need to be listed on Land Registry records as jointly owned by all of the home owners. A management company will need to be appointed to manage the surface water drainage network and complete maintenance work on the infiltration basin. If the pipework crosses land that is not transferred to the homeowners then a wayleave agreement will be needed to facilitate future maintenance.	✘
Demonstration that appropriate access is available to maintain SuDS features (including pumping stations)	It is unclear how access to the infiltration basin will be provided, noting that this is in the field adjacent to the proposed development site. Prior to the Council granting planning permission, we recommend that the applicant clarifies how suitable arrangements for the future maintenance of all drainage features will be provided.	✘

Foul Water Management Strategy

A foul water management strategy should be submitted that includes the following information:

✓ Information provided is considered sufficient

✘ Information provided is not considered sufficient and further information will be required

Information required	Reviewers comments	✓ x
Description and illustration of the proposed foul water drainage system including location of manholes, external pipework, package treatment plants, drainage fields, pumping stations and discharge locations	The applicant has not provided a detailed strategy for the site however correspondence with Welsh Water confirms that there is a foul water network approximately 107m west of the site that would be suitable to receive foul water discharge. The applicant also discusses opportunities for infiltration of foul water within the field to the east of the site, stating that infiltration testing demonstrates a suitable Vp. We recommend that discharge to the Welsh Water network is promoted in favour of infiltration to ground. <u>The information is acceptable for planning, although a detailed drainage strategy and supporting calculations will be required to support the discharge of conditions.</u>	✓ (with note)
Discharge to sewerage network		
Demonstration that the suitability and capacity of the public sewerage system has been explored in consultation with the relevant authority, and that a viable connection can be made	DCWW has confirmed that there is sufficient capacity in the public sewage system. We recommend that discharge to the Welsh Water network is promoted in favour of infiltration to ground.	✓
Access, adoption and maintenance		

Information required	Reviewers comments	✓ x
If access or works to third party land is required, details of these works and agreement in principal with necessary landowners/consenting authorities to cross third party land and/or make a connection to the proposed watercourse/sewer	It is understood that access to third party land will not be required.	✓
Confirmation of agreement in principle of proposed adoption and maintenance arrangements for the foul water drainage system	Confirmation of adoption by Welsh Water has been agreed, assuming that this method of disposal is promoted in favour of infiltration to ground.	✓
Demonstration that appropriate access is available to maintain drainage features (including pumping stations)	Access to drainage features is deemed likely to be available if discharge to the Welsh Water network is promoted. If infiltration to ground is instead taken forward, the applicant must demonstrate how maintenance access will be achieved.	✓

Overall Comment

Whilst we agree with the proposed surface water drainage strategy in principle, we recommend that the following information is submitted prior to the Council granting planning permission:

- Confirmation of the location of the proposed infiltration basin and confirmation that the infiltration tests were completed at the exact location and depth of the proposed basin, or alternative provision of further tests at the exact location and depth of the proposed infiltration basin.
- Infiltration testing undertaken in accordance with BRE365 at the location and depth of the proposed soakaways serving the access road, and confirmation that the base of the soakaway will be a minimum of 1m above groundwater levels.
- Confirmation of likely invert levels of the proposed swale and infiltration basin to demonstrate that a viable gravity connection can be made without pushing the invert level of the swale and pond down to an impractical level.

- Clarifies of how suitable access arrangements for the future maintenance of all drainage features will be provided.

We also highlight that the location of the proposed infiltration basin is located outside the proposed development boundary although understood to be on land owned by the applicant. Prior to the Council granting planning permission we recommend that Council clarifies that this approach is acceptable.

Should the Council be minded to grant planning permission, we recommend that the Applicant submits the information requested above along with the following information within any subsequent application to discharge conditions:

- Detailed plans and section drawings of the proposed surface water infiltration features including basins, swales, pipework connections etc.
- BRE365 testing is undertaken at the location and depth of all infiltration features.
- Calculations for the final design to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event and will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event. FEH2013 rainfall data is expected.
- Calculations for the final design that demonstrates there will be no increased risk of flooding as a result of development between the 1 in 1 year event and up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH2013 rainfall data is expected.
- Details of exceedance flow routes and storage areas within the proposed site.
- Proposals for adoption and maintenance access for all SuDS features with particular regard to the proposed infiltration basin.
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features and connection to the Welsh Water network, if applicable.
- If a connection to a public foul sewer is not considered feasible, the applicant will be required to complete a Foul Drainage Assessment (FDA) Form and submit this as part of any forthcoming planning application. The FDA Form can be found on the GOV.UK website at this link:
<https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>.
- If infiltration to ground is proposed for the foul drainage, infiltration rates at the location(s) and proposed depth(s) of any proposed drainage fields, undertaken in accordance with BS6297 and Building Regulations Part H.
- Detailed plans and section drawings of any proposed foul water drainage field, along with maintenance access for all foul drainage features.
- Details of adoption and maintenance arrangements for all parts of the foul drainage system.
- Operational and maintenance manual for all proposed foul drainage features that are to be adopted and maintained by a third party management company.

4.13.2 Land Drainage – further information

This response is in regard to flood risk and land drainage aspects, with information obtained from the following sources:

- Surface Water Management Plan (April 2020/L0129)
- Design and Access Statement (DB/6919)

Previous comments were made in February 2020 recommending that the applicant undertake further infiltration tests at the location and depth of the proposed soakaway serving the access road, and confirmation that the base of the soakaway will be a minimum of 1m above groundwater levels.

We highlight that any planning application should be submitted in accordance with the Herefordshire SuDS Handbook and the Herefordshire Council Planning Applications Flood Risk & Drainage Checklist available on the Council's website:

https://www.herefordshire.gov.uk/info/200142/planning_services/66/about_planning_services/11

Our previous response in February 2020 recommended confirmation that the tests were undertaken at the location and depth of the proposed soakaways, whilst also confirming that the proposed soakaways are at least 1m above the groundwater levels.

The applicant has undertaken further trial pits TP8 and TP9 on the 4th March 2020 in the adjacent field to confirm depth of groundwater and infiltration rates. The location of the trial pits were not taken at the location of the proposed soakaways, however ground conditions are assumed to be similar and OS Mapping / mapped contours indicates the ground levels to be similar to that of the proposed soakaway location. TP8 was dug to a depth of 2.5m bgl and showed infiltration rates ranging from 1.89×10^{-5} m/s to 1.69×10^{-5} m/s, therefore confirming good permeability within the soil below the soakaways. TP9 was dug to a depth of 3.5m bgl and encountered no groundwater, therefore indicating that the soakaways will remain 1m above groundwater. We therefore approve of the applicant's information and can confirm that the soakaways proposed on site are deemed to be suitable for the surface water design.

Overall Comment

We believe that the applicant has provided suitable information to demonstrating a feasible surface water drainage design for the site.

Should the Council be minded to grant planning permission, we recommend that the Applicant submit the following information within any subsequent application to discharge conditions:

- Detailed plans and section drawings of the proposed surface water infiltration features including basins, swales, pipework connections etc.
- BRE365 testing is undertaken at the location and depth of all infiltration features.
- Calculations for the final design to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event and will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event. FEH2013 rainfall data is expected.
- Calculations for the final design that demonstrates the drainage system will provide sufficient attenuation for up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH2013 rainfall data is expected.
- Details of exceedance flow routes and storage areas within the proposed site.
- Proposals for adoption and maintenance access for all SuDS features with particular regard to the proposed infiltration basin.
- A detailed foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features and connection to the Welsh Water network, if applicable.
- If a connection to a public foul sewer is not considered feasible, the applicant will be required to complete a Foul Drainage Assessment (FDA) Form and submit this as part of any forthcoming planning application.
The FDA Form can be found on the GOV.UK website at this link:
<https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>.
- If infiltration to ground is proposed for the foul drainage, infiltration rates at the location(s) and proposed depth(s) of any proposed drainage fields, undertaken in accordance with BS6297 and Building Regulations Part H.
- Detailed plans and section drawings of any proposed foul water drainage field, along with maintenance access for all foul drainage features.
- Details of adoption and maintenance arrangements for all parts of the foul drainage system.

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

- Operational and maintenance manual for all proposed foul drainage features that are to be adopted and maintained by a third party management company.

5. Representations

The submission has been amended and the representations received in relation to both are reported below.

5.1 Parish Council

Madley Parish Council considered planning application 192672 when they met on the 9th September 2019. Councillors listened carefully to representations made by residents at the meeting especially around issues such as the Madley NDP, impact on listed buildings, ecological considerations and the design and appearance of the proposed dwellings.

With regards to the NDP the Parish Council concluded that, as it was currently in draft having just completed the Regulation 14 consultation, it could be not considered material to the scrutiny of the planning application.

There was discussion on the ecological issues where residents strongly disputed the findings of the report commissioned by the developers. The Parish Council did not consider they could arbitrate on this issue and recommended that further independent work should be undertaken.

With regards to the design and appearance of the proposed dwellings Councillors were of the view that the “look and feel” would be consistent with the preferences expressed by residents as part of the NDP process. The range and type of the proposed dwellings was also discussed and Councillors acknowledged there is a good mix of housing with a particular focus on two- and three-bedroom properties. Again, this is consistent with the preferences expressed by the residents in the context of the NDP.

The Parish Council acknowledged that the proposed development would be in close proximity to listed buildings in the village and this should be afforded further attention by the planning authority.

On balance, the Parish Council were minded to support the planning application subject to the following conditions. Firstly, further work should be undertaken to examine the ecological impact of the proposed development. Other conditions include the relocation of the 30 mph signs to a position further from the entrance to the development plus a clear commitment to providing roundels on the B4352 adjacent to the 30 mph signs. Further, the Parish Council would insist that the village gates be relocated along with the 30mph signs and that this relocation not be at any expense to Madley Parish Council.

Finally, the Parish Council would urge the developers to interact closely with residents should the planning application be approved by the LPA.

5.1.1 Parish Council (17.8.2020)

Madley Parish Councillors have had the opportunity to consider planning re-consultation 192672 and remain content to support the proposals set out in the updated documentation.

5.1.2 Parish Council (15.12.2020)

Madley Parish Council have considered Planning Re-Consultation 192672 and have no further comments to add to those submitted on the 10th September 2019.

5.2 Representations have been received both objecting to and supporting the application. Of these there have been 13 objectors (some objectors made more than one representation) and 3 were in support (some supporters made more than one representation). In summary these raised the following points:

Objection

Emerging draft Madley Neighbourhood Development Plan

- Application site was not put forward in the 'call for sites' for the Madley NDP (April 2017), so has bypassed the NDP site selection process
- Preferred site, to the west of the village (west of Archenfield), was unanimously supported by the Parish Council and is included in the dMNDP for 22 dwellings
- Preferred site is owned by the Duchy of Cornwall and Prince's Trust and they were involved in a two day community event/workshop, resulting in the Madley Housing Manual
- Preferred site is adjacent to existing built areas, can gain access via Forty Farm Road to the B4352 and is in the 30mph limit
- dMNDP would meet housing growth required (89 dwellings required, delivery of 94 proposed)
- the site lies outside of the settlement boundary in the dMNDP, so is in the countryside and should not be considered for development until 2031
- to ignore the dMNDP is a waste of taxpayers money and time
- justifiable to refuse permission on the grounds of prematurity

Access

- proposed access is onto a potentially hazardous section of road due to speeds at its busiest point
- proposed access is outside of the 30mph limit
- vehicles accelerate out of the village towards the Comet Inn/Stoney Street
- potential to increase the number of road traffic accidents
- walking along the road is terrifying
- most cars do not adhere to the speed limit
- long term strategy regarding traffic flow through the village needed, following 'pause and review' of bypass and increase in usage in recent years
- proposed relocation of village gates, speed restrictions and relocating bus stop without consultation with local residents
- danger from speeding traffic to pedestrians crossing the road, at the crossroads, to join the proposed new footpath
- moving the speed limit will not have any impact through the village and with extra pedestrians this is an accident waiting to happen
- purpose of footpath to the northwest boundary of the site is unknown, as it does not link to the PRoW to the west. There is no right of access and one will not be permitted. The plans should be amended accordingly

Heritage Assets

- Town House and adjacent brick built barn are Grade II listed, proposed development would be harmful to their unique location and heritage as they would be surrounded by development and not visible from the road
- Harmful Impact on listed buildings from views from the east (Town House and attached outbuilding, barn to the north of Town House, Vicarage and Church – all Grade II listed, except the latter which is Grade I)
- Listed buildings should retain their significant status and be preserved for future generations
- Development would be harmful to Madley's historic ambience and devalue its most impressive dwelling (Town House)
- Proposal would undermine our historic environment and be an act of cultural vandalism
- Modern housing development is not in keeping with their aesthetics, character or historical status
- Proposal is contrary to the NPPF, CS and dMNDP with regards protection of heritage assets
- Historic Buildings Officer's comments refer to Listed Building in the singular – there are 3 listed buildings (Town House and barn and 5 Town House Court) directly affected and 4 others nearby (3 & 4 Town House Court, Vicarage and Church) – comments should be re-evaluated
- Imagery use is incorrect, pre-dated the work undertaken in 2012 to the original farm buildings (now 6 dwellings – 3 listed and 3 not)

- A paper study does not provide a true assessment
- Heritage Impact Assessment omits Grade II listed barn at Town House

Wildlife

- Greenfield site is a haven for a range of wildlife
- Wild meadow and hedgerows and trees should be protected
- Great Crested Newts (GCN) (medium sized breeding population) in pond adjacent to the site (at Town House) – this was missed in the applicant's Ecology Report
- Application site provides adjacent grassed area for GCNs to traverse to other ponds
- GCN rely on the site in non-breeding season
- Development is likely to negatively affect a protected species, so a comprehensive survey is required by a qualified and licenced ecologist at the appropriate time of year
- Under NPPF para 175 if significant harm to biodiversity would result and cannot be avoided through locating on an alternative site with less harmful impacts, adequately mitigates or lastly compensated for then permission should be refused. The Archenfield site provides a less harmful alternative
- Catastrophic effect on protected species – GCN, barn owls and bats (three species) and bumble bees and insects
- Contrary to CS policy LD2
- Ecology Surveys are insufficient (one daylight visit at the wrong time of year) and give misleading information
- Owners of Town House provided their own Ecology Report highlighting anomalies, inaccuracies and inconsistencies in the applicant's submission including:
 - that their report should not be used to support/inform a planning application because it is not an appropriate level of survey for that purpose
 - a licence was required from Natural England and would not be granted without at full GCN survey including a population class assessment (12 visits)
 - failure to originally identify all nearby ponds
 - requirement to fence and trap GCNs outside of the site under licence not required if they have been removed
 - confirmation that no work will be carried out that disturbs potential newt hibernation (November to March), but then stated excavations will be done in the hibernation period

The report advises that:

- a full impact assessment for GCNs is required, population may be 'large'
- no obvious receptor site for any captured GCN – Natural England will not accept a licence application without that information
- development would remove only good habitat for GCN in the immediate vicinity and this could cause loss of the population (most GCN remain within 50-100m of their breeding pond)
- regardless of population size a single hibernaculum as compensation is completely inadequate, due to size and inability to perform the same function. Natural England do not usually consider gardens as adequate replacement habitat for GCN
- submitted method statement, as written, does not provide enough information to allow the LA to determine if the mitigation hierarchy has been followed
- nothing in CS policy or the NPPF that preclude a grant of planning permission with conditions, however it has not been established if significant harm can be avoided or that favourable conservation status can be maintained
- submitted Method Statement does not represent a comprehensive evaluation, nor does it recognise that there a survey and associated impact assessment will be needed. There is inadequate mitigation/compensation for the likely impact and it does not demonstrate that Favourable Conservation Status can be maintained
- a Method Statement should provide sufficient certainty to allow the application to be determined and enable a licence application to Natural England

Landscape

- Development will ruin the view of the village from the east
- Large number of dwellings/housing estate extending into the eastern rural setting of the village
- Harmful to the setting of the village
- Replacement of trees/hedgerow along frontage with modern housing would be diabolical

Other

- Contrary to Design and Access Statement the Parish Council passed no comment on the applicant's presentation to them (18.5.2019).
- No more houses are required, as the dMNDP allocates enough to meet the target
- dMNDP is a document to be referred to in decision making
- unnecessary loss of unimproved grassland, shrubs and trees
- quality of life is more important than fulfilling targets and grasping money
- children look to us to guard their future, as custodians of the planet for future generations
- site address on application form and documents is misleading – the land does not belong or relate to the Town House and the application is not made by the owners
- land is not arable as stated, it has been grazed and used as an orchard for some years
- permission can be refused on the grounds that information was insufficient to accurately describe the nature and anticipated impacts
- planning process relies on people acting in good faith, with an expectation that the submitted information is true and accurate – LPA are entitled to request amended or rectified submissions
- submission of inaccurate and misleading information means that the application cannot be objectively considered
- school is already oversubscribed

Support

Emerging draft Madley Neighbourhood Development Plan

- the dMNDP is not a 'done deal' – results of serious analysis is required
- the dMNDP does require additional development through windfall sites
- landowners of the proposed dMNDP site have shown no interest in applying for permission – obvious defects making approval unlikely
- understand that the Duchy has received sever censure for such ventures outside the perceived ethos of the organisation
- housing proposals to meet village's requirements are too restrictive and the arbitrary boundary around the 'built area' reinforced the impending problems
- Faraday House site (181921) is a long way beyond the target for the reserved matters (August 2019) implying major problems with site access and surface water
- Some 59 dwellings (2/3rds) of Madley's commitments to 2031 cannot be considered anything more than 'possibles'
- dMNDP aspirations should be about providing local housing needs as soon as possible

Access

- Wholly beneficial application – central to the village, walking distance of facilities
- Proximity to facilities reduces the need for car use

Heritage Assets

- Town House and Town House Court are not visible from the B4352 at Woodyatts Lane access, and views of the church are limited.

Wildlife

- Same concerns about the impact on wildlife and trees etc. expressed by the objectors in relation to this site equally apply to the Archenfield Road site
- If a single night survey shows the presence of a large number of GCN how can they be described as an endangered species?

- Other ponds are presumably equally overstocked with GCNs
- Presence of GCNs off site can surely not be a serious impediment to approval of the proposed development
- Objections relating to impact on owls come from residents of adjacent barn conversions – one of the greatest threats to barn owls

Landscape

- Development needed to the centre and east of the village to avoid sprawl to the west
- Uses poor quality agricultural land
- Suitable planting along the frontage will be part of the reserved matters

Other

- Small developments gradually enhance Madley rather than overloading infrastructure (as is happening in Clehonger and Kingstone against local wishes)
- Thriving village will benefit from a range of housing options
- If refused an appeal could follow, resulting in more cost to tax-payers
- Objections are short term attempts to defy permission for development meeting the approval, subject to appropriate conditions, of professional bodies and Madley Parish Council.
- Application should be considered on its merits, with limited reference to arbitrary boundaries
- Confusion over time period for comments

5.3 Following submission of the Great Crested Newt Survey and Report 2 further representations were received. In summary these make the following additional points:

- Ecology Report notes that there will be a '*notional reduction of habitat suitability of the part of the site which will become domestic gardens*' meaning there is likely to be a loss of the newt population
- Newts would have to cross an unpaved track (in frequent use as the main access for farm machinery etc. to the fields – day and night during harvesting) and a large concrete area to reach the proposed hibernacula – these are dispersal barriers
- Survey effort is acceptable and conclusions reasonable (despite some lack of certainty on methods used in survey)
- Receptor site is separated from the pond by development, which may make movement harder – as gardens are proposed nearest to the pond it should not preclude GCN movement
- Would expect a new pond as compensation on the receptor site – Ecology Report states that it is unlikely to be unsuccessful, but it is unclear why
- Receptor site is currently under arable cultivation, which is not suitable habitat for GCN. Section E3.2 refer to grassland management, but is arable there is not grassland to manage
- Grassland and scrub should be created prior to GCN translocation
- Siting development on the arable field would be preferable in GCN impact terms
- Proposed GCN compensation land has less ecological and heritage asset impacts
- Better sites identified for housing growth
- Reduced density should be considered – with development to the eastern side and a belt of the greenfield site left for wildlife to the west, to include the hibernacula – better for ecology and the setting of heritage assets
- Confirm that No.5 Town House Court is a curtilage listed building, which is afforded the same protection as listed buildings

5.4 Following submission of the Great Crested Newt Mitigation Proposals a further objection from the neighbours and an additional general comment have been received. In summary these make the following additional points:

Objection:

- Applicant's ecologist did not identify the breeding pond on our land initially
- Council's Ecologist's comments (6.8.2020 sic) recommend amendments to the proposed mitigation and advises that it needs to be considered if it satisfies the three tests (for Licence applications) – Council Ecologist is not entirely confident that the third test would be met

- Applicant's ecologist only considers the third test – we consider all three tests relate to ecology, contrary to their assertion
- No beneficial consequences of primary importance of the environment are achieved
- There are 'satisfactory alternatives' – the dMNDP allocated site
- The site is outside of the settlement boundary defined in the dMNDP, which has been confirmed by the Examiner
- Settlement boundary was set to ensure no further development, thereby safeguarding Madley until at least 2031
- If planning permission is granted it will be '*detrimental to the maintenance of the populations of the species concerned*' and result in considerable harm if not total loss of the GCN
- Mitigation remains unacceptable – GCN would have to traverse gardens and either cross a concrete area or farm track and make a 90 degree turn alongside the farm buildings to reach safety
- Agree with the Council's Ecologist comments (6.8.2020 sic) – GCN are unlikely to make this
- Applicant's Ecologist asserts that the receptor site is only separated from the development site by a narrow, unmetalled and heavily vegetated farm track, which is used very little
- Proposed pond to the north of the receptor and compensation site and a 5m displaced field boundary to enlarge the dispersal route are not a satisfactory solution for the GCN population
- Long term protection (20 years – as per the Council's Ecologist's comments) of the habitat enhancement for the receptor site is vital
- Council's Ecologist agreed with Swift Ecology's comments (acting for the neighbour) regarding the receptor site – isolation from the breeding pond, by concrete road and yard
- The intervening track is well used, to the best of our knowledge by farm vehicles
- Proposals would not protect the GCN

General Comment:

- dMNDP has not yet reached final approval by electorate and should not be pre-empted by this application
- Madley PC, acting in the interests of the wider population of Madly, have twice expressed support of this application, which in many ways has great merit for sensible village development
- whether the site is outside of the settlement boundary depends on the outcome of the referendum
- land to the west of the village cannot be considered as a 'satisfactory alternative' until it has been rigorously tested by the submission and grant of planning permission
- owner of the allocated site (Duchy of Cornwall) has shown no indication of pursuing an application
- expect there to be a large community of newts at the pond and watercourse near to the allocation site

5.5 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=192672&search=192672

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."

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework (NPPF) 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 CS was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the CS was made on 9 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.
- 6.3 The site falls within the Madley Neighbourhood Area, where following a draft Regulation 16 Neighbourhood Development Plan (dMNDP) submission and subsequent consultation (18 December 2019 to 12 February 2020) it was sent for examination (25 February 2020). The Examiner’s Report was received on 3 September 2020. The Report confirms that it not necessary to recommend any modifications, a fact which the Examiner notes is unusual, even in the context of examining over 100 NDPs.
- 6.4 The dMNDP is a material planning consideration, but does not yet form part of the Development Plan. This is because it has not been the subject of a successful referendum. Consequently, the weight that can be afforded to it, as an ‘emerging’ plan, is to be determined by applying the criteria set out in paragraph 48 of the NPPF. This states as follows:

Local planning authorities may give weight to relevant policies in emerging plans according to:

- 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)*

- 6.5 Taking the criteria set out in paragraph 48 of the NPPF in turn:
- a) the Examiner’s Report has been received and the dMNDP awaits referendum
 - b) following the Examiner’s Report there are no longer any outstanding objections (from the applicant to the exclusion of the site from the settlement boundary or to the proposed ‘allocated site,’ or from other parties).
 - c) the Examiner has confirmed that the dMNDP meets the basic conditions and is in general conformity the NPPF.

