

Agenda

Planning and regulatory committee

Date: **Wednesday 3 March 2021**

Time: **10.00 am**

Place: **online**

www.youtube.com/HerefordshireCouncil

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

For any further information please contact:

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Agenda for the meeting of the Planning and regulatory committee

Membership

Chairperson Councillor John Hardwick
Vice-Chairperson Councillor Alan Seldon

Councillor Graham Andrews
Councillor Paul Andrews
Councillor Polly Andrews
Councillor Toni Fagan
Councillor 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 the minutes of the meeting held on 3 February 2021.</p>	13 - 22
5.	<p>CHAIRPERSON'S ANNOUNCEMENTS</p> <p>To receive any announcements from the Chairperson.</p>	
6.	<p>201895 - LAND AT ACTON MILL FARM, THE BARROW, SUCKLEY, WORCESTER, WR6 5EJ</p> <p>Erection of a detached, single storey, three bedroomed agricultural workers dwelling.</p>	23 - 34
7.	<p>202391 - RIVERSIDE FLATS, WYE STREET, ROSS-ON-WYE, HEREFORDSHIRE, HR9 7BX</p> <p>Proposed conversion of and extension to the existing riverview flats building to form 6no. 2-bed apartments with new end staircores and additional storey above.</p>	35 - 68
8.	<p>201220 - LAND AT HILL VIEW, DINEDOR, HEREFORDSHIRE</p> <p>Outline permission for the demolition of an existing dwelling, the erection of up to 3 x residential dwellings with associated drive and access alterations (all other matters reserved).</p>	69 - 88
9.	<p>204274 - LAND ADJOINING DUKE STREET, WITHINGTON, HEREFORDSHIRE</p> <p>Proposed improvements to existing field access and construction of farm track.</p>	89 - 100
10.	<p>DATE OF NEXT MEETING</p> <p>Date of next site inspection – 16 March 2021</p> <p>Date of next meeting – 17 March 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 3 February 2021 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 David Hitchiner and Kevin Tillett

70. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Graham Andrews and Graham Jones..

71. NAMED SUBSTITUTES

Councillor Bowen substituted for Councillor Graham Andrews.

72. DECLARATIONS OF INTEREST

Agenda item 8: 201996 – 8 Belmont Road, Hereford

Councillor Paul Andrews declared an other declarable interest as he knew the applicant's agent.

Councillor Rone declared an other declarable interest because in his capacity as Chairman of the South Wye Development Trust he had discussed the application with residents providing advice to them.

Councillor Seldon declared an other declarable interest as he knew the applicant's agent.

73. MINUTES

RESOLVED: That the minutes of the meeting held on 18 January 2021 be approved as a correct record.

74. CHAIRPERSON'S ANNOUNCEMENTS

The Lead Development Manager commented that the 2019/20 housing delivery test had been successfully passed meaning that the requirement for a 20% buffer of housing land supply had consequently been removed leaving a 5%buffer. This together with the level of housing delivered meant that the housing land supply had been recalculated and now stood at 4.22 years rather than 3.69. However, this did not change the weight attributed to this factor in the reports on the agenda for the meeting and the recommendations. A briefing note on the five year housing land supply would be published and sent to all Councillors.

75. 193878 - LAND OFF, KINGSTONE ROAD, CLEHONGER, HEREFORDSHIRE

(Approval of reserved matters following outline approval P141964/O (site for residential development of up to 90 dwellings with access, parking, public open space with play facilities and landscaping)).

The Principal 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: Mrs A Davies of Clehonger Parish Council, who spoke in objection to the scheme, Mrs B Costello-Bates and Mr J Noble, local residents, speaking in objection; and Mr C Marsh, the applicant's agent, speaking in support of the application.

In accordance with the Council's Constitution, the local ward member, Councillor Hitchiner, spoke on the application. In summary, he raised concerns about the housing, its appropriateness and the adequacy of measures to achieve carbon neutrality and reduce fuel poverty, the mix of housing tenure, lack of car parking spaces, protecting the ecology of the site including the management of the proposed open space, and provisions for drainage, seeking assurance that the required measures would be in place prior to any occupation of the site.

The Committee discussed the application. Additional conditions were proposed to secure rainwater harvesting and that 100% of boundary fences should include suitable gaps to allow hedgehog movement.

The Lead Development Manager commented that the scheme had previously secured outline planning permission and this required satisfactory drainage arrangements to be approved and in place prior to any occupation. The additional conditions as proposed could be attached. He suggested that informatives could also be added regarding the Committee's comments in support of the establishment of a car sharing pool and wish that the developer consider enhanced measures to address the climate and ecological emergency.

The local ward member was given the opportunity to close the debate. He reiterated concerns about the management of the open space, the housing and its tenure and car parking provision.

RESOLVED: That the reserved matters be approved, subject to the addition of conditions to secure rainwater harvesting and that 100% of boundary fences should include suitable gaps to allow hedgehog movement, the following conditions and any further conditions considered necessary by officers named in the scheme of delegation to officers:

- 1. The development hereby approved shall be carried out strictly in accordance with the approved plans and documents:**

Drawings:

A_100 Location Plan Revision PL02

A_102 Planning Layout Revision PL20

A_103 Materials Key Plan Revision PL13

A_104 Fences and Enclosures Key Plan Revision PL11

A_105 External Works Layout Revision PL12

A_105.3 Proposed Street Scene 1_2_ & 3 Revision PL05

A_105.4 Proposed Street Scene 4_5_ & 6 Revision PL05

A_116 Waste Collection Strategy Revision PL08
A_117 Public Open Space Plan Revision PL07
A_118 Adoption Plan Revision PL06
A_119 Parking Plan Revision PL02
A_250_Cycle Storage Details Revision PL01

SK_10 Materials and Details Palette Revision PL02
SK 200 Revision P6 – Proposed Levels – Sheet 1
SK 201 Revision P6 – Proposed Levels - Sheet 2
SK 202 Revision P6 – Proposed Levels - Sheet 3
SK200129 Revision P1 – Pumping Station Layout and Tracking

500 – Section 278 Highway Works Layout Revision P2
501 – Section 278 Levels and Setting Out
502- Section 278 Kerb Layout
503 – Section 278 combined Services Layout
504 – Section 278 Land Dedication Plan
505 - Section 278 Signing and Lining
510 – Section 278 Construction Details

P18-1455_02H Detailed POS Proposals (sheet 1 of 4)
P18-1455_03F Detailed POS Proposals (sheet 2 of 4)
P18-1455_04F Detailed POS Proposals (sheet 3 of 4)
P18-1455_05D Detailed LEAP Proposals (sheet 4 of 4)
P18-1455_06C Detailed Landscape Proposals (sheet 1 of 5)
P18-1455_07C Detailed Landscape Proposals (sheet 2 of 5)
P18-1455_08C Detailed Landscape Proposals (sheet 3 of 5)
P18-1455_09C Detailed Landscape Proposals (sheet 4 of 5)
P18-1455_10C Detailed Landscape Proposals (sheet 5 of 5)
P18-1455_11A Illustrative Landscape Sections)
P18-1455_13A Trees and Hedgerows Plan

House types:

A_121.1_House_Type_A_Plans Revision PL03
A_121.2_House_Type_A_Elevations_Render_V1 Revision PL02
A_121.3_House_Type_A_Elevations_Render_V2 Revision PL02
A_121.4_House_Type_A_Elevations_Brick Revision PL03
A_121.5_House_Type_A_Elevations_Brick Revision PL02

A_122.1_House_Type_H_Plans Revision PL02
A_122.2_House_Type_H_Elevations Revision PL02

A_123.1_House_Type_J_Plans Revision PL03
A_123.2_House_Type_J_Elevations_Brick Revision PL04
A_123.3_House_Type_J_Elevations_Render Revision PL04
A_123.4_House_Type_J_Elevations_Stone Revision PL03

A_124.1_House_Type_M_Plans Revision PL05
A_124.2_House_Type_M_Elevations Render Revision PL03

A_125.1_House_Type_P_Plans Revision PL05
A_125.2_House_Type_P_Elevations_Stone & Render Revision PL02
A_125.3_House_Type_P_Elevations_Brick Revision PL02

A_126.1_House_Type_S_Plans Revision PL02
A_126.2_House_Type_S_Elevations_Render Revision PL02
A_126.3_House_Type_S_Elevations_Render_V2 Revision PL02

A_126.4_House_Type_S_Elevations_Render_V3 Revision PL02
A_126.5_House_Type_S_Elevations_Brick Revision PL02
A_126.6_House_Type_S_Elevations_Brick_V2 Revision PL02

A_127.1_House_Type_R1_Plans Revision PL04
A_127.2_House_Type_R1_Elevations_Render_V1 Revision PL03
A_127.3_House_Type_R1_Elevations_Brick Revision PL02
A_127.4_House_Type_R1_Elevations_Render_V2 Revision PL03
A_127.5_House_Type_R1_Elevations_Stone and Brick Revision PL02

A_128.1_House_Type_R2_Plans Revision PL03
A_128.2_House_Type_R2_Elevations_Render_V1 Revision PL02
A_128.3_House_Type_R2_Elevations_Render_V2 Revision PL03
A_128.4_House_Type_R2_Elevations_Stone Revision PL02
A_128.5_House_Type_R2_Elevations_Stone Revision PL02
A_128.6_House_Type_R2_Elevations_Brick Revision PL02

Arboricultural Impact Assessment Plans (Treescene Arboricultural Consultants)
Tree Protection Plan (Treescene Arboricultural Consultants)
Tree Retention/Removal Plan
Diagram 1. No dig construction method

Documents
Arboricultural Impact Assessment and Arboricultural Method Statement for Land off Madley Road, Clehonger Hereford (Treescene Arboricultural Consultants).

Ecological Management Plan (The Environmental Dimension Partnership Ltd – October 2020, reference edp5751_r002b)

A_310_PL01_Parking Schedule

unless amendments are first submitted to and approved in writing by the local planning authority.

Reason: To ensure adherence to the approved plans and to protect the general character and amenities of the area in accordance with the requirements of Policies LD1 and SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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

Arboricultural Impact Assessment and Arboricultural Method Statement for Land off Madley Road, Clehonger Hereford (Treescene Arboricultural Consultants).

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

- 3. No development shall take place until a scheme of supervision by the appointed arboriculturist for the works specified in the method statement**

approved under condition 2 has been submitted to and approved in writing by the local planning authority. The approved scheme shall be followed for the duration of the construction phase or in accordance with a timescale to be agreed with the local planning authority.

Reason: To ensure all retained trees are safeguarded during development works and to ensure that that the development conforms with Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

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

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

5. Prior to their construction elevations of the approved boundary walls shall be 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 boundary treatments harmonise with the surroundings so as to ensure that the development complies with the requirements of Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

6. Prior to the first occupation of the dwelling to which it relates provision for the charging of plug in and other ultra-low emission vehicles (e.g. provision of electric sockets) to serve the occupants shall be installed and made ready for use in accordance with the approved External Works Layout plan (A_105 External works Layout revision PL12), or an alternative scheme that has first been submitted to and approved in writing by the local planning authority.

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.

7. Prior to the first occupation of the development a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 of the Herefordshire Local Plan Core Strategy shall be submitted to and approved in writing by the local planning authority and implemented as approved.

Reason: To ensure compliance with Policies SD3 and SD4 of the Hereford Local Plan – Core Strategy and the National Planning Policy Framework.