As a result, at this time, the policies in the dMNDP can be afforded significant weight. This is because there has been an independent assessment (examination and report), which concludes that no modifications are required to the dMNDP, such that there are no unresolved objections left remaining (including from the applicant’s agent with regards this specific site and the allocated site), and it has been found to meet all the basic conditions and other matters that the Examiner is obliged to examine.

- 6.6 The applicant’s objections to both the regulation 14 and 16 drafts of the dMNDP are noted. The Consultation Statement (dated October 2019) includes the responses to the regulation 14 representations and is published with the regulation 16 submission. The Steering Group’s response at that time was ‘*This site has not hitherto featured in the NDP process and is currently the subject of a planning application (P192672/F, proposed residential development of 10 dwellings) which the Parish Council has conditionally supported. If approved, these units will contribute to the NDP’s windfall allowance.*’ No change is proposed to the settlement boundary.

The Examiner has not required modification of the settlement boundary to accommodate the application site. The Parish Council's latest consultation response (17 August 2020) was that they remained content to support the proposal.

- 6.7 To confirm, as per the statutory requirement, the starting point is the Development Plan, which in this case is currently the CS. The dMNDP is an important material consideration that should be afforded significant weight. Typically, after receipt of an Examiner's Report with no modifications required the dMNDP would progress straight to referendum, however due to legal restrictions resulting from the current pandemic, the date of the referendum will be confirmed in the future. It is not until there has been a positive referendum vote (50% plus 1, with no minimum turnout required, therefore requiring a majority vote of those voting) that the dMNDP would be apportioned full weight and once the LPA confirms its adoption it becomes a 'made' plan and part of the Development Plan.
- 6.8 At the present time Regulations linked to the Coronavirus Act 2020 mean that no elections or referendums can take place until 6 May 2021. This includes neighbourhood planning referendums. Government advice states that these provisions will be kept under review and may be amended or revoked in response to changing circumstances. The Coronavirus (COVID-19): planning update (13.5.2020) confirms that updated planning guidance (7 April 2020) set out that neighbourhood plans awaiting referendums can be given significant weight in decision-making.
- 6.9 The NPPF is also a significant material consideration. It sets out national guidance and policy on, amongst other things, the Government's objective to significantly boost the supply of homes, whilst also setting out the considerations for the impacts arising from development.
- 6.10 The starting point for assessing the application is the Development Plan, in this case the CS. The CS underpins the importance of maintaining a supply of housing land with Policy SS1 echoing the positive presumption, SS2 setting out the spatial strategy insofar as housing delivery is concerned and SS3 setting out the measures that might be promoted where housing completions are below the required level.
- 6.11 With regards housing delivery in the rural areas outside of Hereford and the market towns, the CS promotes sustainable growth. Policy RA1 of the CS identifies that Herefordshire Rural areas will need to find a minimum of 5,300 new dwellings between 2011 and 2031 to contribute towards the county's housing needs. These new dwellings will be broadly distributed across the seven Housing Market Areas (HMAs) and are to maintain and strengthen locally sustainable communities. Madley lies within the Hereford HMA and is listed as being one of the '*settlements which will be the main focus of proportionate housing development*' (figure 4.14). This seeks an 18% minimum growth target over the plan period across the HMA, which for Madley equates to a minimum of 89 dwellings between 2011 and 2031.
- 6.12 CS policy RA2 sets out the criteria for considering applications for housing growth in figure 4.14 and 4.15 settlements and states:-

"The minimum growth target in each rural Housing Market Area will be used to inform the level of housing development to be delivered in the various settlements set out in Figures 4.14 and 4.15. Neighbourhood Development Plans will allocate land for new housing or otherwise demonstrate delivery to provide levels of housing to meet the various targets.

Housing proposals will be permitted where the following criteria are met:

- 1. Their design and layout should reflect the size, role and function of each settlement and be located within or adjacent to the main built up area. In relation to smaller settlements identified in fig 4.15 proposals will be expected to demonstrate particular attention to the form, layout, character and setting of the site and its location in that settlement; and/or*

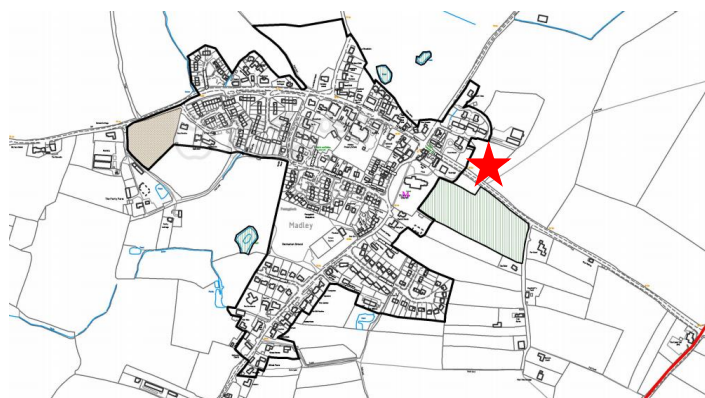
they result in development that contributes to or is essential to the social well-being of the settlement concerned;

2. *Their locations make best and full use of suitable brownfield sites wherever possible;*
3. *They result in the development of high quality, sustainable schemes which are appropriate to their context and make a positive contribution to the surrounding environment and its landscape setting; and*
4. *They result in the delivery of schemes that generate the size, type, tenure and range of housing that is required in particular settlement, reflecting local demand.*

Specific proposals for the delivery of local need housing will be particularly supported where they meet an identified need and their long-term retention as local needs housing is secured as such.”

6.13 Both the policy and pre-ample specify the need for the site to be located within or adjacent to the main built up area. Where appropriate, settlement boundaries (or a reasonable alternative) for those settlements listed in Policy RA2 will be defined in either NDPs or the Rural Areas Sites Allocation DPD. The application site lies adjacent to the Town House and its curtilage buildings. The Vicarage is situated on the opposite side of the road to the Town House and is the most easterly lying dwelling in the village. Presently these buildings demark the eastern fringe of the village, albeit that the Town House is largely obscured from public view on the B4352 by existing vegetation. Accordingly it is considered that the application site is adjacent to the main built up area.

6.14 The dMNDP identifies a settlement boundary for Madley village and the application site lies outside, but abuts it (figure 1 below - the site is demarked by the red star on the extract of the dCNDP reg 16 settlement boundary plan). dMNDP policy MH3 states that proposal for housing within the settlement boundary will be supported and policy MH5 that in the countryside proposals should accord with CS policy RA3 and subject to two further criteria, specifically that they: 1) are sited and designed to protect local landscape character and the dark skies; and 2) are sited on poorer quality agricultural land in preference to land of higher quality.



Extract of Madley village policies map (Regulation 16 dMNDP)

★ = application site

6.15 In contextual terms the site is adjacent to the main built up area and therefore meets the qualifying requirement of the Development Plan – CS policy, RA2. At the present time, although the dMNDP defines a settlement boundary, it has not been ‘made’ and consequently it does not form part of the development plan. It can, however be given significant weight and the site’s location outside of the dMNDP settlement boundary represents an obvious policy conflict in respect of the principle of development. At this time the starting point is CS policy RA2 and the site’s location complies with the requirement to be either ‘in or adjacent’ to a main built up part of the settlement (as shown above at figure 1).

- 6.16 Turning to the detailed requirements of CS policy RA2, which should be read in conjunction with LD1 and SD1, it is considered that the design and layout of the scheme reflects its edge of settlement location and it has clearly been positively influenced by its context. Essentially, it has been divided into two distinct approaches, to ensure that it assimilates into its context. Firstly, the roadside dwellings (plots 1 and 2) would face the highways and are single plot deep, which harmonises with the typical wayside pattern of development along the main road at the edge of the village. Secondly, there is a courtyard layout of buildings proportioned and designed to broadly reflect the simple rectilinear form of agrarian buildings and harmonise with the converted buildings to the northwest and existing agricultural buildings to the northeast. It is considered that the layout, scale and appearance of the proposed dwellings would positively contribute to the setting of the village. The removal of the roadside vegetation would represent a marked change in appearance, but the Tree Officer has advised that none of the trees are of sufficient quality to justify their retention and that over time carefully considered hedgerow and tree planting would positively contribute to the appearance of the area. This would ensure that the scheme as a whole integrates appropriately with its surroundings and would also provide an opportunity for biodiversity enhancement, in accordance with CS policies LD1 and LD2.
- 6.17 It is accepted that the site does not make use of a brownfield site (CS policy RA2 ii), however, given that the allocated site in the dMNDP does not either, suggests that none are available or suitable for residential redevelopment.
- 6.18 In terms of housing mix, the proposal would result in 30% 2 bed units, 50% 3 bed units and 20% 4+ bed units, providing a mix of detached, semi-detached and terraced properties. This largely accords with the open market needs housing mix, set out in the GL Hearn Report (which formed part of the evidence based to the CS and is referred to in the pre-text to dMNDP policy MH4 – Type and size of housing), of 5% 1 bed units, 22.9% 2 bed units, 54.5% 3 bed units and 17.5% 4+ bed units. As the proposal is for 10 dwellings, it does not cross the threshold set out in CS policy H1 requiring affordable housing to be provided on site. The density is relatively low, at just over 18 dwellings per hectare, where the target net density is 30-50 across the county, and this could be considered to represent inefficient use of land resulting in a lack of requirement for affordable dwellings. However, CS policy SS2 advises that '*Residential density will be determined by local character and good quality design*' and recognises that the target net density may be less in sensitive areas. Taking into account the edge of settlement location and the site's relationship with the adjacent countryside and heritage assets, it is considered that the scheme has been appropriately informed by its location and constraints such that the density is acceptable.
- 6.19 Alongside the CS policy requirements (LD1 and SD1) to ensure that proposed developments are positively influenced by the character of the landscape/townscape and respect surrounding development policy SD1 states that developments should also incorporate physical sustainability measures. These can include the orientation of buildings, the provision of water conservation measures, storage for bicycles and waste including provision for recycling, and enabling renewable energy and energy conservation on infrastructure; and where possible, on-site renewable energy generation. It also states that schemes should ensure designs can be easily adapted and accommodate new technologies to meet changing needs throughout the lifetime of the development; and utilise sustainable construction methods which minimise the use of non-renewable resources and maximise the use of recycled and sustainably sourced materials. dMNDP policy ME2 requires developments to achieve a high quality of sustainable design, which at criterion 2) states that this includes '*incorporating sustainability measures to include building orientation and design, energy and water conservation, sustainable construction methods and materials, the generation of renewable energy, and provision for the recycling of waste, cycle storage, communications and broadband technologies. All new housing should achieve the highest standards of energy conservation, being ideally carbon neutral whilst as a minimum complying with Building Regulations*'. The NPPF confirms the meaning of the environmental objective of sustainable development, which is '*to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy*'.

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

- 6.20 Climate change compliance and Biodiversity and Ecology compliance checklists have been submitted. The first of these confirms that the scheme has considered and addressed building orientation (all dwellings have a partial southerly aspect), thermal massing, thermally efficient materials and energy efficient heating systems (to comply with Building Regulations). Solar, biomass, air source heat pumps and battery storage are listed as measures that might be included in the scheme at detailed design stage by the eventual developer. However, it is noted that none are explicitly included in the submitted plans and documents. Provision is made within the scheme for recycling/waste storage/composting, cycle storage and the checklist confirms that vehicle charging is achievable.
- 6.21 Overall the measures to address climate change are modest and suggest that the developer may incorporate additional provisions. Nevertheless, as they would meet Building Regulations, they comply with the minimum required by dMNDP policy ME2. It is considered key that the orientation of buildings has been positively influenced by the existing pattern of development, the site's edge of settlement location and the scheme's appropriate layout in recognition of these important considerations and that this limits opportunities for optimal solar gain. With regards charging of plug-in and other ultra-low emission vehicles this can be a conditional requirement if permission is granted. Similarly, water efficiency can be subject to a condition.
- 6.22 With regards the scheme's biodiversity and ecology compliance these matters are appraised later in this report.
- 6.23 In terms of the principle of development the scheme for 10 dwellings is considered to accord with CS policy RA2. Furthermore, turning to the layout, scale and appearance proposed it is reflective of its context, provides for an appropriate mix of house types thus positively contributing to the creation of balanced and inclusive communities, and addressed climate change policy requirements. It is therefore considered to accord with the related aspects of CS policies LD1, SD1 and H3. The conflict, in principle, with dMNDP policy MH3 is noted and this can be given significant weight.

Effect on the safe operation of the highway network and accessibility to sustainable modes of transport.

- 6.24 CS Policy MT1 requires that development proposals should incorporate a number of principle requirements covering movement and transportation. These include demonstration that the local highway network can absorb the traffic impacts of development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development. The second criterion refers to the promotion of integrated transport connections, including access to services by means other than private motorised transport, whilst the third requires that active travel behaviour is encouraged. The policy rounds off as follows:-

“Where traffic management measures are introduced they should be designed in a way which respect the character of the surrounding area including its landscape character...”

- 6.25 The CS policy is consistent with the NPPF, which requires safe and suitable access for all users and the promotion of sustainable transport modes given the type of development and its location (paragraph 108), whilst recognising at paragraph 103 that *‘opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.’* The NPPF clarifies that *‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.’*

- 6.26 The application has been accompanied by specific speed survey data and a Transport Statement. The proposed vehicular access, directly onto the B4352, would just be into the existing 60mph speed limit, with a 30mph limit to the east, which then reduces to a 20mph limit in the village core. The proposal includes the relocation of the 30mph limit, which would be subject to a Traffic Regulation Order, and associated resiting of the village gate features. It is noted that anecdotally some objectors consider that the proposed access would be unsafe due to speeding traffic. The Team Leader Area Engineer is satisfied that it has been demonstrated that the proposed vehicular access would have the requisite visibility splays in both directions for the speed limit and recorded speeds. The Waste Management Officer has also confirmed that the internal tracked movements demonstrate that waste/recycling collection vehicles could enter and leave the site in a forward gear. The proposal would therefore provide safe access for vehicular use in accordance with CS policy MT1 and the NPPF's requirements. A scheme for 10 dwellings would not represent a materially significant increase in traffic on the B4352, given its current use, and the Team Leader Area Engineer has not raised any concerns with regards the network's capacity. Therefore it would not result in a residual cumulative impact that could be quantified as severe.
- 6.27 In terms of pedestrian access and connectivity the scheme incorporates a footway on the northeast side of the B4352 from the site's proposed vehicular access to the village cross roads. This would facilitate walking from the proposed dwellings to the village's facilities. The bus stop, shop, fish bar and take-away, school, church and public house (The Red Lion Inn) are all within 285 metres of the site's entrance. The clear ability for future residents to make active travel choices accords with the CS, dMNDP and NPPF. The proposed footway can be achieved within highway land and controlled by condition and as part of any section 278 works, ensuring completion prior to first occupation of the dwellings. The proposed footway would also have a limited benefit to existing residents, because it would provide safer pedestrian access to the Public Right of Way to the southeast of the site, enabling improved connectivity to the Public Right of Way network to the north of the village for recreational walks. This addresses one of the five essential qualities of place identified in the dMNDP (paragraph 5.11), for pedestrian routes to provide opportunities for social interaction, exercise and engagement with nature.
- 6.28 The scheme also includes widening of the existing narrow footway adjacent to 2, The Cross, on the southern corner of the crossroads. This would be a benefit to existing and future residents of the village, because it would make this junction safer to cross.
- 6.29 The proposal includes policy compliant off road parking and secure and covered storage for cycles, through either suitably sized garages or dedicated cycle stores for those units without garaging. As confirmed in the climate change compliance checklist electric vehicle charging points can be provided. This can be conditioned if planning permission is granted, to accord with CS policy SD1 and paragraph 110e) of the NPPF.
- 6.30 To conclude on this issue, it is considered that the proposal would be served by a safe access for all, would not have a harmful impact on the network's capacity and provides good connectivity to the village amenities. It therefore accords with CS, dMNDP and NPPF requirements.

The impact on heritage assets

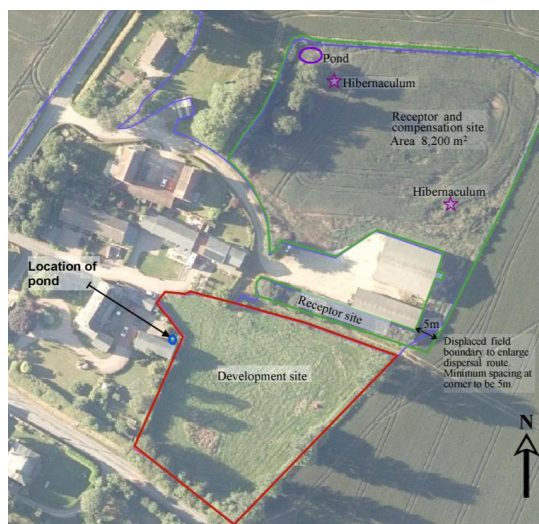
- 6.31 It is a statutory duty under section 66 the Planning (Listed Buildings and Conservation Areas) Act 1990, for the decision maker to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In practice this means that when undertaking a planning balance the weight afforded to preserving the building, its setting or features of special architectural or historic interest is greater than that given to the other considerations, because they do not have a similar statutory duty requiring special attention to be given to them. In addition CS policy LD4 requires developments to protect, conserve and where possible enhance heritage assets and their settings in a manner appropriate to their significance. When assessing the impact of a development on the significance of a designated heritage asset the NPPF (paragraph 193) confirms that great weight should be given

to the asset's conservation, irrespective of the degree of harm identified. If harm is identified depending on its severity, either substantial/total loss of significance or less than substantial, paragraphs 195 and 196 set out the criteria for assessment.

- 6.32 Immediately to the west of the site, lies a designated heritage asset, namely Town House and its attached outbuilding, which are collectively Grade II listed. To the north of Town House there are residential barn conversions and a new build. Of these the western building is Grade II listed and the range to the east can in part (the conversion element, not the new build) be considered to be curtilage listed, having previously fallen within the curtilage of Town House prior to conversion and separate ownership. On the opposite side of the B4352 there is the Grade II listed Vicarage, with the Grade I listed church beyond to the southwest. These provide the above ground heritage context of the site.
- 6.33 A Heritage Statement has been submitted with the application, and has since been updated. There is some discrepancy with regards the numbering/names of the converted barns, however the buildings are identified.
- 6.34 The proposed development would be viewed in the context of the listed buildings set out in paragraph 6.32 and as a result would have a degree of impact on their setting. In assessing the impact it is necessary to appraise the relationship between the site and the heritage asset(s) and not just the distance between them. That said in order for harm to setting to be evidenced, it is necessary for more than the development to simply be visible from the asset. The Glossary (Annex 2) of the NPPF confirms that the setting comprises '*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*'
- 6.35 Strong objections have been received from local residents, stating that the proposal would have a harmful impact on the setting of the specified nearby listed buildings. The reasons given are that by virtue of the siting and modern design of the proposed development it would erode their edge of settlement location and diminish their status of key historic buildings in the village. A supporter of the application has noted the limited views of these assets from the eastern approach into the village.
- 6.36 The Principal Building Conservation Officer has assessed the proposal and concludes that by virtue of the nature and siting of heritage assets and the detail of the proposal the setting of Town House would not be adversely affected by the proposals. The nearby listed barn conversion, vicarage and church are listed in the consultation response, however no concerns are raised with regards the impact on their setting. In policy terminology this means that their setting would be conserved and therefore complies with both the statutory duty and CS policy LD4. In the absence of harm there is no need to weigh this consideration in the planning balance.
- 6.37 Turning to below ground heritage assets, the Archaeologist has noted the site's close proximity to the core medieval form of the village, and thus having a degree of sensitivity. It is advised that although some below ground remains of moderate local interest could be present, which would require recording as mitigation, in line with paragraph 199 of the NPPF, a suitably worded archaeological condition would be appropriate to secure this.
- 6.38 To conclude, no harm to designated heritage assets has been identified and the scheme is considered to accord with CS policy LD4 and the NPPF.

Ecology/protected species/HRA AA

- 6.39 CS policies SS6 and LD2 state that development proposals should conserve, restore and enhance those environmental assets that contribute towards the county's distinctiveness, including biodiversity. Of particular relevance to this application LD2 states that development that is likely to harm sites and species of European Importance will not be permitted. Similarly the NPPF states that decisions should contribute to and enhance the natural and local environment by, amongst other things minimising impacts and achieving net biodiversity gain. It further states that when determining planning applications, local planning authorities should apply certain, specified principles, which include that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. Policy M1 of the dMNDP states that development proposals which contribute to the sustainable development of the Madley Neighbourhood Area will be supported and lists 5 objectives, that are to be sought and balanced, to making this assessment. In considering the ecology impacts of the proposal the second criteria is most relevant. This states '*taking all opportunities to conserve and enhance the distinctive natural and historic environment, with development avoiding undue loss of visual amenity or impacts on landscape character and biodiversity*'. dMNDP policy ME1 states that developments should protect, conserve and where possible enhance the natural environment in accordance with CS policies SD3, SD4, LD1, LD2 and LD3, by, amongst other criteria, avoiding likely harm to the River Wye Special Area of Conservation and to species of European importance, promoting the conservation, restoration and enhancement of other sites and features of landscape value and biodiversity interest in accordance with their status and maintaining, restoring and where possible enhancing the contribution of habitats to the coherence and connectivity of the Herefordshire Ecological Network. It is also included in dMNDP policy ME2 – Building Design, that developments should retain and incorporate features of biodiversity value.
- 6.40 The application site is a greenfield site. Some objectors raise concerns about the loss of agricultural land, hedgerows and suitable habitats for protected species and wildlife in general. More specifically some objections have been made about the adverse impact on Great Crested Newts (GCN) that use a garden pond, immediately to the west of the site, for breeding. The application was submitted with an Ecological Appraisal, consisting of an extended Phase 1 habitat survey, desk study and field survey. Following specific objections about the impact of the site's development on GCNs further surveys have been carried out. Subsequently a GCN Method Statement, GCN Survey and Report and Mitigation Proposal have been provided. GCN are a European protected species (EPS).
- 6.41 The proposal would retain the existing hedgerows and trees to the eastern boundary, with new replacement hedgerow and tree planting along the southern (roadside) boundary. The Tree Officer has advised on the low quality of these trees and the Ecologist does not object to their removal and replacement. The recommendations of the Ecological Appraisal include provision for bat and bird boxes and it is further noted that supplementary planting will take place and care given to boundary treatments to facilitate the movement of small mammals.
- 6.42 Following the identification, through surveys, of a medium sized population of GCN's breeding at the neighbouring site mitigation measures have been proposed. An 8,200m² receptor and compensation site is proposed to the north of the proposed site for 10 dwellings, beyond existing farm buildings and an associated yard, which would include two hibernaculum and a pond. To the southeast of the agricultural buildings the plan is annotated to show a displaced field boundary, marked by new fencing to protect it from cultivation, to provide a 5 metre enlarged dispersal route for the GCN.