8. **The ecological protection, mitigation, compensation and working methods scheme including the Biodiversity Enhancements, as recommended in the Ecological Management Plan (EDP Ltd, dated October 2020, reference edp5751_r002b) and approved, supporting plans for Public Open Space, Landscaping and Lighting Strategy, together with a plan (notwithstanding the details shown on the approved External Works Layout plan - A_105 External works Layout revision PL12), identifying the siting and total number of bird and bat boxes, hedgehog homes, pollinating insect hotels, hibernacula and refugia and timescale for their provision on site, which shall have first been submitted to and approved in writing by the local planning authority, and 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.**

Reason: In order to comply Herefordshire Local Plan - Core Strategy policies LD2, SD3 and SD4, the National Planning Policy Framework and with the Conservation of Habitats and Species Regulations (2017) as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 and the Natural Environment and Rural Communities Act (2006).

INFORMATIVES:

1. **The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations. Negotiations in respect of matters of concern with the application (as originally submitted) have resulted in amendments to the proposal. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.**
2. **The outline planning permission (reference 141964/O) to which this reserved matters approval relates is pursuant to a planning obligation under Section 106 of the Town and Country Planning Act 1990. Condition 7 of the outline planning permission will need to be discharged by way of a legal agreement.**
3. **The approval of these reserved matters does not approve the drainage conditions imposed on the outline planning permission. These conditions, along with any other outstanding conditions, need to be discharged in accordance with the timescales set out within each condition.**
4. **The applicant is strongly advised to engage with Welsh Water at the earliest opportunity in order to commission the reinforcement works at the receiving Waste Water Treatment Works.**
5. **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 refuse collection vehicle (RCV) will travel are built to a suitable specification for a 26 tonne RCV 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.

(The meeting adjourned between 11.35 and 11.45 am.)

76. 202687 - LAND AT AMYAND DRIVE, GARDEN OF 187 WHITECROSS ROAD, HEREFORD, HR4 0LU

(Proposed two bed dwelling.)

(Councillor Millmore had left the meeting and was not present during consideration of this application.)

The Development Manager gave a presentation on the application.

In accordance with the criteria for public speaking for virtual meetings Mr L Greening, the applicant's agent made a submission by video in support of the application.

In accordance with the Council's Constitution, the local ward member, Councillor Boulter, had made a written submission. This was read to the meeting. He supported approval of the application.

The Committee discussed the application. It was proposed that there should be additional conditions requiring rainwater harvesting and a highway crossover.

The Lead Development Manager confirmed that it would be acceptable to attach the proposed conditions requiring rainwater harvesting and a highway crossover together with an informative relating to the need for a licence to provide the crossover.

RESOLVED: That planning permission be granted subject to the following conditions with additional conditions requiring rainwater harvesting and a highway crossover together with an informative relating to the need for a licence to provide the crossover and any further conditions considered necessary by officers named in the scheme of delegation to officers:

- 1. C01 Time limit for commencement (full permission)**
- 2. C06 (drawing nos. P003 D, 100 B, 101 B, 200 E, 201 A)**
- 3. C13 Samples of external materials**
- 4. CE6 Efficient use of water**
- 5. With the exception of any site clearance and groundworks; written and illustrative details of the number, type/specification and location of at least one electric vehicle charging point, 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 and 110 of the National Planning Policy Framework.

6. **CB2 Secure covered cycle parking provision**
7. **C65 Removal of permitted development rights**
8. **C68 Obscure glazing to windows (top hung obscure glazed window and rooflights at 1.7 metres above the internal finished floor level)**
9. **No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.**

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

10. **CAQ On site roads - submission of details**
11. **CAI Parking - single/shared private drives**
12. **CAT Construction Management Plan**
13. **CBK Restriction of hours during construction**

INFORMATIVES:

1. **IP2 Application Approved Following Revisions**
2. **The applicant may need to apply to Dwr Cymru / Welsh Water for any connection to the public sewer under S106 of the Water industry Act 1991. If the connection to the public sewer network is either via a lateral drain (i.e. a drain which extends beyond the connecting property boundary) or via a new sewer (i.e. serves more than one property), it is now a mandatory requirement to first enter into a Section 104 Adoption Agreement (Water Industry Act 1991). The design of the sewers and lateral drains must also conform to the Welsh Ministers Standards for Gravity Foul Sewers and Lateral Drains and conform with the publication "Sewers for Adoption"- 7th Edition. Further information can be obtained via the Developer Services pages of www.dwrcymru.com**

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

Regulations 2011. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991. Any alterations to existing premises resulting in the creation of additional premises or merging of existing premises must also be constructed so that each is separately connected to the Company's water main and can be separately metered. Please contact our new connections team on 0800 917 2652 for further information on water and sewerage connections.

77. 201996 - 8 BELMONT ROAD, HEREFORD, HEREFORDSHIRE, HR2 7JE

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

The Enforcement Officer gave a presentation on the application. He suggested an additional condition to require a litter management plan.

In accordance with the criteria for public speaking for virtual meetings, Mr P Neades, the applicant's agent spoke in support of the application as a virtual attendee.

In accordance with the Council's Constitution, the local ward member, Councillor Tillett, spoke on the application. In summary, he stated his opposition to the application considering it wholly unacceptable because of the severe adverse impact on the amenity of local residents.

The adjoining local ward member, Councillor Rone, also spoke on the application. He too emphasised the severe adverse impact on the amenity of local residents.

The Committee discussed the application.

The Lead Development Manager commented that adverse impact on the residential amenity of the adjoining properties should be viewed as the principal ground for any refusal of the application.

The adjoining local ward member was given the opportunity to make a closing comment. He reiterated his objection to the proposal.

The local ward member was given the opportunity to close the debate. He too reiterated his objection.

A motion that the application be refused contrary to the officer recommendation on the grounds that the development was contrary to policy SD1 and relevant sections of the National Planning Policy Framework was carried.