Extract of Figure 1:
Proposed receptor and compensation site
(Augmented Mitigation Proposal – 27.11.2020)

- 6.43 Natural England provides ‘standing advice’ on GCN, to avoid consultations with them. It confirms that where proposals are likely to affect a protected species planning permission can be granted. This is subject to appropriate surveys and level of information being provided, avoidance and mitigation and compensation measures being acceptable and being incorporated into the scheme and secured. It advises that if these are achieved it is likely that Natural England would grant a protected species licence (if needed) and all wider planning considerations would be met.
- 6.44 Protected species licensing requirements are in addition (if needed) to the requirements for planning permission. They are subject to separate processes and specific policy and legal tests and a distinct consent regime from planning. The standing advice confirms that before granting planning permission the decision-taker must be satisfied that if a licence is needed it is likely to be granted by Natural England or Defra. The three tests that Natural England must apply are set out in the Habitats and Species Regulations 2010. The standing advice summarises these as:
- the activity is for a certain purpose, for example it’s in the public interest to build a new residential development
 - there’s no satisfactory alternative that will cause less harm to the species
 - the development does not harm the long term conservation status of the species
- 6.45 The applicant’s agent has advanced their view that the first test is met due to the current housing land supply deficit in the County and that Natural England’s Guidance Note acknowledges that this can constitute an imperative reason of overriding public interest. In the same vein the applicant asserts that although the dMNDP allocated housing site could be considered to provide a ‘satisfactory alternative’ given the lack of a planning application for that site and moreover that the CS growth targets are a minimum and the Council has an ever increasing housing deficit that this test could be passed. Finally the applicant, through the Augmented Mitigation Proposals, are confident that the proposed development would not result in any harm to the long term conservation status of the GCN.
- 6.46 Having reviewed the applicant’s responses to the first two tests, and Natural England’s Guidance Note, it is considered that these could reasonably be accepted by Natural England as satisfying the licence tests. With regards the third test the Ecologist has advised that subject to appropriate conditions to secure the receptor site with its proposed compensation and its long term future maintenance the third test would be satisfied, and planning policy requirements met. This is because the receptor site includes wide boundary field margins with trees and long grass and proposed habitat enhancements (a receptor pond and no. 2 amphibian hibernacula), that, subject to maintaining habitat connectivity with the known breeding site, is acceptable for the terrestrial habitat loss that would result from the development of the application site. As the Ecologist has no objections, subject to conditions, it is therefore considered that in respect of both GCN

Further information on the subject of this report is available from Mrs Charlotte Atkins on 01432 260536

mitigation and compensation, and biodiversity enhancement, the proposal accords with planning policy requirements. The Ecologist's recommended conditions have been modified to ensure they meet the six tests.

- 6.47 At this stage the Local Planning Authority only needs to consider if it is likely that Natural England will grant the licence. On the basis of the information provided and having due regard to Natural England's Guidance Note and Protected species decision checklist, Officers are satisfied that there is a reasonable likelihood that they will grant the licence. Nevertheless, it will be Natural England's decision whether to issue a licence or not.
- 6.48 The site lies in the SSSI impact zone. CS policy LD3 states that '*Development that would be liable to harm Sites of Special Scientific Interest or nationally protected species will only be permitted if the conservation status of their habitat or important physical features can be protected by conditions or other material considerations are sufficient to outweigh nature conservation considerations*'. Furthermore, policies SD3 and SD4 state that development proposals should not lead to deterioration of EU Water Framework Directive water body status, or adversely affect water quality, either directly through unacceptable pollution of surface water or groundwater, or indirectly through overloading of Wastewater Treatment Works and should fully mitigate their adverse effects of wastewater discharges into rivers. More specifically SD4 confirms that:
- *in the case of development which might lead to nutrient levels exceeding the limits for the target conservation objectives within a SAC river, planning permission will only be granted where it can be demonstrated that there will be no adverse effect on the integrity of the SAC in view of the site's conservation objectives; and*
 - *where the nutrient levels set for conservation objectives are already exceeded, new development should not compromise the ability to reduce levels to those which are defined as favourable for the site.*
- 6.49 dMNDP policy ME14 stipulates that development proposals should protect, conserve and where possible enhance the natural environment of Madley Neighbourhood Area in accordance with the principles in CS (SD3, SD4, LD1, LD2 and LD3) by: 1). *avoiding likely harm to the River Wye Special Area of Conservation and to species of European importance; and, 2). avoiding likely harm to the River Wye and Cage Brook Valley Sites of Special Scientific Interest, unless the benefits of the proposed development clearly outweigh the likely impacts on the conservation status of the Site concerned and on the national network of protected Sites.* The NPPF, at para 175b) states that '*development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest*'. Para 177 confirms that '*The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.*'
- 6.50 The initial Habitat Regulations Screening Assessment identified surface water and foul water as 'likely significant adverse effects'. The application confirms that surface water will outfall to SuDs and foul water will discharge to the mains sewer. The Council's Land Drainage Engineer has no objection to this strategy, subject to conditions in respect of technical drainage details. The HRA AA concludes that provided these drainage arrangements are conditioned, so that development must accord with its requirements, there would be no adverse effects on the integrity of the Special Area of Conservation. Natural England have confirmed that they concur that the proposed development would not have significant adverse impacts on designated sites and has no objection

to it. The development therefore accords with CS, dMNDP and NPPF requirements, together with legislative requirements.

Drainage

- 6.51 The site is located in Flood Zone 1; the lowest risk of flooding. CS policy SD3 and the NPPF sequentially steer new development to sites in FZ1. As the site does not exceed 1 hectare there is not requirement for a Flood Risk Assessment. At present, as an agricultural field, the land drains naturally.
- 6.52 CS policy SD4 sets out a sequential preference for foul drainage, with a mains connection being the first option followed by a PTP to soakaways. The scheme proposes a mains connection and Welsh Water do not object. Surface water disposal would be to soakaways, which in principle accords with the preference for SuDS. Following infiltration testing the Land Drainage Engineer has confirmed that suitable information has been submitted to demonstrate that a feasible surface water drainage design for the site is achievable. Matters of technical detail can be controlled by condition, together with a compliance condition to prevent surface water and/or land drainage connecting with the public sewerage network as required by Welsh Water.

Living conditions

- 6.53 CS policy SD1 requires development to safeguard residential amenity for existing and proposed residents. dMNDP policy ME2 states that developments should avoid creating unacceptable impacts on residential amenity and new housing schemes should be sited and designed to avoid adverse impacts on the amenity of the future occupants from the operation of existing uses (such as agricultural and business operations). The NPPF requires development to provide safe and healthy living conditions (paragraph 117) and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users (paragraph 127f).
- 6.54 By virtue of the distance separation between the proposed dwellings and the existing neighbouring properties there would be no unacceptable direct overlooking as a result of the proposal. It is appreciated that the outlook from neighbouring properties would change from undeveloped land to dwellings and their associated gardens and parking areas, however the existing and proposed landscaping would facilitate a suitable degree of privacy for existing and future occupiers. The siting of modern agricultural buildings to the north of the site is noted, however these are not used for livestock and are separated by an intervening track and vegetation. It is considered that the scheme accords with policy requirements with regards protecting and providing acceptable residential amenity.

S106 and Affordable Housing

- 6.55 Policy H1 of the CS sets the threshold for the delivery of affordable housing at sites of more than 10 dwellings. The proposal is for 10. As such, it does not breach this threshold and there is no policy requirement for affordable housing provision. With regards financial contributions, the Housing Delivery Test Action Plan 2019' (HDTAP) is a material planning consideration. It sets out key actions to improve housing delivery, one of which is not to seek tariff based contributions on developments of 10 dwellings or less. It is recognised that this matter will be reconsidered as part of the CS review, but it clarifies that at the present time they are not required for this scheme.

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 NPPF paragraph 38 confirms that *'Decision-makers at every level should seek to approve applications for sustainable development where possible.'*
- 6.58 Presently, the Development Plan comprises the CS. As set out in the foregoing appraisal the development proposed accords with the CS. This is because the site lies adjacent to the main built up part of the settlement and the proposal accords with the remainder of CS policy RA2 requirements, would provide safe access as required by MT1 and would not have a harmful impact on the setting of heritage assets, landscape and ecology. Acceptable foul and surface water drainage has been demonstrated to be achievable, as has good connectivity to the village's amenities. On the basis of the Development Plan alone, planning permission should be granted.
- 6.59 Next it is necessary to turn to the material considerations, to ascertain if these indicate if a decision should be made other than in accordance with the Development Plan (as set out in Section 38 (6) of the Planning and Compulsory Purchase Act 2004 – see paragraph 6.1). The dMNDP is an important material consideration as set out earlier in this report. At this juncture it can be afforded significant weight. In the absence of a pandemic it is likely that it would have proceeded to referendum, however that final stage is now stalled until restrictions are lifted, so the outcome is not known.
- 6.60 As identified earlier there is fundamental conflict with dMNDP policy MH3, because the site lies outside of the defined settlement boundary and it would not accord with dMNDP policy MH5 or CS policy RA3, which provide specific exceptions for allowing development in the countryside. The dMNDP Examiner's Report reviews policy MH3 and the settlement boundary for Madley provided in the plan and considers it to be drawn logically and in line with HC's Guidance Note 20 "Guide to settlement boundaries". In addition, the Examiner has carefully considered those sites subject of representations (which includes the application site) and whether they should be included or not within the settlement boundary and has made no recommendation that the settlement boundary should be extended. Whilst the Examiner recognised that the NPPG indicates that the allocation of 'reserve sites', to help address emerging evidence of housing need, can minimise potential conflicts and help to ensure policies in neighbourhood plans are not overridden by new local plans, she concluded that there was no obligation for neighbourhood plans to do so and accordingly did not make such a recommendation in respect of the dMNDP. The minimum proportionate growth target (18%) is for 89 new dwellings. The housing growth to be provided through the dMNDP was noted to equate to 94 dwellings in the 20 year plan period, achieved through existing completions, site allocation and reasonable windfall allowance. The Examiner's view was that this would constitute *'slightly more than the minimum proportional growth target'*.
- 6.61 When affording weight to the conflict of the development with the dMNDP Officers are conscious of the provisions of paragraph 14 of the NPPF. This states that *'In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:*
- a) *the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;*
 - b) *the neighbourhood plan contains policies and allocations to meet its identified housing requirement;*
 - c) *the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and*
 - d) *the local planning authority's housing delivery was at least 45% of that required over the previous three years.'*

- 6.62 The NPPF, at paragraph 30, confirms that it is only once a neighbourhood plan has been brought into force, that the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict (unless they are superseded by strategic or non-strategic policies that are adopted subsequently). In this case the neighbourhood plan has not yet been brought into force. This will only occur when there has been a successful referendum and the plan is 'made'. Furthermore, Annex 2: Glossary of the NPPF also clarifies this point, in providing the definition of a Development Plan. Here it states that Neighbourhood Plans can comprise part of the Development Plan where they '*...have been approved at referendum*'... '*unless the local planning authority decides that the neighbourhood plan should not be made.*'
- 6.63 In light of the above it is clear that paragraph 14 of the NPPF does not apply to the consideration of this application at this juncture, as criterion a) is not satisfied. As a result, conflict with the dMNDP cannot be taken to be '*likely to significantly and demonstrably outweigh the benefits*' of the scheme, however it remains an important material consideration that can be given significant weight in decision taking.
- 6.64 It is expected that there will be some disappointment locally that the conflict with the dMNDP still cannot be given full weight, as it is the platform for them to shape their surroundings. That said, the criteria of paragraph 48 and not paragraph 14 of the NPPF must be applied. The dMNDP provides for slightly more than the minimum growth target required (18% = 89 dwellings), equating to 94 dwellings (5 dwellings extra) and this would result in 19% growth. If permission were granted for the 10 dwellings proposed this would either result in 104 new dwellings (21% growth), or the 10 dwellings could be considered to be part of the windfall allowance (as the Parish Council have suggested in the dMNDP response to objections), that the dMNDP sets at 16 dwellings, thereby within the dMNDP planned growth. It is acknowledged that the level of housing provided for within the dMNDP modestly exceeds the growth target for the area, however it is important to note that both the CS and the dMNDP refer to minimum growth targets rather than setting an upper limit.
- 6.65 The Parish Council has conditionally supported the application and advised in response to the objection to the dMNDP that if the application is granted the number of units would contribute to the NDP's windfall allowance. Local representations of both objections and support have been received to this application, with the majority being against.
- 6.66 The other key material consideration is the NPPF. As the application is for the supply of housing, specifically ten 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.

Paragraph 11 of the NPPF states that '*Plans and decisions should apply a presumption in favour of sustainable development*' and '*For decision-taking this means:*

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

- 6.67 As set out above the proposed development is considered to accord with the CS, which is the Development Plan in this case and at this time. The CS review was required to be completed before 15 October 2020. The decision to review the CS was made by Council on 9 November 2020. On this basis the CS is not demonstrated to be 'up to date'. Nevertheless, the policies within it promote sustainable housing growth and the application proposal would help to achieve that, such that they remain consistent with the NPPF and can be afforded significant weight.
- 6.68 This is an application for housing, so the policies most important for determination of the application relate to housing. As per paragraph 11d, footnote 7, of the NPPF they must be considered as out of date by reason of the current housing land supply deficit. This does not mean that they attract no weight, but rather reduced weight that is determined by the decision maker. There is a requirement, over the plan period (2011-2031) to provide a minimum of 89 new dwellings (18% of 492). The dMNDP seeks to accommodate 94 dwellings, which equates to 19% growth.
- 6.69 Across the entire Hereford HMA there is a residual figure of 60 dwellings left from the minimum target of 1,870 dwellings for a plan period ending in 2031. These figures demonstrate that outside of Hereford and the market towns the CS housing policies are achieving housing growth in excess of the minimum target in the first ten year period of the plan period. This accords with the NPPF commitment to significantly boost the supply of housing.
- 6.70 Firstly, paragraph 11di states that permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusal. Footnote 6 provides clarity on what those protected areas or assets can be. None of these apply to the application site, as no harm has been found to either heritage assets or protected species, subject to conditions.
- 6.71 Secondly, as 11di does not apply, there is no NPPF direction to refuse planning permission, so it is necessary to apply the commonly referred to 'tilted' planning balance set out in paragraph 11d)ii. The tilted planning balance, is commonly 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 paragraph 68 of the NPPF it is recognised that small and medium sized sites (no larger than one hectare) can make '*an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.*' 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 (shop, two public houses, fish and chip shop/takeaway, primary school, church, The Stables Café - community meeting place in church grounds, village hall etc.). The future residents of the proposed dwellings would have good access to these facilities, with the scheme including a new footway to the village crossroads and improvements for pedestrian crossing. These benefits of the scheme for 10 dwellings should be given moderate weight.
- 6.72 In terms of identified harm, there would be degree of localised visual harm resulting from the creation of the access and construction of the dwellings. The removal of the roadside vegetation would have an initial discernible visual impact, however as advised by the Council's Tree Officer none of the trees are worthy of retention and in time the new planting will provide an improvement. As a result the harm is not permanent, will reduce over time to a point where the planting would be of enhanced visual appearance.
- 6.73 The principle of the proposed development accords with the CS (the Development Plan), but it is in conflict with an emerging plan (dMNDP) that can be afforded significant weight. At the County level there is a housing land supply deficit (3.69 years), but at the HMA level there has been a

significant boost to housing supply in just under the first half of the plan period. At the village level completions/commitments comprise 56 dwellings, the allocated site 'around' 22 dwellings and finally the windfall figure is set at 16 dwellings. The dMNDP policy MH1 notes that windfalls will be provided both within the settlement and outside where they comply with CS policy RA3. The site would not meet either of these windfall options, but the Parish Council have previously commented that if permission is granted for 10 dwellings on the application site it would count towards this windfall allowance. Nevertheless, even if taken as additional growth to the dMNDP allocations and windfall allowance it is considered that the number of dwellings proposed (resulting in 21% growth compared to 18%) would not be a substantial increase to the minimum growth target.

- 6.74 Given the scale of the proposal it would not undermine the plan-making process. While the conflict with policy MH3 of the dMNDP attracts significant weight, this does not outweigh the scheme's compliance with the adopted development plan policy.
- 6.75 Overall, in light of these specific considerations, it is opined that this level of conflict with dMNDP, even given the emerging plan's significant weight in decision taking, is of itself insufficient to constitute an adverse impact that would significantly and demonstrably outweigh the benefits of granting permission in this case. The other adverse impact, of initial localised landscape impact, is only of moderate weight. Taking into account the supremacy of the CS (Development Plan) and the application's compliance with it, the number of dwellings proposed and its good connectivity to the village and highway works to improve the footways at the crossroads, compared to the disbenefits of not according with the emerging plan in principle, and the other identified, modest adverse impact it is considered that even when considered in combination they would not both significantly and demonstrably outweigh the benefits of granting permission. On this basis the NPPF presumption to grant permission for sustainable development is engaged and it is recommended that planning permission should be granted.

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. Time limit for commencement (full permission)**
- 2. C06 - Development in accordance with the approved plans:**

6919-1-01F – Amended Location and Block Plans
6919-1-11D – Amended Proposed Site Layout
6919-1-13C – Amended Site Layout in Village Context
6919-1-17 – Plot 1 – Plans and Elevations
6919-1-25 – Plot 1 – Single Garage - Plans and Elevations
6919-1-15 – Plot 2 – Plans and Elevations
6919-1-14 - Plot 2 Double Garage - Plans and Elevations
6919-1-18 – Plot 3 – Plans and Elevations
6919-1-21 – Plot 4 – Plans and Elevations
6919-1-20 – Plot 5 – Plans and Elevations
6919-1-24 – Plot 6 – Plans and Elevations
6919-1-19 – Plot 7 – Plans and Elevations
6919-1-16 – Plot 8 – Plans and Elevations
6919-1-22 – Plot 9 – Plans and Elevations
6919-1-23 – Plot 10 – Plans and Elevations
6919-1-26 – Cycle Store – Plans and Elevations

21259-01 Rev D – Proposed Footway and Highway Improvements

Pre-commencements

3. **Before any work, or site clearance begins a Great Crested Newt Mitigation Strategy (GCNMS) and Long-Term Management Plan, shall be supplied to the local planning authority for written approval, together with details of legal arrangements for long-term management. The approved GCNMS shall be implemented and hereafter maintained in full as stated unless otherwise approved in writing by the local planning authority.**

Reason: To ensure that all species are protected and habitats enhanced in accordance with policies LD1-3 of the Herefordshire Local Plan – Core Strategy and the requirements of the National Planning Policy Framework, and having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017) and NERC Act (2006).

4. **Hedgerow protection during construction**

Before any work commences and, equipment or materials moved on to site, appropriate hedgerow protection areas, (based on guidance in BS5837:2012) shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have been finally removed.

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

5. **Prior to commencement of any site clearance, preparation or development a fully detailed and specified Ecological Working Method Statement (EWMS) including details of appointed Ecological Clerk of Works shall be provided to the planning authority. The EWMS should consider all relevant species but in particular consideration for Great crested newts. The approved EWMS shall be implemented in full unless otherwise agreed in writing by the planning authority.**

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

6. **Before any other works hereby approved are commenced, visibility splays, and any associated set back splays at 45 degree angles shall be provided from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 90 metres in each direction along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.**

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

7. Development shall not begin until details and location of the following have been submitted to and approved in writing by the local planning authority, and which shall be operated and maintained during construction of the development hereby approved:

- A method for ensuring mud is not deposited onto the Public Highway
- Construction traffic access location
- Parking for site operatives
- Construction Traffic Management Plan

The development shall be carried out in accordance with the approved details for the duration of the construction of the development.

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

8. Development shall not begin in relation to the provision of road and drainage infrastructure until the following details are submitted to and approved in writing to the local planning authority:

- Surface finishes
- Drainage details
- Future maintenance arrangements

The development shall be carried out and thereafter maintained in accordance with the approved details

Reason: To ensure an adequate and acceptable means of access is available before the dwelling or building is occupied and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

9. The construction of the vehicular access shall be carried out in accordance with a specification to be submitted to and approved in writing by the local planning authority, at a gradient not steeper than 1 in 12.

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

10. Other than site clearance no further development shall commence until a detailed plan, showing the levels of the existing site, the proposed slab levels of the approved dwellings and garages and a datum point outside of the site, shall be submitted to and be approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the absence of sufficient detailed information, the clarification of slab levels is a necessary initial requirement before any demolition and/or groundworks are undertaken so as to define the permission and ensure that the development is of a scale and height appropriate to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

11. C13 – Samples of External Materials

12. The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority, and shall allow him/her to observe the excavations and record items of interest and finds. A minimum of 5 days' written notice of the commencement date of any works shall be given in writing to the County Archaeology Service.

Reason: To allow the potential archaeological interest of the site to be investigated and recorded and to comply with the requirements of Policy LD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

13. Before any works in relation to the materials specified below begins, details of the following construction materials and design shall be submitted to and approved in writing by the Local Planning Authority:

- a) Rooflights (dimensions, materials and cross section of roof slope)
- b) Treatment of gables and cappings;
- c) Treatment of verges and barge boards
- d) Rainwater goods

And as shown on drawings to a scale of 1:20 or 1:10 where necessary.

The works shall be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policies LD1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

14. No works in relation to any of the features specified below shall commence until a sample panel of all new facing brickwork is provided on site at a minimum size of 1m x 1m and showing the proposed –

Brick types, sizes, colour, texture face-bond; brick bond and type; pointing mortar mix, joint thickness and finish profile.

Confirmation of the materials and methods shall be approved in writing with the Local Planning Authority and carried out accordingly. The approved sample panels shall be retained on site until the work is completed.

Reason: To ensure that the masonry and detailing harmonise with the surroundings so as to ensure that the development complies with the requirements of Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

15. No joinery works shall commence until details of all external windows and doors and any other external joinery have been submitted to and approved in writing by the Local Planning Authority. These shall include:

Full size or 1:2 details and sections, and 1:20 elevations of each joinery item cross referenced to the details and indexed on elevations on the approved drawings.

Method & type of glazing.

Windows and doors material(s)

Colour Scheme/Surface Finish

The development shall be carried out in accordance with the approved details.

Reason: To ensure that the fenestration harmonises with the surroundings and the design concept of the approved scheme, so as to ensure that the development complies with the requirements of Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 16. CK3 - Landscape Scheme
- 17. CK4 – Landscape Implementation
- 18. CK5 – Landscape Maintenance Plan

Prior to occupation

- 19. **Prior to the first occupation of the development hereby permitted full details of the proposed foul and surface water drainage arrangements shall be submitted to and approved in writing by the local planning authority. The details shall include:**
 - a) **Detailed plans and section drawings of the proposed surface water infiltration features including basins, swales, pipework connections etc.**
 - b) **BRE365 testing is undertaken at the location and depth of all infiltration features.**
 - c) **Calculations for the final design to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an including the 1 in 2 annual probability storm event and will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event. FEH2013 rainfall data is expected.**
 - d) **Calculations for the final design that demonstrates the drainage system will provide sufficient attenuation for up to the 1 in 100 year event and allowing for the potential effects of climate change. FEH2013 rainfall data is expected.**
 - e) **Details of exceedance flow routes and storage areas within the proposed site.**
 - f) **Proposals for adoption and maintenance access for all SuDS features with particular regard to the proposed infiltration basin.**
 - g) **A detailed foul water drainage strategy showing how foul water from the development will be disposed of and illustrating the location of key drainage features and connection to the Welsh Water network, if applicable.**
 - h) **If a connection to a public foul sewer is not considered feasible, the applicant will be required to complete a Foul Drainage Assessment (FDA) Form and submit this as part of any forthcoming planning application. The FDA Form can be found on the GOV.UK website at this link:
<https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>.**
 - i) **If infiltration to ground is proposed for the foul drainage, infiltration rates at the location(s) and proposed depth(s) of any proposed drainage fields, undertaken in accordance with BS6297 and Building Regulations Part H.**
 - j) **Detailed plans and section drawings of any proposed foul water drainage field, along with maintenance access for all foul drainage features.**
 - k) **Details of adoption and maintenance arrangements for all parts of the foul drainage system.**
 - l) **Operational and maintenance manual for all proposed foul drainage features that are to be adopted and maintained by a third party management company.**

The approved scheme shall be implemented before the first occupation of any of the dwellings hereby permitted.

Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

20. **Boundary treatment details shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. Where necessary (to accord with the approved GCNMS) they should comprise native hedgerow planting, in order to maintain terrestrial habitat connectivity for great crested newts. If any additional fence panels are used, there must be a gap below fence panels through which a newt could potentially pass. The boundary treatment shall be completed prior to occupation (or otherwise in accordance with a timetable that has first been submitted to and agreed in writing with the local planning authority).**

Reason: In the interests of visual amenity, to ensure the development has an acceptable standard of privacy and that all species are protected and habitats enhanced, so as to accord with Herefordshire Local Plan - Core Strategy policies LD1-3 and SD1 and the National Planning Policy Framework, and having regard to the requirements of the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017) and NERC Act (2006).

21. **Development shall not begin in relation to any of the specified highways works until details of the following works have been submitted to and approved by the local planning authority in writing following the completion of the technical approval process by the local highway authority.**

1. **Provisions of footway and crossing points as shown on drawing 21259-01 Rev D – Proposed Footway and Highway Improvements**
2. **Extension of existing speed limit and relocation of gateway features.**

The development shall not be occupied until the scheme has been constructed in accordance with the approved details.

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

22. **Prior to the first occupation of the dwelling to which it relates covered and secure cycle parking facilities shall be provided in accordance with drawings 6919-1-26 and 6919-1-11D, or an alternative scheme the details of which shall have first been submitted to and approved in writing by Local Planning Authority. Thereafter these facilities shall be maintained.**

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

23. **Prior to the first occupation of the dwelling to which it relates a scheme to enable the charging of plug in and other ultra-low emission vehicles (e.g. provision of electric sockets) to serve the occupants shall be submitted to and approved in writing by the local planning authority. The approved details shall be provided prior to the first occupation of the dwelling to which it relates.**

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

24. **CE6 – Water Efficiency**

Compliance

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

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, so as to comply with Policy SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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

In order to comply with Policy SD4 of the Herefordshire Local Plan – Core Strategy and the requirements of the National Planning Policy Framework, Conservation of Habitats and Species Regulations and NERC Act (2006).

27. **Condition Eco 09 – Protected Species, Dark Skies and Intrinsically dark landscapes (external lighting)**

- I. **At no time shall any external lighting (except in relation to safe use of the property; and consisting of low lumens, warm LED ‘down’ lighting units on time limited PIR sensors) be installed or operated on the site without the written approval of this local planning authority.**
- II. **No external lighting should illuminate any boundary feature, adjacent habitat or area around the biodiversity enhancement features.**

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

INFORMATIVES:

1. **IP2 – Application Approved Following Revisions**
2. **I11 – Mud on highway**
3. **I09 – Private apparatus within the highway**
4. **I45 – Works within the highway**
5. **I08 – Section 278 Agreement**
6. **I07 – Section 38 Agreement & Drainage details**
7. **I05 – No drainage to discharge to highway**
8. **I49 – Design of street lighting for Section 278**
9. **I47 – Drainage other than via highway system**
10. **I35 – Highways Design Guide and Specification**

11. If you have any queries regarding the archaeological interest of the site or the requirements of the conditions relating to archaeological work, please contact HARC, Fir Tree Lane, Rotherwas, Hereford HR2 6LA (Tel: 01432 260470).

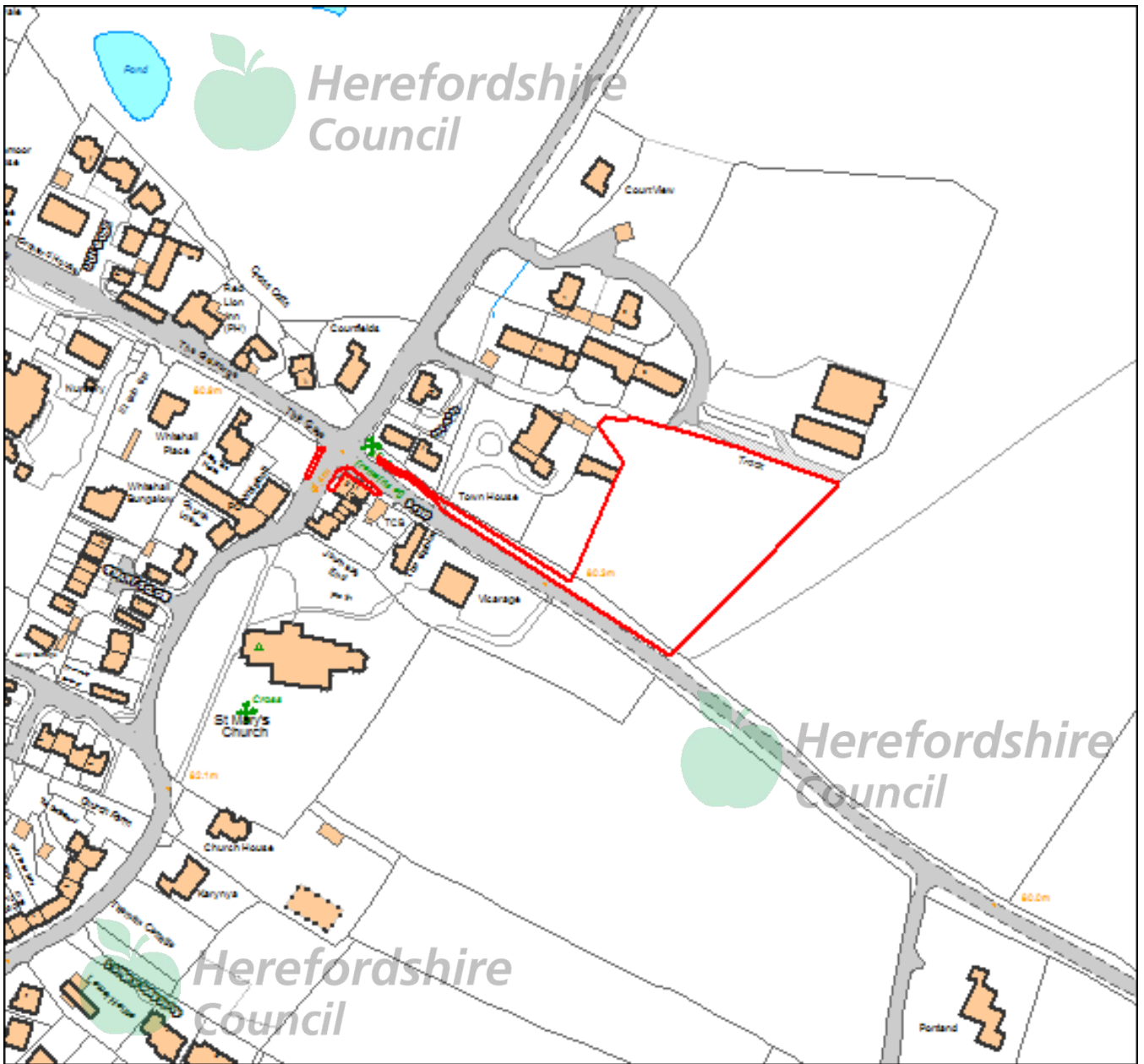
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 192672

SITE ADDRESS : LAND ADJACENT TOWN HOUSE B4532, MADLEY, HEREFORDSHIRE

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	18 JANUARY 2021
TITLE OF REPORT:	200662 - CHANGE OF USE OF FORMER METHODIST CHAPEL TO A4 WINE BAR WITH FOOD FACILITY, ALSO MANAGERS FLAT AT METHODIST CHURCH, 145 THE HOMEND, LEDBURY, HEREFORDSHIRE, HR8 1BP For: Mr Etheridge per Mrs Mandy Rutsch, Forest Villa, Chapel Walk, Edge End, Coleford, GL16 7EP
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200662&search-term=200662
Reason Application submitted to Committee – Re-direction	

Date Received: 25 February 2020
Expiry Date: 5 May 2020

Ward: Ledbury North Grid Ref: 370990,238000

Local Member: Councillor Liz Harvey

1. Site Description and Proposal

- 1.1 The application site comprises a currently closed Wesleyan Methodist Chapel, located towards the northern end of Ledbury Town Centre. The building (145 The Homend), is located on the eastern side of the main town centre thoroughfare, and is part of a well-established built form. The building dates to 1849, being re-fronted in 1884. During the 20th century, a porch enclosing the area between the two towers was added.
- 1.2 The building is of architectural merit, comprised of facing brick with glazed elements over three storeys, although some of the glazed elements are currently boarded up to protect the interior, particularly noticeable at street level. Aside from some replacement modern windows and the porch, the building has altered little since construction. There is a parcel of land to the rear (east), which rises sharply eastwards towards a pedestrian gate located off Homend Crescent. Whilst detached, it is perceived as part of the terrace of properties in this part of the town.
- 1.3 Visitors gain access from the main entrance on The Homend, with a side gate that also allows access to the rear. Whilst there is no vehicular access, visitors use public car parks in the vicinity of town or time-restricted on-street parking. Given its location, users can also arrive on foot or public transport, either from Ledbury Train Station or a Bus Stop located adjacent to the junction with Belle Orchard, immediately north of site.
- 1.4 The building lies within the Ledbury Conservation Area (noting the land to the east is outside but adjacent to the conservation area), in which a large proportion of the town centre is within, including a multitude of listed buildings, many of which are adjacent to the site. The building under consideration is not a designated heritage asset but makes a positive contribution to the townscape. Indeed, The Homend, as well as High Street, further south, provides an important visual, as well as socio-economic contribution, to Ledbury and Herefordshire.

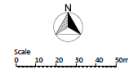
Further information on the subject of this report is available from Mr Josh Bailey on 01432 261903

- 1.5 This application seeks planning permission for the proposed change of use of the Methodist Chapel to a wine bar (drinking establishment) with expanded food provision, under use class A4 at the first and second floor, with a managers flat in the basement. Officers refer to the existing and proposed plans deposited with the application below:

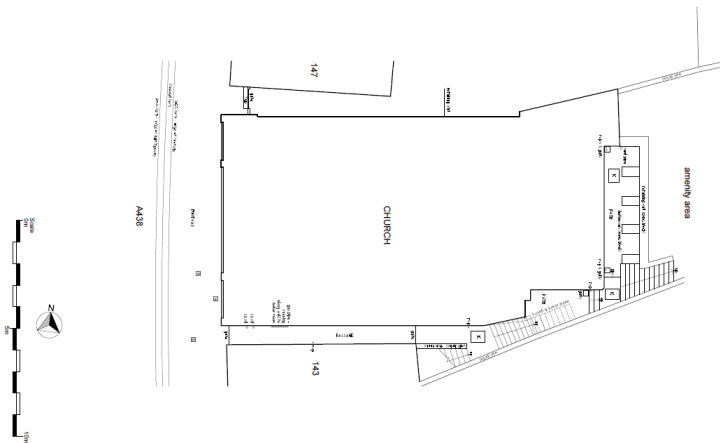
Development site outlined in red.
 Adjoining land under same ownership outlined in blue.



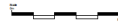
©Crown Copyright and database rights 2019 OS Licence no. 100018971



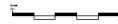
(Location Plan)



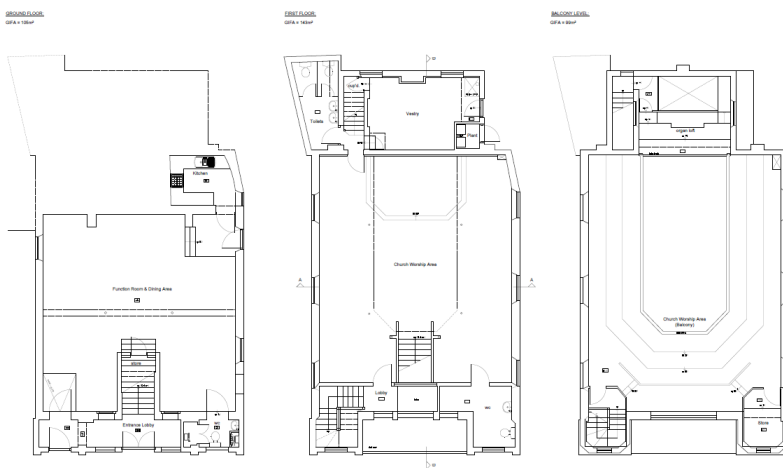
(Survey: Site Plan)



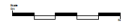
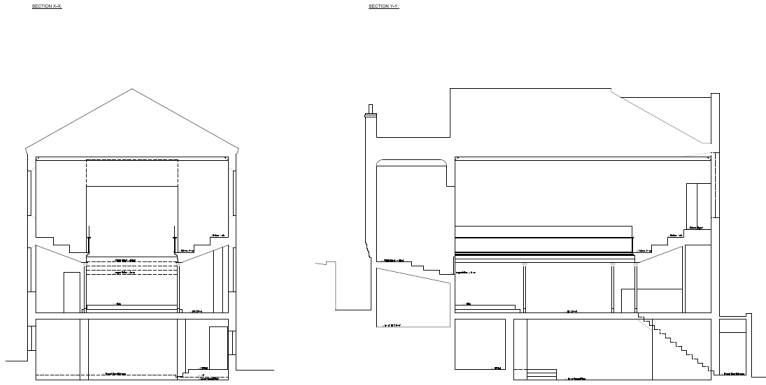
(Existing Elevations 1)



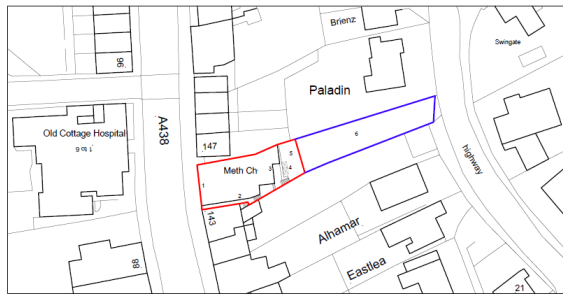
(Existing Elevations 2)



(Existing Floor Plans)



(Existing Sections)



- SEC**
- 1: Public Entrance (GF level)
 - 2: Entrance to Staff Accommodation (GF level)
 - 3: Rear Staircase (GF level)
 - 4: Parking & Recycling - on storage area
 - 5: Access area
 - 6: Adjoining land under applicants ownership



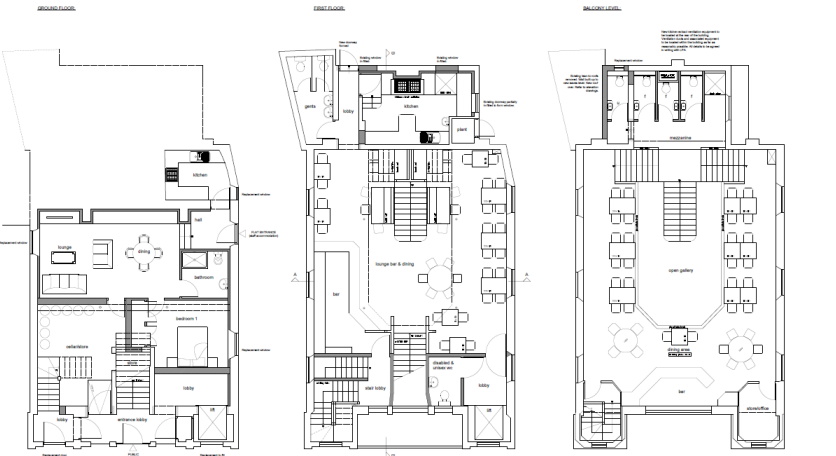
(Block Plan Proposed)



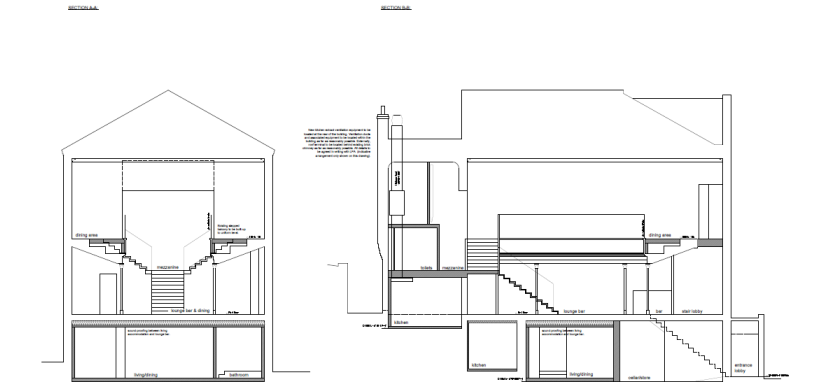
(Elevations Proposed 1)



(Elevations Proposed 2)



(Floor Plans Proposed)



(Sections as Proposed)

1.6 Drainage arrangements are unaltered with an existing foul water connection and surface water to the mains.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy 2011-2031 (adopted October 2015)

- SS1 – Presumption in favour of sustainable development
- SS4 – Movement and transportation
- SS6 – Environmental quality and local distinctiveness
- SS7 – Addressing climate change
- LB1 – Development in Ledbury
- RA6 – Rural economy
- SC1 – Social and community facilities
- MT1 – Traffic management, highway safety and promoting active travel
- E1 – Employment provision
- E5 – Town centres
- E6 – Primary shopping areas and secondary shopping frontages
- LD1 – Landscape and townscape
- LD2 – Biodiversity and geodiversity
- LD4 – Historic environment and heritage assets
- SD1 – Sustainable design and energy efficiency
- SD3 – Sustainable water management and water resources
- SD4 – Waste water treatment and rover water quality

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

2.2 Ledbury Neighbourhood Development Plan (NDP) (made on 11 January 2019)

The Ledbury Neighbourhood Development Plan was made on 11 January 2019. The policies within the Plan are afforded full weight, in line with paragraph 48 of the NPPF and form part of the Development Plan. Officers consider the following policies are applicable to this application:

- SD1.1 – Ledbury as a Self-Sustaining Community
- EE3.1 – Retail Areas & Provision
- BE1.1 – Design

The Ledbury NDP, together with relevant supplementary planning documentation is viewable on the Council's website through the following link:-

<https://www.herefordshire.gov.uk/directory-record/3074/ledbury-neighbourhood-development-plan>

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

The revised NPPF sets out the UK government's planning policies and how these are expected to be applied. Officers view the following sections are applicable to this application:

- 1 – Introduction
- 2 – Achieving sustainable development
- 4 – Decision-making
- 6 – Delivering a strong, competitive economy
- 8 – Promoting healthy and safe communities
- 9 – Promoting sustainable transport
- 11 – Making effective use of land
- 12 – Achieving well-designed places
- 14 – Meeting the challenge of climate change, flooding and coastal change
- 15 – Conserving and enhancing the natural environment
- 16 – Conserving and enhancing the historic environment

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

Further information on the subject of this report is available from Mr Josh Bailey on 01432 261903

2.4 **Planning Practice Guidance (PPG)**

PPG categories have been revised and updated to make it accessible and should be read in conjunction with the NPPF. PPG can be accessed at the following link: <https://www.gov.uk/government/collections/planning-practice-guidance>

3. **Planning History**

3.1 None

4. **Consultation Summary**
Statutory Consultations

4.1 **Severn Trent – No objection:**

“With Reference to the above planning application the company’s observations regarding sewerage are as follows. As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied”.

4.2 **Ancient Monuments Society – No objections:**

“We appreciate that this building is not listed but it is prominent and a key player in the Conservation Area. The use being proposed is an excellent one. It works with the grain of the interior and retains the key elements, particularly the galleries. It also places a premium on public access and a high standard of maintenance. We can accept and welcome it in principle. However we would like to offer the following observations, the first of which is perhaps aimed at the applicants and their understanding of the building:

1. The Design and Access Statement refers to the building as being “early 20th century”. It is in fact much more interesting than that – indeed had not the pulpit been taken out and the front entrance not so changed, it might be a tentative candidate for listing. The interior, including the gallery seating dates from 1849. The very animated front elevation is 1884. We hope that its history, both social and architectural, can be exploited in the marketing of the restaurant.

2. We appreciate that as an unlisted building Herefordshire’s ability to control the physical works to the interior is very limited. Even so, might we put in a plea for the some greater retention of the very attractive woodwork in the galleries. The pews, pew backs and swanneck dividers are all of 1849 and whilst we appreciate the wish to take out the rake is it possible to reuse the backs and swanneck dividers? I fear that the immediate future for restaurants and wine bars will rest with introducing more physical dividers, the better to achieve social distancing. Reuse of this 1849 woodwork could help to achieve that, especially as painted surfaces are easier to wash down.”

Internal Council Consultations

4.3 **Transportation – No objections/ condition recommended:**

“It is noted that this conversion is unlikely to generate a significant increase in the amount of trips associated to the building. The comments in the design and access statement set out the accessible location of the site. The use of the surrounding car parks are appropriate for customers to the site and there are also sufficient public transport options within an acceptable distance. The proposal should include cycle parking for both the staff and the managers flat that will be required by the use of a bar so that they may make sustainable choices around travel to the venue. In order to deliver this it is recommended that condition CB2 is applied in the event permission is granted. There are no highways objections to the proposals, subject to the condition suggested above being applied.”

4.4 **Ecology – No objections:**

“No objections”

4.5 Environmental Health (Noise) – No objections/conditions recommended:

“My comments are with regard to potential noise and nuisance issues that might arise from development. The proposal is for a wine bar/restaurant. In principle, our department has no objection to the change of use subject to the following conditions:

- *The use of the premises by members of the public shall cease between the hours of 23:00 and 08:00 Monday to Saturday and 22:00 and 08:00 on Sundays and Bank Holidays.*
- *Except in the event of emergencies, members of the public shall access and leave the premises only from The Homend.*
- *There shall be no music outside in the rear yard area.*
- *Prior to the use of the building, a Noise Management Plan shall be submitted to the local authority for approval in writing. This shall include but not be restricted to control of noise inside and outside the premises and a communication strategy with neighbours.*
- *Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31”*

4.6 Environmental Health (Contaminated Land) – No objections:

“I refer to the above application and would make the following comments in relation to contaminated land and human health issues. Given what’s proposed, I’ve no comments to make”.

4.7 Building Conservation Officer – No objections:

“No Objection to the change of use but as the site lies within a conservation area, a separate application will be needed to approve the proposed signage, if illuminated”

4.8 Economic Development – No response

5. Representations

5.1 Ledbury Town Council – Objection:

“Ledbury Town Object to this planning application on the grounds that it is in a residential area which is likely to impacted upon in respect of noise and the impact on traffic and parking conditions in the immediate and surrounding area.”

5.2 The remaining representations are made by any interested party not formally consulted, but wishes to make representation as a result of the application being publicised in either the press and/or erected site notice. In this instance, 11 letters of representation have been made, all by residents of Ledbury. This is broken down as follows:

10 letters of objection, raising the following material considerations.