RESOLVED: That planning permission be refused on the grounds that the development was contrary to policy SD1 and relevant paragraphs of the National Planning Policy Framework in particular Chapter 8 and paragraph 180 and officers named in the Scheme of Delegation to officers be authorised to detail the reasons put forward for refusal by the committee.

78. DATE OF NEXT MEETING

Noted.

The meeting ended at 1.09 pm

Chairperson

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	3 MARCH 2021
TITLE OF REPORT:	201895 - ERECTION OF A DETACHED, SINGLE STOREY, THREE BEDROOMED AGRICULTURAL WORKERS DWELLING AT LAND AT ACTON MILL FARM, THE BARROW, SUCKLEY, WORCESTER, WR6 5EJ For: Mrs R. Hooper and Mr M. Hooper per Mr John Peters, 11 St Marys Place, Shrewsbury, SY1 1DZ
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201895&search-term=201895
Reason Application submitted to Committee – Re-direction	

Date Received: 17 June 2020

Ward: Bishops Frome & Cradley **Grid Ref: 371109,250496**

Expiry Date: 12 August 2020

Local Member: Councillor Ellie Chowns

1. Site Description and Proposal

- 1.1 The site comprises a largely trapezium shaped parcel of land located north-east of agricultural buildings. It forms part of a holding totalling approximately 21 acres (with up to a further 100 acres rented), 10,600 square metres of barns, stables and storage facilities. Topography rises gradually heading further north, although considerable localised undulation characterises the area. Field boundaries are a mixture of post-and-rail (south boundary); wire fencing (north and west boundaries) and hedgerow (east boundary), the latter of which fronts unclassified public highway (U65622/The Barrow), which acts as a county border for Herefordshire and Worcestershire (Malvern Hills District). Agricultural land classification is Grade 2 (Very Good).
- 1.2 The site is 1 mile east of the hamlet of Acton Green, Herefordshire; 1.5 miles south-west of Suckley, Worcestershire, 3 miles north of the nearest RA2 settlement, Cradley, Herefordshire and 6.5 miles south-east of the market town of Bromyard.
- 1.3 The holding is registered and operates as a Care Farm. Established in 2003, the holding has diversified beyond rearing animals, providing education and care for a wide group of people from schools, care homes and referrals from doctors who need extra non-medical intervention and support.
- 1.4 The application seeks planning permission for the erection of a single-storey three-bedroomed dwelling to be occupied by the principal care farm manager, the applicant. It must be clarified that the applicant currently resides in accommodation within the three-storey Grade II Listed, The Watermill, approximately 80 meters south-east of site, as the crow flies.

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

- 1.5 The proposed dwelling would be of brick walling under clay tiled roof with softwood windows and doors. Officers refer members to the proposed site plan under consideration below:



Proposed Site Plan

- 1.6 Deposited with this application is a 22-page planning statement, submitted in confidence. This appraises the extent of operations and accounts and why the application has been brought forward, to provide bespoke accommodation for the applicant's son.

2. Policies

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

- SS1 – Presumption in favour of sustainable development
- SS2 – Delivering new homes
- SS3 – Releasing land for residential development
- SS4 – Movement and transportation
- SS6 – Environmental quality and local distinctiveness
- SS7 – Addressing climate change
- RA1 – Rural housing distribution
- RA2 – Housing in settlements outside Hereford and the market towns
- RA3 – Herefordshire's Countryside
- RA4 – Agricultural, forestry and rural enterprise dwellings
- RA5 – Re-use of rural buildings
- RA6 – Rural economy
- H3 – Ensuring an appropriate range and mix of housing
- MT1 – Traffic management, highway safety and promoting active travel
- LD1 – Landscape and townscape
- LD2 – Biodiversity and geodiversity
- LD3 – Green infrastructure
- LD4 – Historic environment and heritage assets
- SD1 – Sustainable design and energy efficiency
- SD3 – Sustainable water management and water resources
- SD4 – Waste water treatment and river water quality

The 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 Acton Beauchamp Parish are not preparing a Neighbourhood Development Plan currently

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
- 5 – Delivering a sufficient supply of homes
- 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:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

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 P172232/F – proposed erection of four dwellings – refused and dismissed on appeal by Planning Inspectorate (APP/W1850/W/18/3198134).

4. Consultation Summary

Statutory Consultations

4.1 **Severn Trent – No objections:**

“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 **Welsh Water – No objections/conditions recommended:**

“We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development. We note from the application that the proposed development does not intend to connect to the public sewer network. As the sewerage undertaker we have no further comments to make. However, we recommend that a drainage strategy for the site be appropriately conditioned, implemented in full and retained for the lifetime of the development”.

Internal Council Consultations

4.3 **Transportation – No objections:**

“It is noted that the access to this dwelling is to be taken from the existing farm track. The provision of the dwelling on site will potentially reduce trips (in the form of commuting). Additionally the increase in trips, setting aside this potential reduction, would likely be minimal when considering the generation from the existing farm building. As a result there is no highways objection to the principle of the development. The parking and turning areas are adequate for the scale of the dwelling. There are no highways objections to the proposal”.

4.4 **Ecology – No objections/conditions recommended:**

“There are no triggers requiring any HRA process or SSSI considerations at this location for the application as proposed. No loss of any hedgerows is proposed.

From information supplied and images available there are no immediate ecology related concerns with this proposal. There are no ecological records of important or Protected Species immediately on or adjacent to the site. The applicant and their contractors have their own legal duty of care towards wildlife protection under UK Legislation that applies throughout any demolition and construction process. Any breach of this legal Duty of Care would be a criminal offence. In this instance this LPA has no reasonable cause to require further information as part of the planning application or include a specific ecology protection condition. However a relevant information note is requested:.

Wildlife Protection Informative: The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as Great Crested Newts, all Bat species, Otters, Dormice, Crayfish and reptile species that are present and widespread across the County. All nesting birds are legally protected from disturbance at any time of the year. Care should be taken to plan work and at all times of the year undertake the necessary precautionary checks and develop relevant working methods prior to work commencing. If in any doubt it advised that advice from a local professional ecology consultant is obtained. Any external lighting shouldn’t illuminate any highway, ‘natural’ boundary feature or increase night time sky illumination (DEFRA/NPPF Dark Skies Guidance 2019/2013).