- Loss of privacy;
- Increased noise levels;
- Increased traffic;
- Waste arrangements;
- Sufficient establishments already;
- Increased opening hours;
- Lack of consideration of disability being able to access second floor

The remaining 1 letter supports this application, raising the following material planning consideration:

- Increased choice and variety of establishments in town

All consultation responses, plans and supporting documents can be viewed on the Council’s website by the following link:-

https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=200662&search-term=200662

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>

Further information on the subject of this report is available from Mr Josh Bailey on 01432 261903

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). The National Planning Policy Framework (NPPF) is also a significant material consideration, as well as further supplementary guidance within Planning Practice Guidance (PPG). It is also noted that the site falls within the Ledbury Neighbourhood Area, which has a Neighbourhood Development Plan (Ledbury NDP), made on 11 January 2019. Paragraph 30 of the NPPF sets out that once a NDP has been made, the policies it contains take precedence over existing non-strategic policies in the Core Strategy, where they conflict.
- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the NPPF require a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The CS was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the CS was taken in 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.

Assessment

Principle of Development

- 6.4 In respect of the change of use, a place of worship is identified as a social and community facility, under paragraph 5.1.33 of the CS. Policy SC1 of the CS applies in respect of considering whether the retention of the building as a social/community facility has been evidentially justified. The policy states existing facilities shall be retained, unless an appropriate alternative facility is available, or can be demonstrated that the facility no longer viable or fit for purpose; and, where appropriate, it has been marketed for community use without success. Viable alternatives must be equivalent in terms of size, quality and accessibility.
- 6.5 Until August 2019, the building had been used by Ledbury Methodist Church, who have vacated the premises and use a viable alternative at Burgage Hall, Church Lane, Ledbury. This is approximately a 5-minute walk south of the application site, closer to the town centre. Officers note the premises has been marketed for an 18-month period between early 2018 and mid 2019, to purchase 145 The Homend for community use. Officers have had sight of marketing details, including sales particulars, by the applicant's agent and are of the view that the premises has been marketed for a sufficient period, this being at least 12 months for community use. The proposal accords with Policy SC1.
- 6.6 To ascertain whether the proposed use is acceptable in principle, members will note the site is located on the secondary shopping frontage within the made Ledbury Neighbourhood Development Plan, which extends to just after the junction for Belle Orchard, to the north, whilst to the south sees the continuation of the secondary frontage and subsequently, primary shopping frontage. This is evidenced below (145 The Homend is denoted by black star):



(Map of Shopping Frontages from Ledbury NDP – 145 The Homend is identified by black star)

6.7 In terms of adjoining land uses, the area hereabouts is a mixture of commercial and residential uses, which traditionally forms a secondary shopping frontage. CS Policy E6 (Primary shopping areas and primary and secondary shopping frontages) identifies that the retail trading character of the primary shopping areas and primary and secondary shopping frontages will be protected and enhanced. Proposals for use classes A2-A5 in ground floor premises in primary and secondary shopping frontages will not be encouraged if the proposal results in a continuous frontage of more than two non-retail units; and the overall proportion of non-retail uses exceeds 50%. Exceptions include where it is demonstrated that an alternative is appropriate within a made NDP. Accordingly, officers draw attention to Policy EE3.1 (retail areas & provision) of the Ledbury NDP which outlines how the NDP wishes to promote Ledbury Town Centre as a destination of choice for retail, leisure and community activities, in order to enhance the appearance and historic character of Ledbury. The policy states,

“To preserve the current character, the change of use of A1 (Shops,) A3 (Restaurants & Cafes) or A4 (Drinking Establishments) to other use classes in the primary shopping area will not be supported. New A1, A3 and A4 provision will be supported within the primary and secondary shopping areas. New A2 (Financial & Professional Services) and A5 (Hot Food Takeaways) will not be supported within the primary shopping area, but will be encouraged within the secondary shopping area. New town centre development of this area will be expected to retain or enhance the existing provision of parking spaces.” (Policy EE3.1 of the Ledbury NDP, page 32)

6.8 Members will note the NDP supports a change of use to class A4 within the secondary shopping frontage, subject to highway considerations, particularly parking, as the policy would dictate. The principle of development would be accepted.

6.9 CS Policy LB1 (Development in Ledbury) states that in relation to changes of use and indeed, new development proposals, they shall be encouraged where they maintain and enhance the vitality and viability of the town centre; improve accessibility and reflect and enhance the characteristic built historic elements of Ledbury. CS Policy RA6 (Rural economy) states that employment generating proposals which help diversify the rural economy will be supported where development is at a scale which is commensurate with location and setting; does not cause unacceptable adverse impacts to amenity of nearby residents; does not generate traffic movements which cannot be safely accommodated within the local road network and does not undermine achievement of water quality targets, in accordance with CS Policies SD3 and SD4. Therefore, it is necessary to review the other material considerations, before concluding whether the proposal is acceptable, when considering it against the development plan, taken as a whole.

Design/Townscape

6.10 Externally, the following changes are proposed:

- At the front (west) elevation, a new fully glazed entrance door and side screen to replace the existing 20th century porch, to be a textured rendered and painted/self-coloured finish to existing brick pillars at entrance porch; new fascia and illuminated signboard above entrance porch, to replace existing (note – sign lettering shown is indicative only); replacement timber doors and glazed light above; new projecting signboard with illumination (note – sign lettering shown also indicative only);
- At the side (south) elevation, the only changes will see two replacement windows and an existing doorway to be partially in-filled to form a window whilst all other existing windows retained and painted white;
- At the side (north) elevation, a ground floor replacement window is proposed and a second storey window in-filled, as well as the introduction of a new kitchen ventilation system (discussed in residential amenity section below);
- Finally, at the rear (east) elevation, a replacement window is proposed at the first floor, two existing windows at the ground floor will be in-filled and a new doorway will be formed of timber/steel door and frame.

6.11 Officers consider the design alterations acceptable. Attention is drawn to the illuminated signage proposed by way of a new fascia and signboard above the entrance. It should be made clear that a separate advertisement consent (Informative 2 in the recommendation) would need to be submitted to display signage.

6.12 CS policy LD1 (Landscape and townscape) criteria require new development to consider design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas; conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including conservation areas. Policy SD1 (Sustainable design and energy efficiency) requires that development proposals are designed to maintain local distinctiveness through incorporating local detailing and materials and respecting scale, height, proportions and massing of surrounding development. Both are reinforced by Policy BE1.1 of the Ledbury NDP. Your officers view is that the proposed alterations will conserve and offer a modest enhancement to the townscape. Those alterations that are proposed are also minor improvements to the entrance, a replacement rear door and a side window plus modest signage, subject to advertisement consent, in keeping with that used on other premises in the vicinity. Therefore, it is contended that the proposal accords with the relevant design policies of Policies SD1, LD1 and LB1 of the CS, which is consistent with Section 12 of the NPPF and Policy BE1.1 of the made Ledbury NDP.

Residential Amenity

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

6.14 Before considering amenity impacts from noise (aural amenity) and light (visual), the spatial layout of the site and its locale needs consideration, particularly that of nearby receptors. 145 The Homend is adjacent to residential properties to both the north and east of site, the latter on Homend Terrace via a pedestrian gate. The extant use of site, as a place of worship, when compared to a proposed wine bar with managers flat, will certainly represent a material increase in the use and activities at this site.

- 6.15 The Council's Environmental Health Officer has reviewed the submission, from a noise and nuisance perspective, including details of a new kitchen ventilation system, required to facilitate the change of use. The consultee, who officers afford significant weight to, raises no objection following submission of additional details, although this is subject to the following conditions:
- *“The use of the premises by members of the public shall cease between the hours of 23:00 and 08:00 Monday to Saturday and 22:00 and 08:00 on Sundays and Bank Holidays.*
 - *Except in the event of emergencies, members of the public shall access and leave the premises only from The Homend.*
 - *There shall be no music outside in the rear yard area.*
 - *Prior to the use of the building, a Noise Management Plan shall be submitted to the local authority for approval in writing. This shall include but not be restricted to control of noise inside and outside the premises and a communication strategy with neighbours”*
- 6.16 This is in the interests of residential amenity and future occupiers adjacent to the application site, which officers concur is reasonable and necessary. Indeed, officers appreciate that many of the objections cite the proposed use of the site. However, the Council's licensing authority are responsible for ensuring that activities do not cause a statutory nuisance and there is a distinct difference between amenity and nuisance. The Council's Environmental Health department has powers to investigate and take action against alleged statutory nuisances.
- 6.17 It is acknowledged that the majority of activities will be inside the premises, with no tables serving food/drink outside. Exterior activities will only be a smoking area to the rear and a storage point for waste/recycling. It is reasonable to consider whether the use of planning conditions to secure control over the areas where potential aural producing activities may take place and the implications this has, is of long-term benefit.
- 6.18 Members will acknowledge a proposed condition, relating to opening hours (Condition 11). A noise management plan will also need to be submitted, should this application be approved, to provide additional mitigation for nearby residential receptors (Condition 6). Additionally, a condition is recommended to restrict hours of deliveries once the site operates (Condition 12).
- 6.19 In assessing the impacts of development on nearby residential amenity and land uses, in officers view the conditions recommended in the consultation response by Environmental Health meet the six tests set out in PPG and can be implemented with regard to this proposal. Officers have afforded significant weighting to the views of the technical consultee and also accounting for cumulative impacts, in line with paragraph 180 of the NPPF and Policy SD1 of the CS.
- 6.20 The manager's flat at the basement is to be occupied by a staff member in conjunction with the wine bar and a condition will be recommended to ensure it is not sold, leased or let separately from the enterprise (Condition 15). This offers further assurance that the flat cannot be occupied by anyone not in conjunction with the wine bar business, that would otherwise be susceptible to aural and visual amenity concerns above.
- 6.21 In relation to aural and visual amenity, there are opportunities for concerns to be mitigated to an appropriate degree. Indeed, it must be considered there are a vast number of public houses or facilities of a similar nature across Herefordshire, which are located in amongst and adjoining residential areas. Indeed, similar premises often have external areas and tables where further activities including socialising take place, which form a greater impact on residential amenity.
- 6.22 Additional restrictive conditions are sufficient in your officers and Environmental Health's opinion for the development to not result in adverse harm to residential amenity, which would otherwise attract grounds for withholding planning permission. Furthermore, it is presumed that the site would operate efficiently and as designed in line with paragraph 180 of the NPPF. By mitigating and reducing to a minimum potential adverse impacts resulting from noise, these would not amount to significant adverse impact on health and the quality of life, and it is officers view that

the proposal accords with Policies SD1, LB1 and RA6 of the CS, which is consistent with Paragraph 180 of the NPPF and Policy BE1.1 of the made Ledbury NDP.

Highways/Transportation

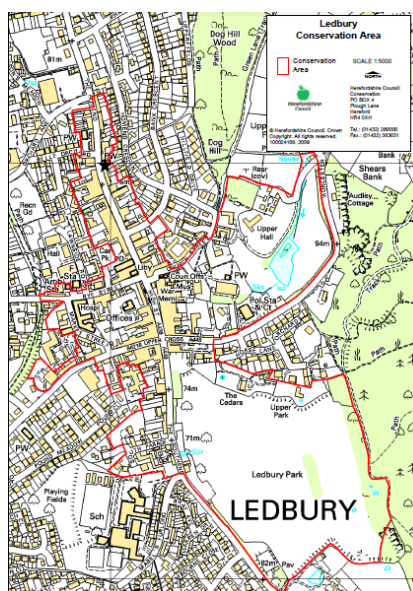
- 6.23 In respect of highways, Policy EE3.1 of the Ledbury NDP, identifies that new development needs to take account of retaining and/or enhancing parking provision. CS Policy MT1 (Traffic management, highway safety and promoting active travel) states development proposals should demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network and, where possible, incorporate integrated transport connections and supporting infrastructure (depending on the nature and location of the site), including access to services by means other than private motorised transport.
- 6.24 The extant use of site is important. When operating a place of worship and in the absence of any vehicular access, parking was previously secured by way of time-restricted on-street parking, public car parks within Ledbury, walking or public transport. The proposed arrangements will not alter. The main entrance is accessed by pedestrians from The Homend and this will also not change. Visitors and staff have the opportunity to use public car parks in the vicinity of town and, given its location, it would be more than expected that many users are likely to arrive on foot or public transport.
- 6.25 CS Policy SS4 (Movement and transportation) identifies that new development should be designed and/or located to minimise impacts on the transport network and should be accessible by a genuine choice of modes of travel. Given the capacity of the premises and compared to its extant use, the Transportation Manager concludes the proposal is unlikely to generate a significant increase in the amount of trips associated with the building. Indeed, the use of the car parks are appropriate for customers to the site and the variety of active modes of travel is plentiful.
- 6.26 The Transportation Manager identifies that the proposal will need to incorporate provision for cycle storage to encourage additional active modes of travel, thus enhancing infrastructure available. Accordingly, this is recommended as a condition to be secured prior to first occupation. Subject to this, there are no highways concerns with the proposal. It accords with Policies RA6, LB1 and MT1 of the CS, which are consistent with the NPPF, namely Section 9 (promoting sustainable transport) and the relevant aspects of Policies EE3.1 and SD1.1 of the Ledbury NDP. Importantly, officers do not feel that the proposal would contravene Paragraph 109, which explicitly states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or residual cumulative impacts on the road network would be severe.

Heritage

- 6.27 The LPA has a statutory duty to give due diligence to the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 requires decision makers to “*have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*” Section 72 identifies, with respect to land in a conservation area, that “*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*”. CS Policy LD4 (Historic environment and heritage assets) sets out that development proposals affecting heritage assets and the wider historic environment should protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible. CS Policy SS6 (Environmental quality and local distinctiveness) describes that proposals should conserve and, where possible, enhance those environmental assets that contribute towards the county’s distinctiveness, in particular heritage assets. Principal policies relating to the historic environment and heritage assets are found in paragraphs 184 – 202 of the NPPF.

- 6.28 Officers are aware of the judgement of *Catesby Estates Ltd v Steer, Secretary of State for Communities and Local Government v Steer* - [2018] EWCA Civ 1697; specifically in relation to the effect of setting in that the judge in this case provided guidance in interpretation of the concept of “*setting*”, to include much more than visual impact. When considering the impact of a development proposal upon the setting of a Heritage Asset, there are several stages. Firstly, identifying those assets which may be affected and their significance. Secondly, those aspects of their setting which contribute to the significance are identified and finally, the impact of development upon this significance.
- 6.29 A view to or from a Heritage Asset does not necessarily mean a site is within that asset’s setting, this will depend upon whether that view contributes to the significance of that asset, be that whether it may be (non-)designated. The fundamental principle is whether or not a development affects the significance of a heritage asset, including aspects of its setting which contribute to significance.
- 6.30 The chapel is significant for the quality of its workmanship and materials and its aesthetic and architectural value as an attractive building of the period. The chapel has high communal value as the centre for Methodist worship in Ledbury for over 150 years. Its layout is evidence of the practices of the Methodist faith. The building is however not listed in its own right.
- 6.31 A number of heritage assets are in the vicinity of site, including:
- 147-151 The Homend (Grade II Listed)
 - 153 and 155 The Homend (Grade II Listed)
 - 157-163 The Homend (Grade II Listed)
 - 137 and 139 The Homend (Grade II Listed)
 - 133 and 135 The Homend (Grade II Listed)
 - Ledbury Conservation Area

The Ledbury Conservation Area is shown below, with the site identified by the black star:



Map of Ledbury Conservation Area – 145 The Homend is denoted by the black star

- 6.32 In terms of impact upon heritage assets, the key test is the degree of harm to the assets’ significance. Given the existing built forms and inter-visibility between the application site and heritage assets, the listed buildings’ orientations and outlooks, officers do not consider the

proposals submitted would be deemed to cause harm to either the significance; experience or setting of any listed building, heritage asset or the Ledbury Conservation Area.

- 6.33 The Council's Building Conservation Officer's consultation response, to which officers have afforded significant weighting, raises no objection. Officers consider the scheme to accord with Policies LD4, LD1 and SS6 of the CS, which is consistent with Section 16 of the NPPF, in conserving designated heritage assets and the wider historic environment, and Policy BE1.1 of the Ledbury NDP.
- 6.34 The Council has exercised its right in regard to sections 66 and 72 of *'the Act'*, in that members give heed to heritage. Bringing the assessment of heritage together, both individually and cumulatively, the proposal is not considered to adversely affect or give rise to harm to (non-) designated heritage assets nor their setting, as they would be preserved in this instance. Officers consider there is no need to undertake the public interest test prescribed at paragraph 196 of the NPPF, as no harm has been identified. In respect of comments raised by the Building Conservation Officer in regards to illumination, this is discussed under design/townscape.

Ecology

- 6.35 CS Policy LD2 (Biodiversity and geodiversity) states proposals should conserve, restore and enhance biodiversity and geodiversity assets of Herefordshire. Members will acknowledge the Council's ecologist raises no objections. However, in order to secure net biodiversity gain, in line with Policy LD2 of the CS, which is consistent with the relevant paragraphs of the NPPF, and Policy SD1.1 of the Ledbury NDP, officers recommend a condition (Condition 10) to secure additional biodiversity enhancement.

Climate Change

- 6.36 CS Policy SS7 (Addressing climate change) states that proposals will be required to take measures which mitigate their impact on climate change. Policy SD1.1 of the Ledbury NDP (Ledbury as a Self-Sustaining Community) identifies that proposals which are aimed at developing Ledbury as self-reliant and environmentally sustainable, including proposals which promote a reduction in dependency on the private car and environmentally sustainable travel habits, is supported.
- 6.37 In considering the proposal, a huge amount of energy is already embodied in a building before occupation. This is relevant in policy terms because policy can support the replacement of buildings (which is unsustainable as one is demolishing a building just to replace it with a new one). There is a valid case to be made here for promoting the reuse of this building and resisting the demolition and replacement of it, as a matter of principle. This is typified by a vast proportion of carbon usage often being emitted in replacement buildings before they are occupied, usually during construction, and given that demolition of a building often results in the huge loss of the embodied carbon in building materials, plus generation of waste, the retention of the building is welcomed. In turn, this reduces loss of energy and is considered an acceptable choice of resources through utilising an existing building.
- 6.38 Notwithstanding the above, the proposal provides recycling and waste storage to the rear of the building and subject to condition, introduction of cycle storage. Due to the existing parameters and constraints of the building in the context of surrounding, aspects such as solar photovoltaic panels will not be feasible due to heritage constraints, although thermal improvements to the energy efficiency of the building by replacement windows provides a small, modest benefit to addressing climate change. In this guise, the proposal is considered to accord with Policies SS4, SS6, SS7 & SD1 of the CS and Policy SD1.1 of the Ledbury NDP, which is consistent with the NPPF and its sections on addressing climate change.

Other Considerations

- 6.39 In respect of waste arrangements, the applicant has confirmed the 'refuse and recycling' storage area is to be erected to the rear (east) of the premises, and will store waste prior to disposal. The applicant has confirmed that waste will be collected from Homend Terrace rather than from The Homend. A pedestrian walkway is intended to be created to do this.
- 6.40 In respect of comments raised by the Ancient Monuments Society, as the building is not listed, officers are unable to exercise control over the internal layout of the premises, although it would be in good faith of the applicant to consider retaining elements to explain the evolution, public understanding and previous use of the building for future experience. The applicant has confirmed to officers their intention to retain the organ for some understanding of site evolution.
- 6.41 The building proposes a lift to allow accessibility between street level and the first floor of the premises and a stair lift is currently in situ to allow access between street level and first floor, whilst the building was operating as a Methodist Chapel.
- 6.42 Loss of property value; neighbouring issues about damage to property and opposition to business competition are not material planning considerations. Each application is treated on its own merits and assessed against the development plan, taken as a whole.
- 6.43 Finally, for note, the Use Classes Order was updated on 1 September 2020. For any planning application submitted before this date, it is advised an application is assessed against the previous Use Classes Order. As Use Class A4 is proposed, the premises is proposed to be conditioned as this use (Condition 14). The manager's flat will be ancillary to the principal use of the premises as a drinking establishment with expanded food production, which is often similarly typical of public houses with associated staff accommodation.

Summary and Conclusion

- 6.44 The NPPF states that the purpose of the planning system is to contribute to achieving sustainable development. Achieving sustainable development has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways at paragraph 8 (so opportunities can be taken to secure net gains across each objective):
- *An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
 - *A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being, and*
 - *An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*
- 6.45 These objectives should be delivered through preparation and implementation of plans and the application of the policies in the NPPF. They are not criteria against which every decision can or should be judged. Sustainable development is pursued positively, so at the heart of the NPPF is a presumption in favour of sustainable development. This does not change the statutory status of the development plan as the starting point for decision making. CS Policy SS1 is worded in line with the NPPF, and which has a positive approach to sustainable development.

6.46 Therefore turning to the three objectives of sustainable development:

Economic Objective

The economy helps support and strengthen the vitality and viability of commercial facilities of an appropriate type and scale. The operation of a successful business will also provide economic benefits as a local employer. With expected increased visitors, there is already associated increase in the level of disposable income in the local area with some commensurate growth in the demand for goods and services. The development will create employment locally (equivalent to 3 full time and 10 part time jobs), which represents a considerable benefit to the local economy, and particularly in light of current national trends. Approval of this application would allow for the creation of a new business to potentially prosper. On the basis of the scale and nature of the development, officers attach significant weight to these benefits noting the opportunities there are in such an area for such considerable inward investment.

Social Objective

There are clear social benefits associated with the provision of such facilities which will act as a meeting place, expediting social interactions and social cohesion locally and beyond. The NPPF highlights that accessible local services play an important role in supporting strong, vibrant and healthy communities. Subject to conditions, impact on the amenity of nearby residential receptors can be mitigated to an acceptable degree, with additional mitigation measures. The social objective is considered to be satisfied and officers attribute significant weight to the benefits in community terms, particularly to the support of sustainable communities, employment opportunities and a sense of place the development will secure and delivering the planned economic growth of the area.

Environmental Objective

The environmental objective requires consideration of how development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy). The proposal will continue to promote sustainable patterns of activity through providing facilities in a location which has excellent transport links, with no impact on heritage assets. The lack of incurred townscape harm and biodiversity harm, is neutral compared the existing situation. The retention of the existing building, will considerably reduce embodied carbon, which may otherwise have been dissipated through a new purpose-built building alongside wasted materials. In respect of the environmental objective, officers attribute significant weight to this and identify a lack of harm in the environmental sphere that would otherwise result in withholding planning permission.

- 6.47 It is considered this scheme delivers considerable economic and social benefits to the immediate local area and to the viability and vitality of Ledbury town centre, which the CS supports, including Policy E5 (Town centres) which identifies that town centres are a focus for commercial, retail, leisure, cultural and tourism uses. Proposals which contribute to the vitality and viability of a town centre are supported provided they do not adversely affect the primary function of the town centre as shopping destination and are of a scale and design appropriate to the size, role, character and heritage of the centre. Those relevant policies within the CS, are consistent with the relevant sections of the NPPF, to which significant weight should be afforded. No conflict has been found with the made Ledbury NDP, which encourages applications of this nature within the secondary shopping frontage.
- 6.48 The proposal as submitted provides a continued optimal reuse of an existing building in a town centre location whilst not impinging on any retail frontage or introducing adverse issues of highways, residential amenity, heritage or design and giving consideration for climate change.

- 6.49 Officers and consultees have identified no technical objections with the proposal when assessed against the development plan, taken as a whole, including the CS, which is consistent with the NPPF, and the made Ledbury NDP.
- 6.50 Through the ability to control relevant aspects of the proposal through suitably worded conditions, both prior to occupation and on-going compliance, the identified public benefits are considerable and in the absence of any identified harm with this application, it is your officers' view that planning permission be granted as set out in the recommendation below.

RECOMMENDATION

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

Standard Conditions

1. C01 (Time limit for commencement)

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. C06 (Development in accordance with approved plans)

The development shall be carried out strictly in accordance with the approved plans, except where otherwise stipulated by conditions attached to this permission.