As supported by the NPPF, the Core Strategy SS6, LD1-3 and the council’s duty under the NERC Act 2006 all developments should clearly demonstrate how they will deliver a significant enhancement of local biodiversity values. To secure this a standard condition is requested on any consent granted –

CKR: To obtain Biodiversity Net Gain: Prior to first use of any part of the development works approved under this planning decision notice, evidence of the suitably placed installation within the site boundary or on other land under the applicant’s control of ‘permanent’ Bat roosting, bird nesting, hedgehog home and pollinating insect breeding enhancements, should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority. All tree and shrub planting associated with the development must only consist of locally characteristic, native species.

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) and Herefordshire Local Plan - Core Strategy policies LD1, LD2 and LD3”

5. Representations

- 5.1 Acton Beauchamp Group Parish Council – No objection
“The Parish Council wish to make the following comments regarding the above planning application: No objection”.
- 5.2 16 letters of representation have been received, supporting this application. They raise the following considerations:
- Considered to be an essential need;
 - Exceptional circumstances;
 - No issues of landscape harm or residential amenity;
 - Lack of suitable alternative accommodation; and
 - Addresses climate change

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=201895&search-term=201895

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

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

6. Officer’s Appraisal

Policy context

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows: *“If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”* In this instance, the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration.
- 6.2 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.
- 6.3 The Council is currently unable to demonstrate a 5-year housing land supply, currently at 4.22 years (January 2021). The latest Housing Delivery Test results show the Council have had three good years of housing delivery and no longer (until the next results are published) need to apply a 20% buffer to the target. Instead, a 5% buffer is applied. As set out at paragraph 11 of the NPPF, which engages a presumption in favour of sustainable development, the relevant policies in the Development Plan for the supply of housing should not be considered up to date. Where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusal (11di) or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF, taken as a whole (11dii). This is consistent with Policy SS1 of the CS.

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

6.4 The matter of housing land supply has been the subject of particular scrutiny in a number of recent appeal inquiries and it has been consistently concluded that the Council is not able to demonstrate a 5 year supply. However, this does not render such policies irrelevant and they may still be afforded some weight. With this in mind, the spatial strategy of the Council's CS is considered sound and consistent with the NPPF; which itself seeks to avoid isolated development, as set out at Paragraph 79. It is considered Policies RA1, RA2, RA3 and RA4 of the CS continue to attract significant weight, as confirmed by previous appeal decisions in the locality. It is a matter for the decision-maker to ascertain the degree of weight to be attributed to these policies, taking into account the specific context and circumstances of the case.

Principle of development

6.5 The site is in open-countryside in a location where residential development is restricted to certain exceptions and engages Policy RA3 of the CS. One criterion is where a proposal meets an agricultural/forestry need or other farm diversification enterprise for a worker to live permanently at or near their place of work, which would need to comply with Policy RA4. Policy RA4 states proposals for dwellings associated with agriculture, forestry and rural enterprises will be permitted where it can be demonstrated there is a sustained essential functional need for the dwelling; where it forms an essential part of a financially sustainable business; and where such need cannot be met in existing accommodation.

6.6 This aligns with paragraph 79a) of the NPPF. The *Braintree* decision (*Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin) of 15 November 2017, and subsequently in the Court of Appeal judgment of 28 March 2018*) is relevant, and should be given its ordinary objective meaning of '*far away from other places, buildings or people; remote*'. The Appeal Court Judge stated that whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker. Officers do not consider this site 'isolated', given close proximity of dwellings north and south of site, including the applicant's current accommodation.

6.7 Policy RA4 clearly states that such dwellings should demonstrate that accommodation could not be provided in existing building(s); be sited to meet the identified functional need within the unit or in relation to other dwellings and; be of high quality, sustainable design appropriate to the context, making a positive contribution to the surrounding environment and rural landscape. Applying RA4 to the case, the enterprise has operated since 2003. Financial stability is not contested given the scale of investment, and there is no doubt that the enterprise is viable.

6.8 Supporting text to Policy RA4 at paragraph 4.8.27 of the CS outlines that such needs typically relate to providing essential supervision and management. In this case, in addition to breeding and rearing animals and on-going day-to-day activities and management that is typical of many agricultural businesses, Acton Mill provides education and care to 60 plus people, with on-site accommodation. It is accepted that any potential issues are dealt with expediently; both for the welfare of visitors and users and to prevent harm occurring to the enterprise. Whilst it is entirely accepted that the sooner such incidents are dealt with, the better, the existing accommodation used by the applicant is just 80 metres from site. To date, it has not presented itself with issues in terms of the need of the enterprise.

6.9 Policy RA4 also sets out that proposals will also only be supported where an identified functional need cannot be met in existing accommodation. This approach is to investigate availability of existing dwellings and ensure, quoting Paragraph 3 (iv) of Annex A to PPS7, that "*the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned*". One would look at the potential availability of any other relevant dwelling(s), in light of the need of the enterprise. Further guidance through PPG in terms of housing needs for different rural groups supplements this.