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy BE1.1 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

3. CBK (Restriction on hours during construction)

During the construction phase no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Friday 7.00 am-6.00 pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy; Policy BE1.1 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

Pre-Commencement Conditions

None

Relevant Commencement

4. C13 (Samples of new external materials)

Prior to their installation, no further development shall take place until details or samples of any new materials to be used externally on the walls of the building, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the materials harmonise with the surroundings so as to ensure that the development complies with the requirements of Policies SD1, LD1 and LD4 of the Herefordshire Local Plan – Core Strategy; Policy BE1.1 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

Pre-Occupancy Conditions

5. CB2 (Provision of Secure Cycle Parking)

Prior to the first occupation of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities within the building premises shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained.

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

6. CNS (Noise Management Plan)

Prior to first occupation, a noise management plan in relation to the use of the premises, shall be submitted to and approved in writing, by the Local Planning Authority. At a minimum, the submitted details shall include measures to control noise inside and outside of the premises whilst operating and a communication strategy with neighbours. The approved details shall be implemented and reviewed annually thereafter.

Reason: In the interests of residential amenity and to accord with Policies SD1 and RA6 of the Herefordshire Local Plan – Core Strategy; Policy EE3.1 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

7. C95 (Boundary Treatments)

No works in relation to any boundary treatments required by this condition shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the position, type, design and materials of any additional boundary treatments to be erected. The boundary treatment shall be completed before first use of the development hereby approved. Development shall be carried out in accordance with the approved details.

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 BE1.1 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework

8. CKJ (Mains Sewer Connection)

All foul and surface water shall discharge through a connection to the local mains sewer network, unless otherwise agreed in writing by the Local Planning Authority

Reason: In order to comply with the National Planning Policy Framework, NERC Act (2006), and Herefordshire Local Plan - Core Strategy Policies LD2, SD3 and SD4

9. CCA (Scheme of refuse storage (commercial))

Prior to the first occupation of the development hereby approved, a scheme for the provision of storage, prior to disposal, of refuse, crates, packing cases and all other waste materials shall be submitted to and be approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted and retained thereafter.

Reason: In the interests of amenity and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy EE3.1; SD1.1 and the National Planning Policy Framework.

Compliance Conditions

10. CKR (Biodiversity net gain)

Within 3 months of completion of the approved works [evidence of the suitably placed installation within the site boundary of at least 2 bird nesting boxes for a site appropriate range of bird species; 2 bat roosting features and one hedgehog home, shall be supplied to the local authority for acknowledgement; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

Reason: To ensure Biodiversity Net Gain and species and habitats enhancement having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy policies LD1 and LD2 and Policies SD1.1 and BE1.1 of the Ledbury Neighbourhood Development Plan.

11. C54 (Restriction on hours of opening)

The use hereby permitted shall not be open to customers outside the hours of 23:00 and 08:00 Monday to Saturday and 22:00 and 08:00 on Sundays and Bank Holidays.

Reason: In the interests of the amenities of adjoining residential amenity in the locality and to comply with Policies RA6 and SD1 of the Herefordshire Local Plan – Core Strategy; Policies BE1.1 and EE3.1 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework

12. C53 (Restriction on hours of deliveries)

The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall not take place outside the hours of 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays nor at any time on Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with Policies RA6 and SD1 of the Herefordshire Local Plan – Core Strategy; Policy EE3.1 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

13. CNS (Public Access)

Except in the event of emergencies, all members of the public shall access and leave the premises from the main site entrance on The Homend.

Reason: To safeguard the amenities of the locality and to comply with Policies RA6 and SD1 of the Herefordshire Local Plan – Core Strategy; Policy EE3.1 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

14. C57 (Restriction of use)

The premises shall be used as a drinking establishment with expanded food provision, with managers flat ancillary to the premises, and for no other purpose (including any other purpose in Class A4 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 Policies RA6 and SD1 of the Herefordshire Local Plan – Core Strategy; Policy EE3.1 of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

15. C64 (Restriction of Separate Sale)

The managers flat and the premises known as 145 The Homend shall not be sold, leased or let separately from each other.

Reason: In the interests of residential amenity, 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 Policies RA6 and SD1 of Herefordshire Local Plan-Core Strategy; Policy EE3.1

of the Ledbury Neighbourhood Development Plan and the National Planning Policy Framework.

16. CBI (Time Restriction on Music)

In relation to the drinking establishment with expanded food provision use of the premises, no amplified or other music shall be played inside the premises outside the following times: 23:00 and 08:00 Monday to Saturday and 22:00 and 08:00 on Sundays and Bank Holidays. No amplified or other music shall be played within the external areas of the premises at any time.

Reason: In order to protect the amenity of occupiers of nearby properties and to comply with Policies RA6 and SD1 of Herefordshire Local Plan – Core Strategy; Policy EE3.1 and the National Planning Policy Framework.

INFORMATIVES:

1. **IP1 (Positive and Proactive Reason 1) – The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **I22 (Advertisement Consent Required) – This permission does not authorise the display of any advertisements on the site (including any shown on the plans accompanying the application). A separate application may be required to be made to Herefordshire Council in accordance with the Town and Country Planning (Control of Advertisements)(England) Regulations 2007.**
3. **I33 (Ecology General Informative) – The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000. The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture, injure or kill any such animal. It is also an offence to damage or destroy a breeding or resting place of such an animal.**
4. **I54 (Disabled Needs) – The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways and to any requirement of the Disability Discrimination Act**
5. **INS (Change of use only details required of any alterations) – This permission is for change of use only and detailed plans of any proposed alterations or additions to the premises, which may require planning permission, may subsequently require an application to be submitted to and approved by the local planning authority.**

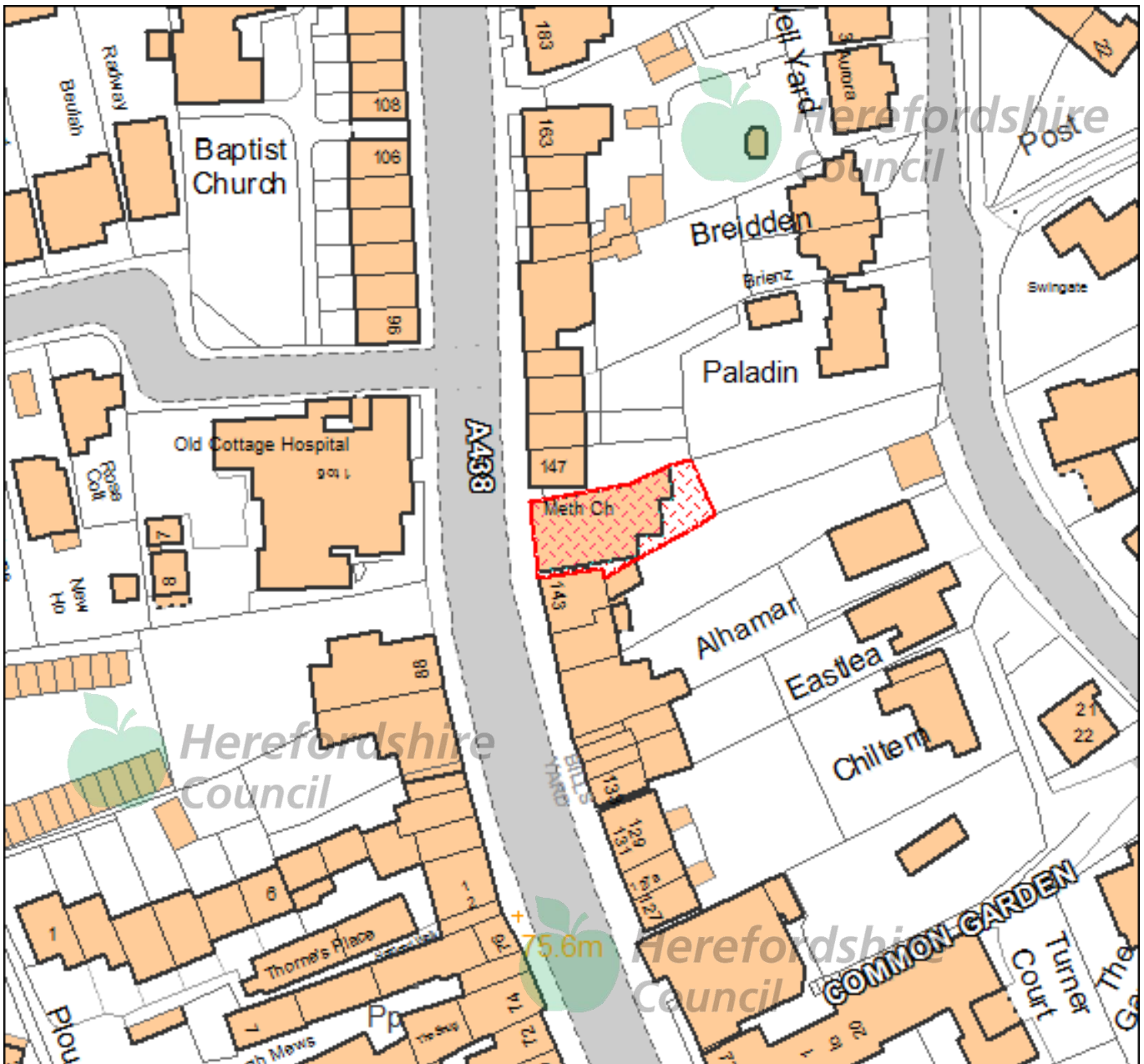
Decision:

Notes:

Further information on the subject of this report is available from Mr Josh Bailey on 01432 261903

Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 200662

SITE ADDRESS : METHODIST CHURCH, 145 THE HOMEND, LEDBURY, HEREFORDSHIRE, HR8 1BP

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

Further information on the subject of this report is available from Mr Josh Bailey on 01432 261903

MEETING :	PLANNING AND REGULATORY COMMITTEE
DATE:	18 JANUARY 2021
TITLE OF REPORT:	<p>193707 - PERMISSION TO INCORPORATE LASER CLAYS SPORTING OPTION TO EXISTING AREA INVOLVED WITH EXISTING ESTABLISHED CLAY SHOOTING LAYOUT, REPLACEMENT OF A PORTABLE CABIN WITH A SMALL LODGE AND VIEWING AREA (PART RETROSPECTIVE) AT NEW HOUSE FARM, GRAFTON LANE, GRAFTON, HEREFORD, HR2 8BL</p> <p>For: Gamber Logistics per Mr Paul Dunham, 19 Townsend, Soham, Cambridgeshire, CB7 5DD</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=193707&search=193707
Reason Application submitted to Committee – Re-direction	

Date Received: 23 October 2019

Ward: Wormside

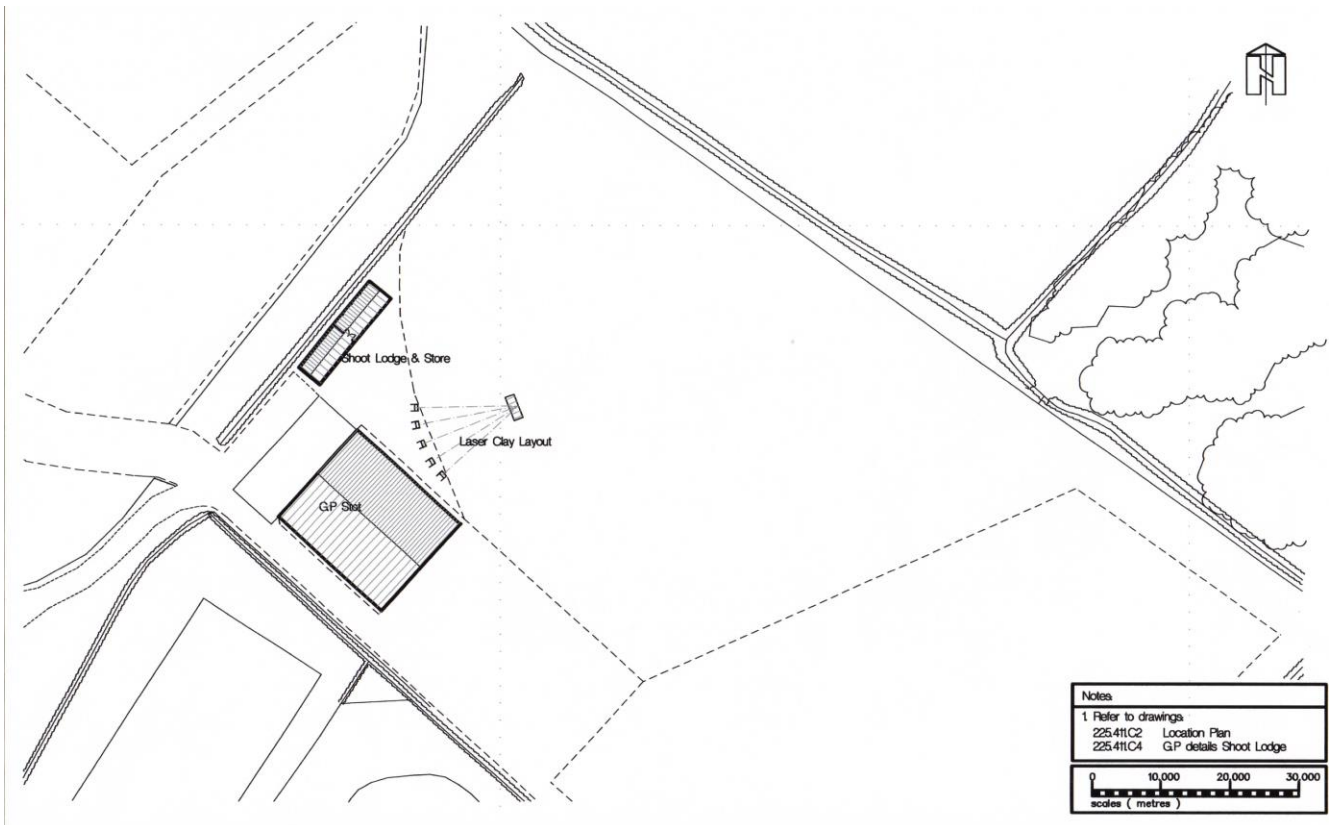
Grid Ref: 349721,236370

Expiry Date: 9 February 2020

Local Member: Councillor Christy Bolderson

1. Site Description and Proposal

- 1.1 The application site is New House Farm, Grafton currently occupied by Gamber Logistics which consists of a former residential building that was converted to offices from a dwellinghouse in 2018. The site is located to the east of Grafton Lane with the access to the north of the office building and a large hardstanding/parking area. Gamber Logistics provide services to the farming community, including cleaning of chicken sheds.
- 1.2 The retrospective application seeks to retain the existing area currently used for laser clays and the small lodge and viewing area (see plan below), which replaced the previous portable cabin on site. Please note that the existing use of land and the building are currently unauthorised.



2. Policies

2.1 The Herefordshire Local Plan Core Strategy policies:

- SS1 – Presumption in favour of sustainable development
- SS6 – Environmental quality and local distinctiveness
- RA6 – Rural economy
- LD1 – Landscape and Townscape
- SD1 – Sustainable design and energy efficiency
- E1 – Employment provision
- E4 – Tourism
- MT1 – Traffic management, highway safety and promoting active travel

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

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

2.2 National Planning Policy Framework

- Chapter 2 – Achieving sustainable development
- Chapter 6 – Building a strong, competitive economy
- Chapter 9 – Promoting sustainable transport
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment

2.3 Callow and Haywood Group Neighbourhood Development Plan

The site is located within the Callow and Haywood Group Neighbourhood area. The Neighbourhood Plan was adopted on 1st December 2016 and now forms part of the Development Plan for Herefordshire. The following policies are of particular relevance:

- CH1 – Protecting and Enhancing the Rural Landscape
- CH6 – Supporting tourism and Local Business Development in Callow and Haywood

The Callow and Haywood Group Neighbourhood Development Plan can be viewed using the following link:

https://www.herefordshire.gov.uk/download/downloads/id/8712/neighbourhood_development_plan

3. Planning History

- 3.1 P200150/F - Hardstanding and access road. The area is used for vehicular parking and access generally, short term holding of deliveries of materials and display of cut Christmas Trees for sale mid-November to 24th December each year. (Retrospective) – Refused 10.6.2020

P193706/F – Permission to operate a retail cartridge business from the existing GP storage building (retrospective). Refused 25.3.2020. Allowed on appeal 21/9/20.

P182130/F – Proposed change of use of residential dwelling to office accommodation. Approved 20.12.2018

DCCE0009/1948/F – Open fronted garage with bat loft. Approved 16.10.2009

4. Consultation Summary

Statutory Consultations

- 4.1 None

Internal Council Consultations

- 4.2 Transportation Manager

As stated in application number 193706, there have been a number of applications for this site both permitted and awaiting permission, all with highways implications, however this application can only be assessed on the proposed application details.

The submitted data set out in the technical note on proposed vehicle movement shows that the level of vehicle movements associated with this application are generally low and would not result in a cumulative impact on the highway network that could be classed as severe. However to reduce the impact of vehicles on the highway network large groups visiting the site should be promoted to use mini buses or car sharing to reduce the single vehicle movements, therefore please condition as follows -

- CA1 - Parking - single/shared private drives
- CB2 - Secure covered cycle parking provision
- CB3 - Travel Plan (which must include arrangements for collection of customers by minibus)

I41 - Travel plans

A Travel plan subsequently submitted on 17th July 2020 which promotes the use of mini buses or car sharing to reduce single vehicle movements has been deemed acceptable by the Area Engineer Team Leader and therefore a condition ensuring compliance with the travel plan is to be imposed in order to reduce the single vehicle movements to the site.

Whilst a condition for parking was suggested by the area highways engineer, this is not considered necessary as there is ample parking already within the site.

4.3 Conservation Manager (Ecology)

It is noted that the proposed lodge does not include any facilities that may generate foul water. Based on this information the application may be screened out from requiring any further habitat Regulations Assessment process.

There are no other ecology comments

4.4 Environmental Health

From a noise and nuisance perspective our department has no objections to this proposal.

5. Representations

5.1 Callow and Haywood Group Parish Council

The Callow and Haywood Parish Council object to the proposal. The main concerns are as follows:

Traffic - Access to both sites is along the narrow and winding Grafton Lane, used by locals for recreational walking and more widely as part of the National Cycle Network. The terms of agreement to planning for another business on the same site in 2019 was associated with severe restrictions in terms of traffic movement. To ignore the effect of increased traffic movements which would result from allowing these current planning applications would be perverse and ignore the danger created.

Mission Creep - We are concerned that the limited administrative activity which was promised and permitted in the original application for change of use on the Newhouse Farm site is being ignored. These 2 applications would create a significantly different activity and traffic footprint to that originally envisaged, in a site that is wholly inappropriate.

5.2 Nineteen letters of support have been received with general comments summarised as: a new recreational activity for the county where there is no noise, light or air pollution created which positively contributes to the rural economy.

5.3 Nine objections have been received from local residents. The main concerns are the volume of traffic to and from the site down the narrow country lane, the hours of operation and the possible habitation of the viewing lodge

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=193707&search=193707

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 and the Callow and Haywood Neighbourhood Development Plan (NDP). The National Planning Policy Framework 2019 is also a significant material consideration.

6.3 The land has been used for the past six years for clay pigeon shooting, albeit without permission, as it was believed that it could be used under temporary use for 28 days per year. This was not the case as the parcel of land in use is clearly within the curtilage of a building. However the recent change to permitted development rights under The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England)(Coronavirus) Regulations 2020 no 632, allows the use of land within the curtilage of a building for such a purpose for up to 28 days in a calendar year. This right is currently set to expire at the end of the year.

6.4 The impact of the laser clays would be less than the previous use as there are no noise issues. As there are considered to be no significant adverse impacts to local amenity or to the local landscape associated with either the laser clays business or the addition of the slightly larger viewing lodge to replace the previously existing building, the proposal accords with Policies SS1 and SS6.

6.5 The proposal is considered to enhance the diversification of the rural economy whilst remaining at a level where it would not negatively impact nearby residential amenity and therefore it accords with Policy RA6.

6.6 There are no landscaping or design issues that could be associated with the current use of the land or the erection of the viewing lodge. The site is well screened from public view by established hedgerows and trees and the lodge has been built in sympathetic natural materials. The low level use of the existing land and replacement building does not have any detrimental effect on neighbouring amenity, the local landscape or the natural environment and therefore the proposal accords with Herefordshire Local Plan –Core Strategy Policies LD1 and SD1 and Callow and Haywood NDP Policy CH1.

6.7 Whilst the activities on offer within the site should promote tourism to the local area, it is not envisaged that it will rise to such a level that there would be any significant negative impact to the local character of the landscape. The proposal hereby accords with Herefordshire Local Plan – Core Strategy Policy E4 and Callow and Haywood Group NDP Policy CH6.

6.8 Significant concerns have been raised by local residents that the increase in traffic movements to and from the site using these facilities would cause the narrow country lane to deteriorate at a faster rate than would normally be expected. The Council's Highways Engineer is of the opinion that based on the submitted data set out in the technical note on proposed vehicle movements, the level of vehicle movements associated with the application are generally low and would not result in a cumulative impact on the highway network that could be classed as severe. However to reduce the impact of vehicles on the highway network by large groups visiting the site, the Travel plan submitted on 17 July 2020 which promotes the use of mini buses or car sharing to reduce single vehicle movements has been deemed acceptable by the Area Engineer Team Leader and therefore a condition ensuring compliance with the travel plan is to be imposed in order to reduce the single vehicle movements. Therefore on that basis the proposal is considered

to accord with Policy MT1. The recent appeal decision for the cartridge sales was allowed because the Inspector did not agree with the Council's opinion that this was an unsustainable location.

Planning balance and conclusion

- 6.9 Whilst the concerns of the Parish Council and local residents in terms of volume of traffic are noted, no objections have been raised by the highways engineer subject to appropriate conditions. No objections were raised by ecology or environmental health in terms of noise or visual amenity. It is therefore considered that on balance the proposal accords with both local and national policy and is recommended for approval subject to 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. CB3 – Travel Plan

The Travel Plan submitted on 17th July 2020 shall be implemented, in accordance with the approved details, upon the first use of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the local planning authority upon reasonable request.

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform to the requirements of Policies SD1 and MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

2. C54 – Restriction on hours of operation

The hours during which the operation of the laser clays may take place shall be restricted to 10.00 am to 4.00 pm Monday to Friday and 10.00 am to 3.00 pm on Saturdays. There shall be no such use on Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

3. CC2 – External lighting

No external lighting to be used within the development prior to submission of details for approval by the local planning authority Reason: To safeguard the character and amenities of the area and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

INFORMATIVE:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the**

presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

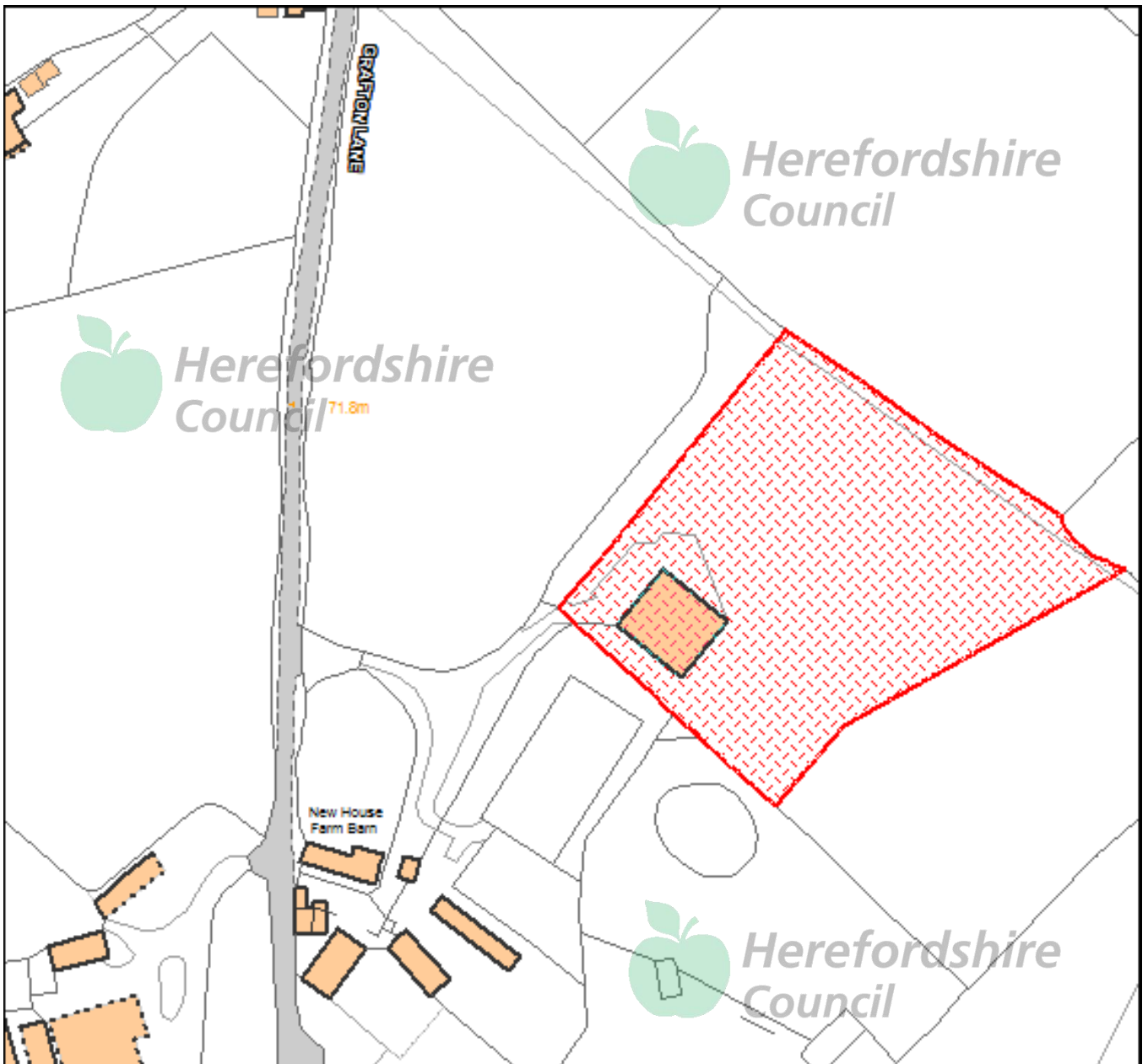
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 193707

SITE ADDRESS : NEW HOUSE FARM, GRAFTON LANE, GRAFTON, HEREFORD, HEREFORDSHIRE, HR2 8BL

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

Further information on the subject of this report is available from Mr Scott Low on 01432 261814

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	18 JANUARY 2021
TITLE OF REPORT:	202499 - PROPOSED NEW DWELLING AND DETACHED GARAGE AT LAND ADJACENT TO GALEN HOUSE, CHERRY ORCHARD, KINGS ACRE, HEREFORD For: Mr A Griffiths, 1 Water Villas, Wellington, Hereford, Herefordshire HR4 8AR
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202499&search-term=202499

Reason Application submitted to Committee – Member Interest

Date Received: 31 July 2020

Ward: Credenhill

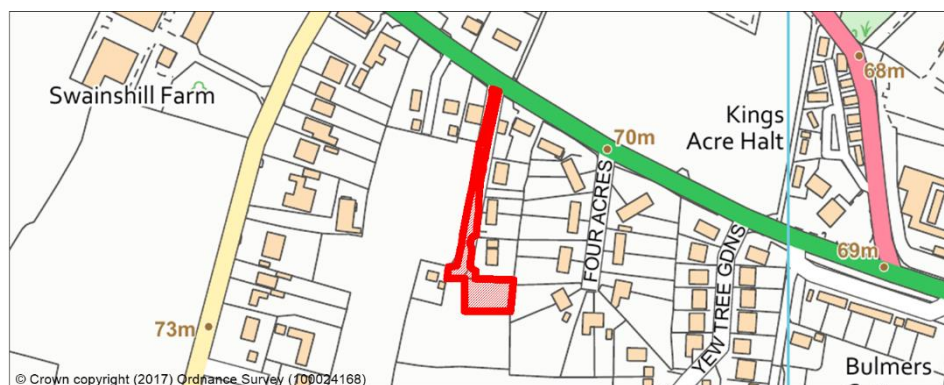
Grid Ref: 346792,241545

Expiry Date: 28 January 2021

Local Member: Councillor Bob Matthews (Councillor Sebastian Bowen has fulfilled the role of local ward member for this application.)

1. Site Description and Proposal

- 1.1 The application site lies to the south side of the A438, Kings Acre Road, to the west of Hereford City but within the Parish of Breinton. The site comprises a rectangular shaped portion of land (20m x 31m) that lies to the north east corner of a field. The field lies at the southern end of a private road known as Cherry Orchard. Access to the site is via Cherry Orchard and the existing field gate.



Application site edged in red

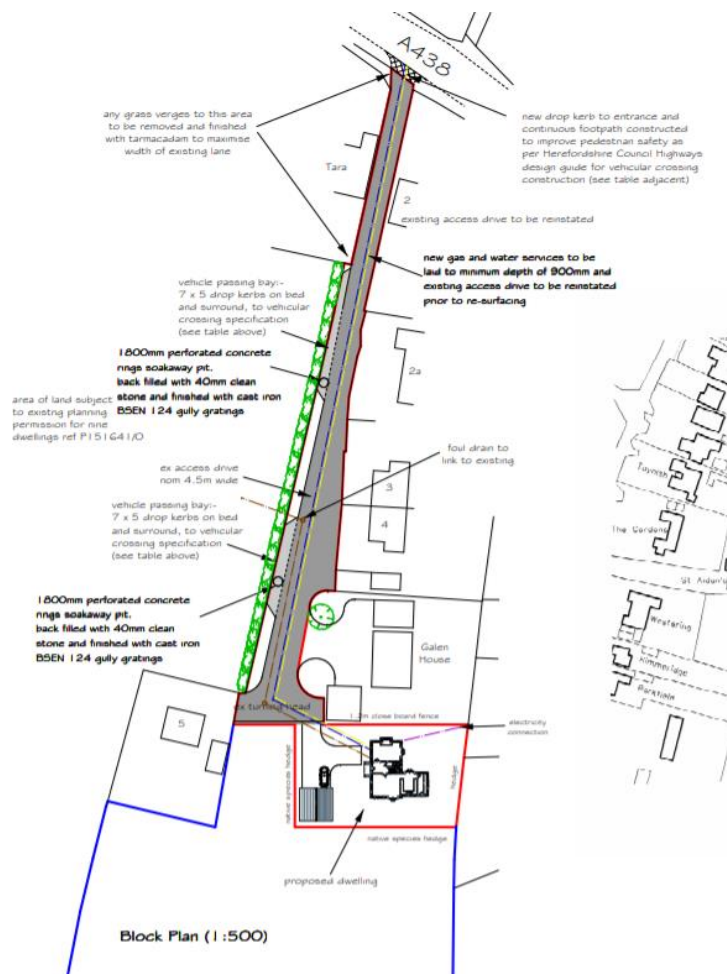
- 1.2 Outline planning permission (Ref 160741/O) was granted on 13 July 2016 for a single dwelling and garage with all matters reserved except for access. Access is via Cherry Orchard, a private road that currently serves six other dwellings. The access improvements required by the 2016 permission including widening of the access road and provision of passing places and these have been implemented.

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

1.3 This application seeks planning permission for a new detached 4 bed dwelling and a double garage, both with dual pitched roofs. The proposed materials include, cream / Southampton sand natural render, red brick plinth and a natural slate roof. The proposal would adjoin the existing residential developments along Cherry Orchard.



Proposed elevations and floor plans



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

Block plan as proposed



Site photo looking across application site.



Site photos showing adjoining dwelling and garaging to the north of the proposed dwelling

2. Policies

Herefordshire Local Plan – Core Strategy 2011-2031

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

SS1	-	Presumption in Favour of Sustainable Development
SS2	-	Delivering New Homes
SS3	-	Releasing Land for Residential Development
SS4	-	Movement and Transportation
SS6	-	Addressing Climate Change
RA1	-	Rural Housing Distribution
RA2	-	Housing in Settlements Outside Hereford and the Market Towns
H1	-	Affordable Housing – Thresholds and Targets
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
SD1	-	Sustainable Design and Energy Efficiency
SD3	-	Sustainable Water Management and Water Resources
SD4	-	Wastewater Treatment and River Water Quality

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

https://www.herefordshire.gov.uk/downloads/download/123/adopted_core_strategy

Breinton Neighbourhood Development Plan

2.2 The Breinton Neighbourhood Development Plan was made on 1st December 2016 and a review of the Plan has commenced.

The relevant policies are:

B1	-	Housing Development in Defined Breinton Settlements
B2	-	Kings Acre Road
B3	-	Housing in the Countryside and Rural Exception Sites
B5	-	Ensuring an Appropriate Range and Tenure of Sizes of Houses
B6	-	Sustainable Design and Energy Efficient
B15	-	Local Distinctiveness

The Breinton Neighbourhood Development Plan policies together with any relevant supporting documentation can be viewed on the Council's website by using the following link:-

<https://www.herefordshire.gov.uk/directory-record/3036/breinton-neighbourhood-development-plan-made-1-december-2016>

National Planning Policy Framework

2.3 The following chapters of the framework (2019) are considered to be pertinent to this application:

1. Introduction
2. Achieving sustainable development
3. Plan Making
4. Decision-making
5. Delivering a sufficient supply of homes

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

6. Building a strong, competitive economy
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

2.4 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy was taken on 9 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 and in this case, the relevant policies are considered to be entirely consistent with the NPPF and can therefore be afforded significant weight.

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>

Further the government's recently publish National Design Guide is considered to be material to the consideration of this application, link below:

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

3. Planning History

3.1 160741/O - Site for proposed dwelling and garage. Approved 13 July 2016

172863 – Discharge of condition 6 (access improvement) of 160741. Condition discharged 17 August 2017

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water raise no objection:

We note that the intention is to drain foul water to the mains sewer and surface water to a soakaway to which we have no objection in principle. However, if you are minded to grant planning permission we request that the following

Conditions and Advisory Notes are included within any subsequent consent.

Conditions

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment

Advisory Notes

The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains, and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com

We note that the intention is to drain foul water to the mains sewer and surface water to a soakaway to which we have no objection in principle. However, if you are minded to grant planning permission we request that the following Conditions and Advisory Notes are included within any subsequent consent.

4.2 Cadent raise no objection:

Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

Your Responsibilities and Obligations

The "Assessment" Section below outlines the detailed requirements that must be followed when planning or undertaking your scheduled activities at this location.

It is your responsibility to ensure that the information you have submitted is accurate and that all relevant documents including links are provided to all persons (either direct labour or contractors) working for you near Cadent and/or National Grid's apparatus, e.g. as contained within the Construction (Design and Management) Regulations.

Internal Council Consultations

4.3 Team Leader Area Engineer

Initial comments:

"The significant constraint in relation to this site is the visibility from the private access road onto the A438 which is substandard. The private access road already serves a number of dwellings therefore the local highway authority (LHA) would be unable to object to a development of a single dwelling due to the limited increase in vehicle trips generated. However, without significant improvements to the visibility at this junction the LHA would not support any further development off this access road.

In terms of the detail of the site itself a four bedroom dwelling should be provided with three car parking spaces, which are available to the occupants in the form of a double garage and additional parking in front of the garage. However, if a vehicle was parked in front of the garage it would make turning a vehicle within the site difficult but this could easily be rectified by moving the turning area closer towards the northern boundary and further away from the garage. This would allow two vehicles to park in front of the garage and then easily reverse into the turning area to exit the site in a forward gear.

Cycle parking is to be provided within the garage, which is acceptable, however, if the garage is to provide two of the three car parking space required then it should have internal dimensions of 6m x 6m to accommodate both cars and bicycles.

The vehicular crossing should be constructed as per Herefordshire Council's Highway Specification for New Development, please see extract below.

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

Vehicular Crossings

	Nom. Size	Materials	Compacted Thickness
Surface Course	6mm	AC 6 dense surf 100/150 to DfT SHW Clause 909	25mm
Binder course	20mm	AC20 dense bin 100/150 rec conforming to DfT SHW 906	60mm
Base Course	32mm	AC32 dense base 100/150 rec to DfT SHW 906	100mm
Sub-Base		Type I sub base conforming to DfT SHW Clause 803 – Thickness may be increased depending on CBR values	150mm

Should permission be granted the applicant is reminded that the reconstruction of the vehicle crossover to the publically maintained highway will require a section 184 licence and details of obtaining this can be found at:

https://www.herefordshire.gov.uk/downloads/download/368/dropped_kerb_documents

Subject to the above the LHA has no objection in principle to the application.”

Further comments:

“Further to receipt of the amended plans the local highway authority has no objection to the proposed application.

*Conditions: CAI, CAP
Informatives: I11, I09, I45, I47, I35”*

4.4 Ecologist

No comments received

5. Representations

5.1 Breinton Parish Council – Objection

“Breinton Parish Council objected to this application in its original form (160741) in March 2016. Our concerns included inadequate sewerage provision in the area, failure to address identified local housing needs and the potential that this application would lead to a much larger development in the rest of the field to the south. However, our main objections were on highways matters, specifically difficult access to and from the then, proposed, property along a narrow driveway and the number of additional vehicles that would inevitably use what Parish Councillors and local residents considered to be a dangerous junction with the A438 Kings Acre Road. In our view this would lead to an unacceptable increase in the risks to pedestrians, cyclists and drivers alike, potentially causing accidents and casualties. We noted that there was not a cycleway along this length of main road despite claims to the contrary.

The following month, in April 2016, we made additional representations concerning housing provisions in the Neighbourhood Development Plan (NDP) which was then proceeding through Regulation 16 consultations. The NDP was approved later that year and is now part of the Local Development Framework but was not fully in force when this application was finally approved and could not be given appropriate weight at the time.

Despite the decision to approve this development the Parish Council took some comfort from the various Transportation comments and the Officers report to Committee, This identified that the key concerns in the decision were indeed access to the site itself and onto the highway and in

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

accepting the Officers recommendation the Planning Committee conditioned the approval to include (as condition 6) the requirement for works to be done to ensure 'adequate and acceptable means of access to the dwelling..... and provide improvements in the interest of highway safety.....' at the junction. Works were subsequently undertaken along the driveway and plans submitted so that this condition was eventually deemed to be discharged in August 2017 (172863). We note however that no improvements were made at this stage to the junction with the A438 itself and that this crossover to the public highway has still to be constructed to the required standard.

As far as the current application (202499/F) to amend the detail of the development is concerned, the Parish Council notes Council Officers restatement that 'The significant constraint in relation to this site is the visibility from the private access road onto the A438 which is substandard' and welcomes confirmation that the junction is and will remain substandard even when the required works are completed. While it is a fact that the 'private access road already serves a number of dwellings' and Councillors regret that 'the local highway authority (LHA) would be unable to object to a development of a single dwelling due to the limited increase in vehicle trips generated'; we do place considerable importance on the statement that 'without significant improvements to the visibility at this junction the LHA would not support any further development off this access road'. This addresses in part our concerns that the original application would lead to insensitive, over development in adjacent fields and seems to us to justify the original NDP policy wording for future housing provision in this area. We will include this in our considerations when we come to review our NDP in future.

The fact remains that this amendment to an existing application does little, if anything, to address highways safety. This is still an issue both at this particular point on the A438 and along the main road in either direction. It is also a fact that nothing can be done to bring this particular access up to the appropriate standard without substantial land acquisition. More generally the Parish Council does not believe any more homes can be built along this stretch of the A438 without serious consideration being given to substantial engineering improvements to the main road.

The potential risks are made worse in our view by the housing development only 50m west of the driveway to 202499/F. 19 new homes will shortly be completed on a site whose sole access onto Kings Acre Road is also on the southern side of the A438. The number of vehicles entering or leaving either of these closely spaced entrances is going to increase significantly soon meaning that more of the vehicles already on the A438 may have to slow down. These are all additional vehicle movements to the traffic already going to/from a third unction - Breinton Lane - only another 100m further west.

The failure of vehicles to stay within the existing 40mph speed limit on this stretch of road is already a concern to our parishioners and one that is generating increased correspondence as other objections to this application indicate. The Parish Council supports local people in their objections listed against this application, they are the ones most likely to be affected, and Councillors share their highways concerns"

5.2 A total of nine letters of objection and one letter of support have been received which can be summarised as follows:

- Highway safety concerns around the access onto the A438 being constrained and the access being at capacity, with the proposal introducing additional highway movements.
- The width of the access track is narrow and constrained and it is not surfaced
- Request that the natural screening from vegetation is retained
- The existing sewage system backs up every winter

- 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=202499&search-term=202499

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>

Appraisal

Policy context and Principle of Development

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

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

- 6.2 In this instance the adopted development plan (taken as a whole) is the Herefordshire Local Plan – Core Strategy (CS) and the Breinton Neighbourhood Development Plan (NDP) which was made on 1st December 2016. The National Planning Policy Framework ('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.
- 6.3 As is set out at paragraph 30 of the framework and stipulated at Section 38 (5) of the Planning and Compulsory Purchase Act 2004 (as amended), *“if to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document”*. In this way should a conflict between the NDP and the Core Strategy arise, the NDP will take precedence over the Core Strategy.
- 6.4 Strategic Policy SS1 of the Herefordshire Core Strategy sets out the presumption in favour of sustainable development, which is reflective of the positive presumption enshrined by the current NPPF as a golden thread running through plan-making and decision-taking. Policy SS1 also confirms that proposals which accord with the policies of the Core Strategy (and, where relevant, other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise. Again, this is broadly reflective of Paragraph 11 of the current NPPF.
- 6.5 Strategic policy SS2 of the CS confirms that Hereford is the main focus for new housing development in the county, followed by the five market towns in the tier below. In rural areas new housing will be acceptable where 'it helps to meet housing needs and requirements, supports the rural economy and local services and facilities and is responsive to the needs of its community'. Similarly, at paragraph 78 the current NPPF advises that to promote sustainable development housing should be located where it will enhance or maintain the vitality of rural settlements.

- 6.6 The application at this time must be considered in the context of the Council being unable to identify a five year supply of deliverable housing sites or demonstrate it can meet the housing deliverability test. At paragraph 11, the framework confirms that when making decisions the 'presumption in favour of sustainable development' should be applied. It goes on to set out at 11 (d) that where the policies most important for determining the application are 'out-of-date' planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or the application of the policies in the framework provides a clear reason for refusing the proposal. At footnote 7, it is confirmed that a failure to demonstrate a five year supply of housing and requisite buffer in accordance with paragraph 73 will render relevant policies to delivering housing out-of-date.
- 6.7 It is acknowledged that, at this point in the time, the Council is unable to demonstrate a five year supply of deliverable housing sites. A supply statement has recently been published which outlines that at 1st April 2020, the supply position in Herefordshire stands at 3.69 years. As a result, the presumption in favour of sustainable development set out under paragraph 11 of the Framework is fully engaged. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the current framework as a whole, or if specific policies in the current framework indicate development should be restricted.
- 6.8 Notwithstanding this, Supreme Court judgements and subsequent appeal decisions have confirmed that policies relevant for the supply of housing can still be afforded weight in the decision making process, and it is a matter of planning judgement for the decision-maker to attribute the degree of weight to be afforded depending on the context of the decision. Moreover, policies not directly relevant to the supply of housing (such as those dealing with matters of flood risk, highways safety or heritage impacts) still attract full weight.
- 6.9 Policy RA1 of the CS relates to rural housing distribution, explains that the minimum 5,300 new dwellings will be distributed across seven Housing Market Areas (HMAs). This recognises that different parts of the County have differing housing needs and requirements. The policy explains that the indicative target is to be used as a basis for the production of Neighbourhood Development Plans (NDPs). The growth target figure is set for the HMA as a whole, rather than for constituent Neighbourhood Areas, where local evidence and environmental factors will determine the appropriate scale of development. The CS, leaves flexibility for NDPs to identify the most suitable housing sites, through their policies and allocations.
- 6.10 CS Policy RA2 states that Neighbourhood Development Plans (NDPs) will be the principal mechanism by which new rural housing will be allocated. Where these are absent or not advanced in the process to be afforded weight in the planning balance the main focus for development will be within or adjacent to the main built up parts of the settlement. Kings Acre Road is not identified as part of the settlements listed at Figures 4.14 nor 4.15 of the Core Strategy. However the site and adjoining residential development is noted to be contiguous with the built form of Hereford, though this is noted to be in the form of ribbon development. Policy HD1 of the Core Strategy states that Hereford will accommodate a minimum of 6,500 new homes within the plan period, predominantly through major residential developments. However remaining housing requirement is to be delivered through the implementation of existing commitments, windfall developments and the development of non-strategic sites allocated in NDP's. Thus whilst the CS is largely silent as to the spatial aspect of residential development in the Kings Acre Road area, application site is considered to accord with these broad policy ambitions of the CS and there is found to be no conflict with the CS in a spatial sense.

- 6.11 The NDP includes policy B2 which relates to the provision of housing in the Kings Acre Road area, this supports new housing development within or adjacent to the identified settlement boundary (Figure 19 of the NDP) subject to a number of criteria:

“A. It would maintain, or provide, suitable alternative access points, such as field gates, stiles and footpaths. The incorporation of such features in to an overall scheme should maintain views of the surrounding landscape and should be designed to have natural surveillance from surrounding uses;

B. It would not have a significantly adverse effect on the river wye special area of conservation (sac). If such effects are identified they must be suitably mitigated. In particular, development will only be permitted when it can be clearly demonstrated by the applicant that it would not compromise the ability of the river wye sac nutrient management plan to reduce overall nutrient levels along stretches of the river wye that exceed, or are at the risk of exceeding, water quality targets;

C. It would not allow any further westward expansion of the ribbon development or any substantial incursion into open countryside to the south that would not be sustainable;

D. It would not significantly constrain options for the route of the Hereford Relief road;

E. It would comply with the requirements of policy RA2 of the core strategy.”

- 6.12 The site of the proposed dwelling adjoins on three sides the identified settlement boundary and is contiguous with the built form of the area, thus passing this gateway test for the NDP policy. The proposed development in this case is considered to accord with all the provisions of the above policy criteria, given its location adjoining existing residential development, maintaining the existing access to the field, connection to the mains sewer network and being reflective of the existing built form of the area. Thus the proposal is considered to accord with the development plan in spatial terms.

Highways

- 6.13 The framework sets out (at paragraph 108) applications for development should ensure opportunities to promote sustainable transport have been taken, safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network or highway safety can be mitigated. Policy MT1 of the Core Strategy is reflective of this approach, as it seeks to promote active travel and development that without adversely affecting the safe and effective flow of traffic on the highway network. Further at paragraph 109 the framework sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.14 The access is in private ownership and serves six existing properties. The access is single width, located between properties Tara to the west and 2 Cherry Orchard to the East that are both accessed from Kings Acre Road. The visibility at this junction is noted to be constrained and below the expected standards, in particular to the east, site photos showing this access and the block plan are included below for reference.