- 6.10 The close proximity of The Watermill (applicant's accommodation currently) allows a prompt response to any issues within the site. Given the applicant's level of involvement, significant weight can be given to the availability of this dwelling. Simply, the need for accommodation for the enterprise is already met.
- 6.11 As well as existing residential properties, the CS identifies preference should be given to conversion of suitable buildings before new development. Permission was granted in 2018 (P181666/F) for conversion of an agricultural building within Action Mill for new supported living accommodation. This has yet to commence and will lapse in November 2021. Modest weighting could be afforded to this, if there is no intention to implement that permission, to meet need. At the time of this report being completed, there are also 2 no. three-bedroomed dwellings at Pippin Green, Acton Beauchamp, 1.25 miles west of site. A dwelling 'off-site' can provide a desirable environment and living standard. Modest weighting could be afforded to this.
- 6.12 The enterprise need is being met by existing accommodation and whilst giving preference to converting existing buildings, this more than demonstrates viable alternatives in preference to new development.
- 6.13 Whilst noting that The Watermill is a Grade II listed building and that alterations to it would require planning permission and listed building consent, the applicants have not investigated the potential of extending the property and there have been no discussions with officers to this effect. Furthermore, there might be scope for the 2018 permission to be amended with a new application, to also help meet need. These are both options that should be fully investigated and discounted before considering granting planning permission for a new dwelling in this location.
- 6.14 Notwithstanding the above, the application has been submitted and falls to be considered on the basis on the premise that it will meet a demonstrable functional need for an agricultural worker, and as outlined above, that need is met by existing on-site accommodation.
- 6.15 Members will note third party representations that additional amenity space and a better layout is needed. A well thought out extension to The Watermill could achieve this. Representations have also mentioned a need for proximity to site during periods of inclement weather and in respect of combatting rural crime. Converting the building on site could address this. In any event, officers' view these matters can only be attributed very modest weight.
- 6.16 The CS and NPPF set out where an application can be supported and weighting has been afforded to personal circumstances. The need is already met by the applicant residing in accommodation, in their ownership, which has no occupancy restriction on it. Given the proposal is to be assessed as an agricultural workers dwelling and for no other exception, the application is contrary to Policies RA3 and RA4 of the CS, which is consistent with the NPPF. Notwithstanding the conflict identified with the development plan in respect of the principle, the remainder of the report assesses other material considerations to inform the planning balance.

Design

- 6.17 The proposal would not result in built development that would be of an unacceptable scale or over development. The dwelling would be single storey, sitting below the ridgeline of the lie of the land. Scale, mass and appearance of the dwelling is reflective of the surrounding built form. Though architecturally not the most visually appealing, it is neither harmful nor unduly offensive to the eye, and distinctly average. It is considered the proposal is of an acceptable design in line with policies SD1 and LD1 of the CS, consistent with Section 12 of the NPPF.

Residential Amenity

- 6.18 Whilst introducing a number of glazed openings, these maintain acceptable scale and positioning. Due to separation distances between the proposed dwelling and adjacent properties, impact upon residential amenity is minimal. The orientation of the dwelling and layout raises no concerns in overshadowing or overbearing that would lead to conflict with the requirements of SD1 of the CS, which strives to safeguard levels of residential amenity, and accords with paragraphs 127 and 180 of the NPPF.

Landscape Impact

- 6.19 It is not considered that the proposal departs from the character of the area, in which brick is a clear primary material on the walling of dwellings. The dwelling is sympathetic to the area with mitigating circumstances here being a bungalow and low lying meaning the footprint is within site without harming the landscape character of the area. Landscape impact is minimal and the proposal is considered to suitably conserve local character and the character of the area, in line with Policy LD1 of the CS, consistent with Section 15 of the NPPF.

Heritage

- 6.20 Based on evidence before officers, including site history and observations, there is adequate separation distance between the site and the listed buildings of The Watermill and Gugges Cottage (both Grade II Listed), as well as inter-visibility and land topography. Development would not result in harm to the character and appearance of the setting, experience and significance of these designated heritage assets. In the absence of any harm being identified, no conflict is identified with CS Policy LD4, which is consistent with Section 16 of the NPPF.

Ecology

- 6.21 As confirmed by the ecologist, no loss of hedgerow is proposed and there are no significant ecological related concerns. There are also no ecological records of important or Protected Species on or adjacent to site. The applicant has a legal duty of care towards wildlife protection under UK Legislation. Biodiversity net gain can be secured by condition, in line with CS Policies LD1, LD2 and LD3, consistent with the relevant sections of the NPPF.

Highways

- 6.22 Access is to be taken from the existing farm gated access leading onto the unclassified public highway, which has appropriate visibility and mitigated by road geometry, reducing vehicle speeds. A new access to the dwelling will be formed off the existing gated access into site. As confirmed by the area engineer, there would likely be a minimal intensification in comparing trip generation from existing activities. There are no highway objections to the proposal, with parking and turning areas suitable. It accords with Policies MT1 and SS4 of the CS, which is consistent with Section 9 of the NPPF, not contravening paragraph 109.

Drainage

- 6.23 Surface water is to be disposed of by discharging to soakaways, in line with Policy SD3 and Foul Sewerage disposed of by a Septic Tank, discharging to soakaway, in line with Policy SD4 of the CS. Neither Welsh Water nor Severn Trent object and relevant surface and foul water drainage strategies can be secured by condition. It is noted no objections locally have raised concerns over potential increased surface water flooding or drainage arrangements.

Climate Change

- 6.24 The dwelling will be built reflecting modern standards of construction and will be a low carbon build. It would slightly reduce transport emissions which presently takes place by the applicant's travelling to visit the son in Worcester/Birmingham, in line with Policy SS7 of the CS, which is consistent with the relevant sections of the NPPF.

Other considerations

- 6.25 Officers are mindful of the provisions of the Self-Build Custom House Building Act 2015 (as amended), and paragraph 61 of the NPPF which supports self-build and custom housebuilding.