Site photos looking west and east (respectively) from the private access onto A438



Block Plan as proposed

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

- 6.15 Officers note the comments from the Council's Highways Engineer, in particular that *"the significant constraint in relation to this site is the visibility from the private access road onto the A438 which is substandard. The private access road already serves a number of dwellings therefore the local highway authority (LHA) would be unable to object to a development of a single dwelling due to the limited increase in vehicle trips generated. However, without significant improvements to the visibility at this junction the LHA would not support any further development off this access road."* It is also notable that the Local Planning Authority has previously granted an outline consent for a dwelling on this site though that was not implemented it does form a material planning consideration for this subsequent proposal, as the intensification of the access was previously considered to be permissible. Officers therefore consider that whilst there would be an intensification of this sub-standard highway access with its constrained visibility onto the public highway, on the basis of technical advice, there would not be an unacceptable impact on highway safety nor a severe residual cumulative impact on the road network; the impacts of development cannot be considered to be severe and as such refusal could not be directed.
- 6.16 The concerns of the local residents and Parish Council are noted, however many of the issues raised are existing problems that will not be made significantly worse with the introduction of one dwelling. The proposal includes sufficient parking can be provided within the curtilage of the new dwelling to prevent indiscriminate parking in the area. Refuse lorries will already be serving the dwellings and as such no additional trips will be necessary.

Design & Impact on character of the area

- 6.17 In regards to the design of proposed developments, the LPA 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.
- 6.18 When considering the design and landscape impact of a proposed development, Policy SD1 of the CS 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, 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 the 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.

- 6.19 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. Additionally paragraph 98 of the framework sets out that decisions should protect and enhance public rights of way, including taking opportunities to provide better facilities for users.
- 6.20 The scale, mass, appearance and form of the proposed dwelling is noted to be reflective and in keeping with the local area, with the massing of the proposal reflective of the adjoining dwellings. The proposal is considered to be of an acceptable design which is reflective of the existing built form and would not be harmful in visual terms. The dwelling is set within an ample curtilage, thus not appearing constrained in the streetscene with the principle elevation being aligned with that of the adjoining dwellings. The vernacular and fenestrations of the dwelling are traditional in form but offer visual interest by way of the dormer windows and window detailing. The proposal is considered to accord with the expectations of the development plan in this regard.
- 6.21 Considering the landscape character of the area, Kings Acre is often described as being linear ribbon development but is interspersed with cul-de-sacs and historic developments that emerge southwards such as those on Cherry Orchard, Yew Tree Gardens and Four Acres. The proposal would extend the development along Cherry Orchard to its east side. It is therefore considered that this site is well related to the built form of the surrounding area and with sensitive landscaping and design would be integrated, as organic growth, into the surrounding area in accordance with the requirements of the relevant Core Strategy policies, including LD1 & SD1.

Amenity

- 6.22 Representations also suggest that the new dwelling and its associated use would adversely impact upon amenities currently enjoyed by local residents. However, given the small scale and nature of the development, impact would be minimal and could not be considered a reason for refusal. Having regard to the above, the proposals would comply with the requirements of policy SD1 of the CS and with paragraph 127 of the framework which seeks to protect the amenities of existing and proposed residents.

Ecology & Habitat Regulations Assessment

- 6.23 The application site lies within the catchment for the River Wye, which comprises part of the River Wye Special Area of Conservation (SAC), a European site covered under the Habitats Directive & the Conservation of Habitats and Species Regulations 2017 ('Habitats Regs.' henceforth). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value.
- 6.24 The application proposes to connect to the mains sewer discharging to the Eign treatment works and then to the River Wye, there is not considered to be the possibility of a likely significant effect on the Special Area of Conservation at the point of consideration, thus the development is considered to be acceptable from a HRA perspective and accords with the provisions of policy LD2 of the Core Strategy. Further the provisions of paragraph 177 of the framework are not considered to be triggered in this regard, as the application is screened out.

- 6.25 In regards to ecology & biodiversity matters generally on the site, Policy LD2 of the CS is most applicable in considering matters of ecology and this broadly requires that all developments should conserve, restore and enhance the biodiversity assets of the county through a range of measures. Policy LD3 also requires that proposals should protect, manage and plan for the preservation and provision of green infrastructure, whilst policy LD1 states that developments should maintain and extend tree cover where they are important to amenity. All off these policies are in line with the dictum set out by Chapter 15 of the NPPF. The application site is a greenfield site adjoining existing residential dwellings, it does not have any ecological designation and the proposal includes the addition of native species hedgerows. Officers recommend a biodiversity enhancement condition, for bird/bat boxes as is standard and so the proposal is considered to be acceptable in ecology and biodiversity terms, according with the development plan in this regard.

Climate Change

- 6.26 The Core Strategy at strategic policy SS7 requires focused on measures to address the impact that new development in Herefordshire has on climate change, outlining how development proposals should include measures which will mitigate their impact on climate change, with policy SD1 also seeking to support these measures. Herefordshire Council has unanimously passed a motion declaring a Climate Emergency, signalling a commitment to ensuring that the council considers tackling Climate Change in its decision-making, with this resolution came a countywide aspiration to be zero carbon by 2030; and a Climate Change Checklist to aid the consideration of development proposals.
- 6.27 Proposals for residential development are considered by the Council to need to help redress the climate emergency, and so notwithstanding the sustainable location of the development thus reducing the need to travel for services, the proposal is considered to need to include measures to support low-carbon ways of living & sustainable transport modes (as defined by the framework). The framework sets out at paragraph 108 that LPA's in assessing sites for specific applications for development should be ensured that appropriate opportunities to promote sustainable transport modes can be, or have been, taken up. Further to this paragraph 110 sets out that developments should be designed to enable the charging of plug-in and other ultra-low emission vehicles, with such vehicles contributing to the objectives of reducing reliance on fossil fuels and so climate change. The government has reaffirmed by way of a Written Ministerial Statement on 18th November 2020 (Statement UIN HCWS586), the commitment to electric vehicles by seeking to "accelerate the transition to electric vehicles, and transforming our national infrastructure to better support electric vehicles" as it has announced the ban on the sale of new fossil fuel reliant vehicles by 2030, thus the need for the effect provision of electric vehicle charging points is amplified; it follows that to make the decision acceptable given the above material planning considerations, a condition for electric vehicle charging points is recommended to require such provisions are available for future residents.

Drainage

- 6.28 In addition to this Core Strategy policy SD1 (Sustainable Design and Energy Efficiency) seeks to secure high quality design and well planned development, that positively contribute to the character of the area and that development successfully integrates into the existing built, natural and historic environment. This policy also seeks the inclusion of physical sustainability measures, including orientation of buildings, provision of water conservation measures, storage for bicycles and waste, including provision for recycling and enabling renewable energy and energy conservation infrastructure. Policy SD3 deals specifically with water consumption and a condition is recommended to address this requirement. The use of sustainable construction methods is also pursued in this policy. These requirements must be considered alongside those of residential amenity in the progression of any approval. The proposal is for foul water to be managed via the mains sewer network and surface water managed via soakaways. The comments of a number of representations about drainage capacity are noted but the Statutory Consultee, Welsh Water, have raised no objection to the proposed development. The drainage arrangements are considered to be acceptable and a condition is recommended to secure such arrangements, thus the requirements of policy SD4 are met.

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

Conclusion

- 6.29 The National Planning Policy Framework has at its heart a presumption in favour of sustainable development which is echoed in CS policy SS1. Sustainable development is considered to consist of three key elements, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- a) An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) A social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - c) An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting.
- 6.30 Though the three objectives of sustainable development are not criteria against which every decision can or should be judged, with decisions planning any active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 6.31 Development proposals that are considered to represent sustainable development, meet the first test and are considered to be sustainable development, thus benefiting from a presumption in favour of the development. The second half of Paragraph 11 of the NPPF applies the presumption in-favour of sustainable development for decision-making; 11 c) outlines that development proposals in accordance with an up-to-date development plan should be approved without delay; 11 d) outlines that where the development plan is silent or the policies most relevant for the determination of the application are out-of-date (those being the housing policies), permission should be granted unless either of the following criteria are met.
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.32 The restrictive policies set out at Paragraph 11 are set out at Footnote 6 of the framework, they include protected areas or assets such as Special Areas of Conservation, Sites of Special Scientific Interest, Local Green Space, Areas of Outstanding Natural Beauty, designated heritage assets or areas at risk of flooding. None are considered to apply in this instance.
- 6.33 The application is considered to constitute a sustainable form of development, it is contiguous with the built form extending from Hereford city and is identified in the NDP as an area for residential development. The proposed development is considered to accord with the policies and provisions of the development plan, which carries a statutory presumption and the proposal would bring some economic benefits to the area from capital investment in the development as well as contributing to the housing supply for the area in a modest manner; further there are no adverse

impact of granting planning permission that would significantly and demonstrably outweigh the benefits when assessed against the provisions of the framework as a whole. Therefore the application is accordingly recommended for approval as per the recommendation set out below.

RECOMMENDATION

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

- 1. C01 – Time limit for commencement (full permission)**
- 2. C06 – In accordance with approved plans**
- 3. C13 – Details/samples of materials**
- 4. CCK – Details of slab levels**
- 5. Prior to the commencement of the development, a detailed Construction Environmental Management Plan (CEMP) incorporating:**
 - a) a Construction Traffic Management Plan (CTMP),**
 - b) Construction Phasing and Routeing Plans, including construction traffic arrival and departure times,**
 - c) onsite construction working hours**
 - d) a method for ensuring mud is not deposited onto the Public Highway**

shall submitted to and approved in writing by the Local Planning Authority. Thereafter all construction activity in respect of the development shall be undertaken in full accordance with such approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, neighbouring amenity and to conform to the requirements of Policies MT1 & SD1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 6. CAI – Parking – single/shared private drives**
- 7. CAP - Highways Improvement/off site works**
- 8. CKJ – Foul drainage to Mains Sewer & Surface Water to Soakaway**
- 9. CK3 – Landscaping Scheme**
- 10. CK4 – Landscape scheme implementation**
- 11. CE6 – Water efficiency 110l per day**
- 12. With the exception of any site clearance and groundworks; written and illustrative details of the number, type/specification and location of Electric vehicle charging points of atleast one per dwelling, shall be submitted to and approved in writing by the local planning authority. The Electric vehicle charging points shall be installed prior to first occupation and be maintained and kept in good working order thereafter as specified by the manufacturer.**

Reason: To address the requirements policies in relation to climate change SS7, MT1 and SD1 of the Herefordshire Local Plan Core Strategy, to assist in redressing the

Climate Emergency declared by Herefordshire Council and to accord with the provisions at paragraphs 108 & 110 of the National Planning Policy Framework.

13. **CKR – Biodiversity Net Gain**

INFORMATIVES:

1. **IP2 - Application Approved Following Revisions**
2. **I11 - Mud on highway**
3. **I09 - Private apparatus within highway**
4. **I45 - Works within the highway**
5. **I47 - Drainage other than via highway system**
6. **I35 - Drainage other than via highway system**

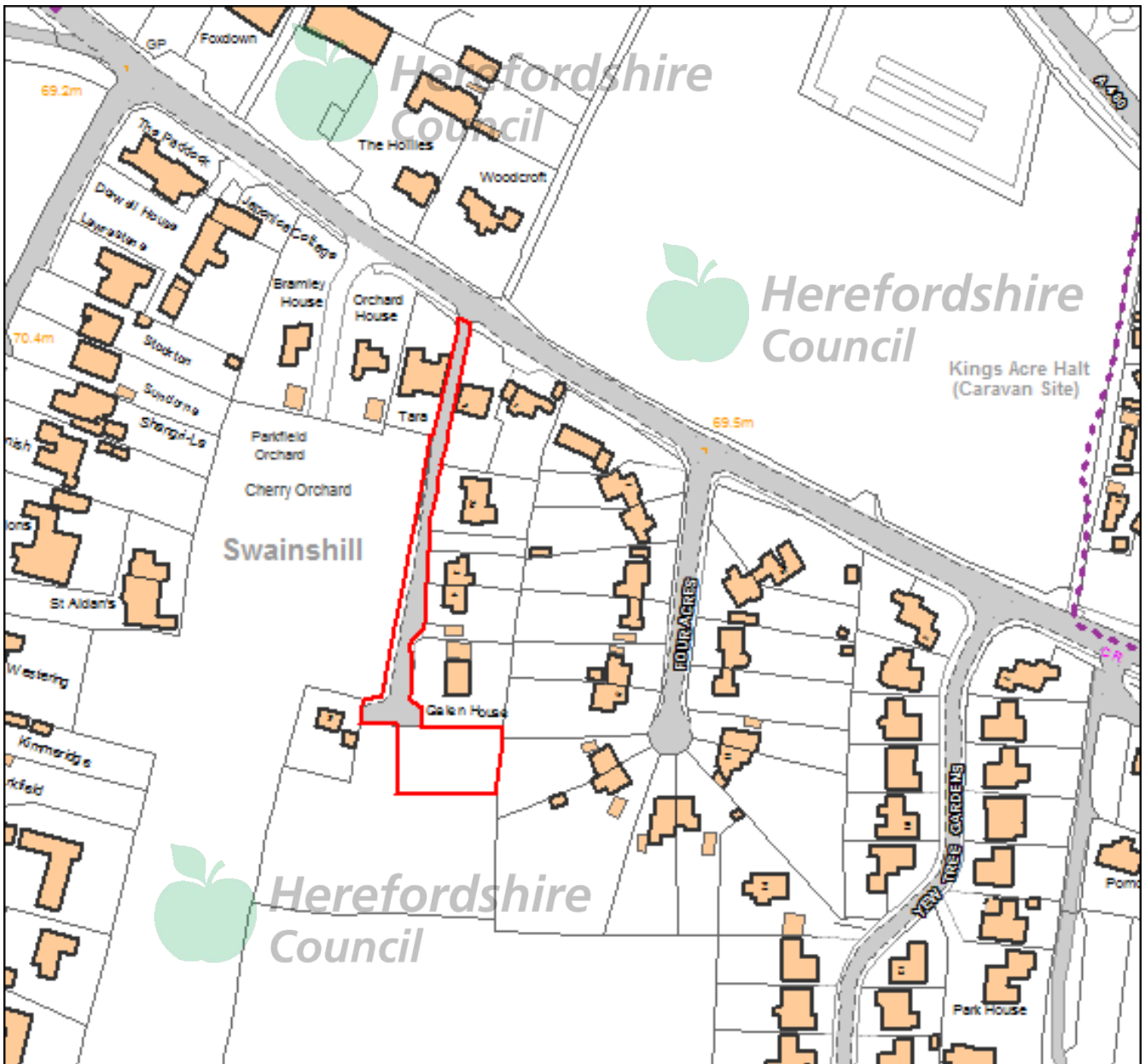
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 202499

SITE ADDRESS : LAND ADJACENT TO GALEN HOUSE, CHERRY ORCHARD, KINGS ACRE, HEREFORD

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

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	18 JANUARY 2021
TITLE OF REPORT:	203581 - WIDENING OF EXISTING DROPPED KERB TO FORM ACCESS ONTO DRIVEWAY AT 45 WALKERS GREEN, MARDEN, HEREFORD, HR1 3DZ For: Mr Michael Williams, 45 Walkers Green, Marden, Hereford, Herefordshire HR1 3DZ
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=203581&search-term=203581
Reason Application submitted to Committee - member of staff application	

Date Received: 19 October 2020

Ward: Sutton Walls

Grid Ref: 352097,247635

Expiry Date: 31 December 2020

Local Member: Councillor Kema Guthrie

1 Site Description and Proposal

- 1.1 The application site is a 1960s style, two storey, gable sided detached house, fronting the east side of Walkers Green in a slightly elevated position across from the junction with Orchard Green. Facing materials are brick with timber infill panels for the walls and concrete tiles for the roof. Adjoining to the north and south are other detached two storey houses. The surroundings may be characterised as an established residential area within the village of Marden.
- 1.2 The proposal is for an extension of an existing dropped kerb to allow access to a driveway extension. The dropped kerb will be extended to the south from 3.87 metres to 6.75 metres, thus an extension of 2.88 metres. The dropped kerb will be constructed of precast concrete kerbs and tarmac surfacing to match the existing. The work also include adjustments to the landscaping and parking arrangement in the front curtilage of the property in order to create further parking facilities.

2 Policies

2.1 Herefordshire Local Plan – Core Strategy

- SS1 – Presumption in favour of sustainable development
- SD1 – Sustainable design and energy efficiency
- LD1 – Landscape and townscape
- MT1 – Traffic management, highway safety and promoting active travel
- SS4 – Movement and Transportation

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

2.2 **The Marden Neighbourhood Development Plan (MNDP) (made 6 October 2016)**

M3 – General design principles

2.3 It is noted that Marden Parish Council submitted their reviewed draft Neighbourhood Development Plan to Herefordshire Council on 26 November 2020. The consultation period runs from 30 November 2020 to 15 January 2021. At this regulation 14 draft plan stage, the draft Neighbourhood Development Plan (dNDP) can be afforded limited weight.

2.4 The Marden Neighbourhood Development Plan policies together with any relevant supporting documentation can be viewed on the Council's website by using the following link:-

https://www.herefordshire.gov.uk/downloads/file/9017/neighbourhood_development_plan

2.5 **National Planning Policy Framework (NPPF) – February 2019**

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 12 – Achieving well-designed places

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

3 **Planning History**

3.1 P13534/FH – Proposed first floor extension Approved 24 April 2013

4 **Consultation Summary**

Internal Council Consultations

4.1 **Transportation Manager**

There are no highway objections to the proposed modification to the existing dropped kerb. In order to ensure that the works are undertaken to the local highway authority specification outlined in Herefordshire Council's Highways Specification for New Developments condition CAE should be applied in the event that permission is granted.

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

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

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

4.2 Representations

4.3 Marden Parish Council

Marden Parish Council supports this application, as it is in conformity with the principles of NDP Policy M3.

4.4 Site Notice

One letter of support stating: “no objection to this application”

4.5 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=203581&search-term=203581

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>

5 Officer’s Appraisal

Policy context and Principle of Development

- 5.1 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.*”
- 5.2 In this instance the adopted development plan (taken as a whole) is the Herefordshire Local Plan – Core Strategy (CS) and the Marden Neighbourhood Development Plan (MNDP) which was made on 6 October 2016. The draft Marden Neighbourhood Development Plan (dMNDP) can be attributed limited weight in the decision-making process, as set out at Paragraph 2.3. The National Planning Policy Framework (NPPF) 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.
- 5.3 The proposal seeks to ensure a safe, sustainable and well integrated dropped kerb ensuring safety for the applicants to park and access the highway. The proposal would result in off road parking spaces, and therefore reduces the need for on road parking which is seen as an improvement and is in accordance with policy MT1 of the CS. Moreover, the proposal increases the amount of off-road parking available at the property which accords with Policy M3 of the MNDP.
- 5.4 Although the proposal results in a reduction of the front garden of the property in order to accommodate the additional parking space, there remains a suitably sized front garden to the property. The properties in the surrounding area host reasonably sized front gardens in addition to off-street parking and therefore it is not considered that the proposal will look out of character of the immediate locality, according with Policy M3 of the MNDP and Policies SD1 and LD1 of the CS.
- 5.5 There have been no objections raised through the consultation process and given the compliance with the Core Strategy Policies this proposal will be recommended for approval.

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. CO1 - Time limit for commencement (full permission)
- 2. CO7 – The development hereby approved shall be carried out strictly in accordance with drawings: Layout Plan; Block Plan; Location Plan, and the Application Form
- 3. CAE – Access Specification

INFORMATIVES:

- 1. IP1 Application Approved Without Amendment

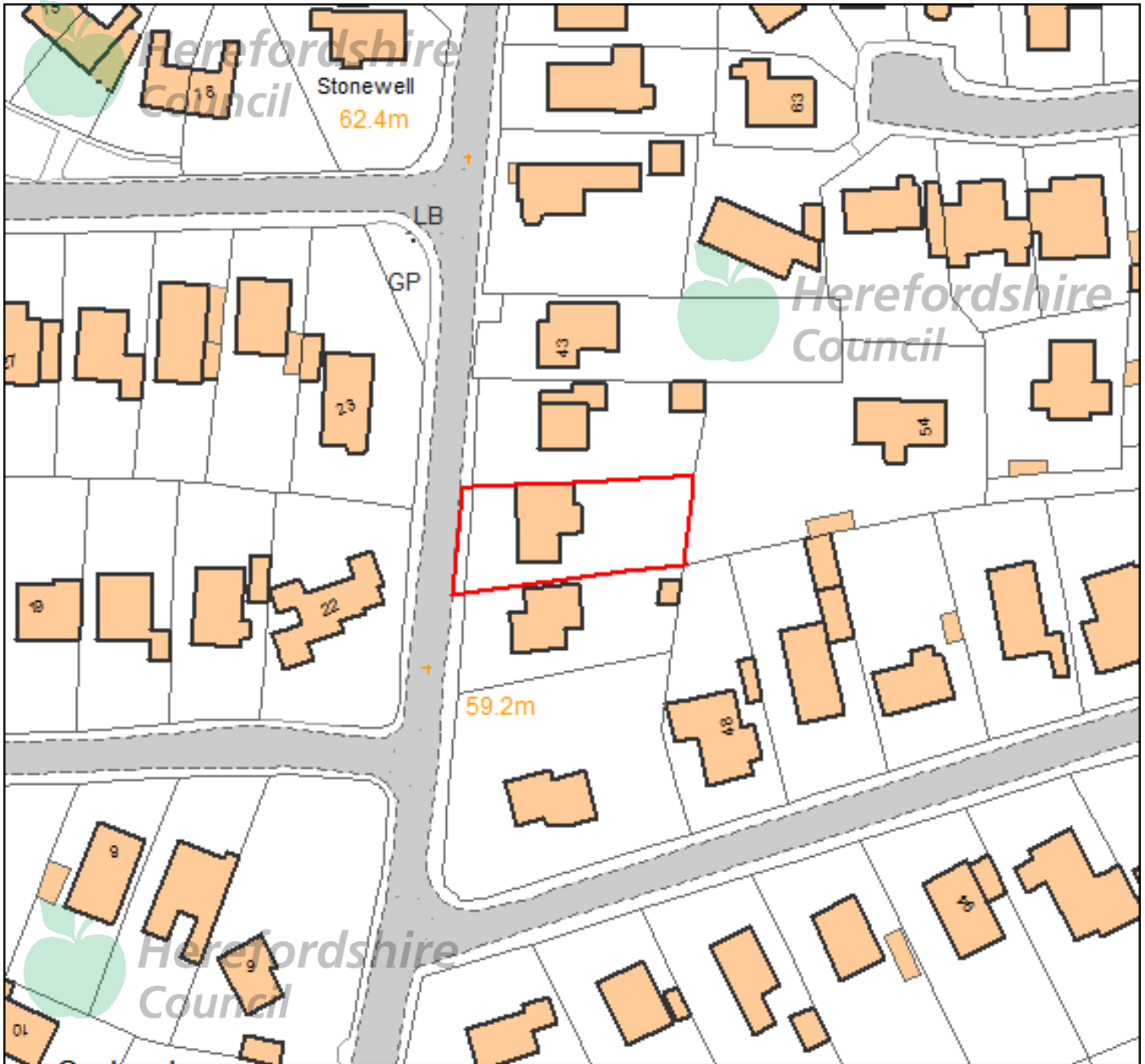
Decision:

Notes:

.....

Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 203581

SITE ADDRESS : 45 WALKERS GREEN, MARDEN, HEREFORD, HEREFORDSHIRE, HR1 3DZ

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

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