Planning Balance and Conclusion

- 6.26 The NPPF has a presumption in favour of sustainable development. This is detailed at section two in which achieving sustainable development consists of three key elements, those being Economic, Social and Environmental. Proposals that meet these objectives (when taken as a whole) is considered to be sustainable development. Paragraph 11 of the NPPF applies a presumption in-favour of sustainable development for decision-making. Paragraph 11c) outlines that development proposals in accordance with an up-to-date development plan should be approved without delay. Paragraph 11d) outlines that where the development plan is silent or policies most relevant for determination of the application are out-of-date (namely housing policies), permission should be granted unless the proposed development will impact on protected areas and the policies of the framework give a clear reason for refusal, set out at 11d)i, or the adverse impact of granting permission would significantly and demonstrably outweigh the benefits when assessed against the framework as a whole, set out at 11d)ii.
- 6.27 The application is made on the premise that a new dwelling is required to satisfy a sustained essential functional need for a care manager to live permanently on site to manage the enterprise. Evidently, the availability of existing dwellings, potential conversion of buildings, and proximity of other dwellings, more than adequately accommodates this need. Your officers have identified clear conflict with Policies RA3 and RA4 of the CS, consistent with the NPPF.
- 6.28 As discussed in the report, other alternatives to meet this need have not been fully explored and therefore officers do not consider that there is sufficient justification to grant permission for a new dwelling in this location as an exceptional circumstance at this time.
- 6.29 Applying the planning balance, a new agricultural workers dwelling here is without justification, noting conflict with the development plan. The conflict identified is significant as it relates to the principle. This would not be significantly or demonstrably outweighed by the benefits and is not representative of sustainable development. Refusal is recommended.

RECOMMENDATION

That planning permission be refused for the following reason:

- 1. On the basis of the case advanced, taking into account the nature of the enterprise and circumstances of this proposal, it is considered that the identified functional need of an essential, full-time worker at Acton Mill Care Farm, can be met by suitable accommodation available within ownership, as well as potential for buildings within site that could be converted, and also nearby alternative accommodation, to meet the needs of the enterprise. As such, the proposal would introduce new residential development in an open countryside which would be representative of an unsustainable residential development without justification, contrary to Policies RA3 and RA4 of the Herefordshire Local Plan – Core Strategy and the relevant sections of 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 and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.**

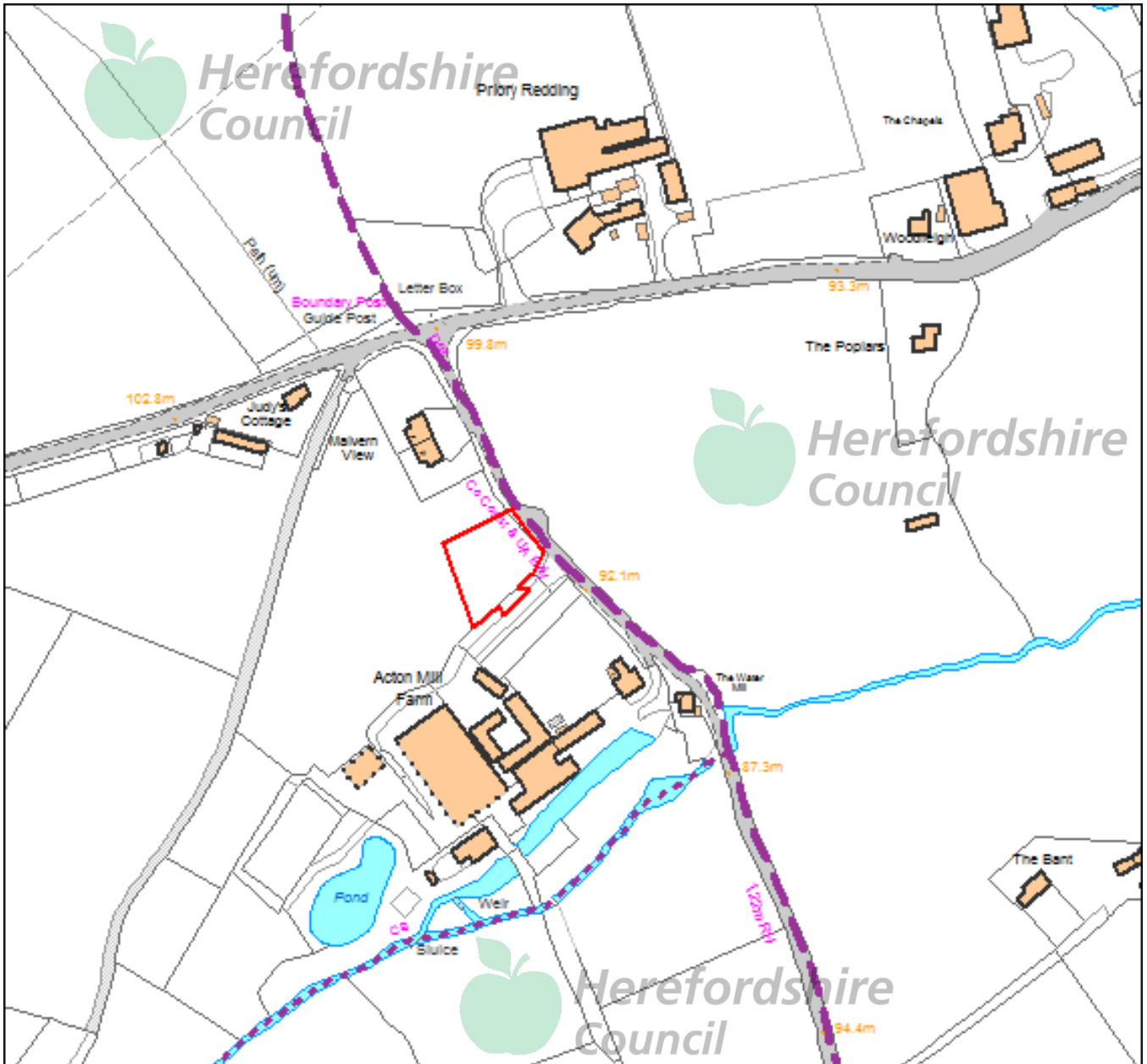
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



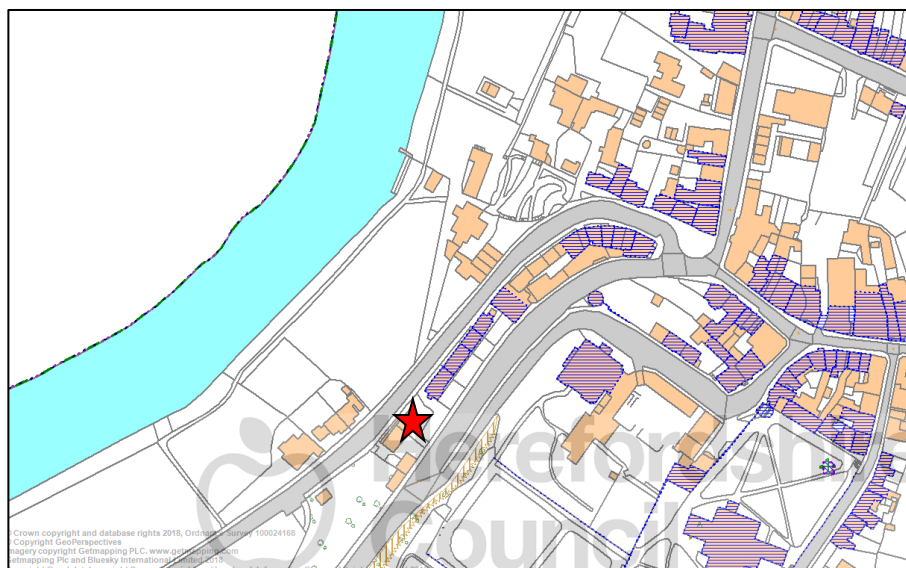
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APPLICATION NO: 201895

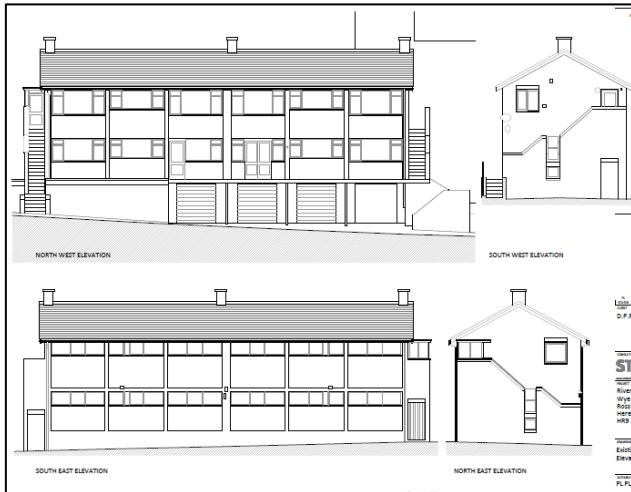
SITE ADDRESS : LAND AT ACTON MILL FARM, THE BARROW, SUCKLEY, WORCESTER, HEREFORDSHIRE, WR6 5EJ

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- 1.2 The site is located in the Ross on Wye conservation area and adjoining numerous listed buildings that are outlined in blue on the map inserted below (application site demarked by the red star).



- 1.3 Lying to the immediate north-east of the site is a row of houses (Nos 11-14 Wye Street) and the Masonic Hall which are Grade II Listed. In addition, the Riverside Inn and No's 22 & 23 Wye Street, situated opposite Riverside Flats, are considered non-designated heritage assets given their age, and architectural/historical merit.
- 1.4 The site also lies within the Wye Valley Area of Outstanding Natural Beauty. The site or certainly this part of Ross is highly prominent and visible from the A40 (and west) and forms the setting of the town most people will be familiar with. Properties along the same side of Riverview flats are predominantly 3 storey with a two storey property located opposite along with a vacant public house to the northern side of Wye Street. The site is located on a prominent view with the school, tower and Royal Hotel (Grade II Listed) and Ice House key landmarks which are visible within the street scene.
- 1.5 The site lies predominantly within Flood Zone 1, however the south western corner of the site next to Wye Street does clip the corner of Flood Zone 2. Foul sewerage will be managed via connection to the mains sewer.
- 1.6 The application seeks planning permission to add another storey to the building to form 6 no 2 bedroom apartments over 3 storeys as well as additions to the front and sides. The four car parking spaces at ground floor are to be retained and with the addition of an additional car parking spaces located to the north eastern part of the application site.
- 1.7 Within the supporting documentation submitted it is stated that the existing building has a floor area of 234sqm Gross Internal Floor Area (GIFA) (322sqm when including the open garage area). The proposed new development has a GIFA of 444sqm (including new stair cores) or 551sqm including the gated garage area and bin/cycle stores. The level area to the rear of the site is retained to be a 'communal amenity space'. As well as this it is indicated a narrow strip will be allocated to the first floor apartments which they can access from the bedrooms and will be defined by a low level timber fence. Existing and proposed plans are inserted below.



Existing Elevations



Proposed elevations

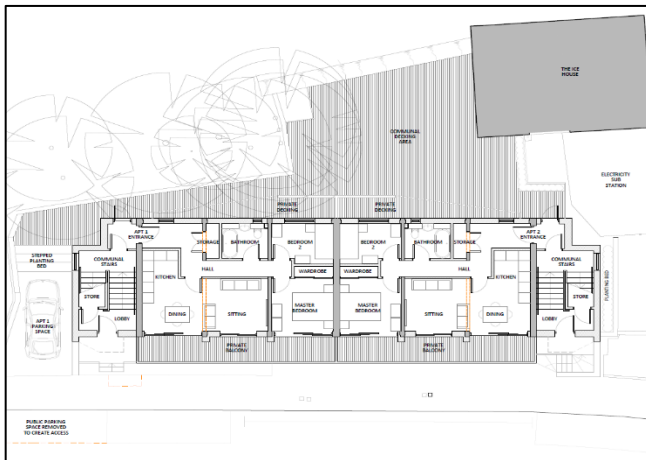


Existing elevations/street scene

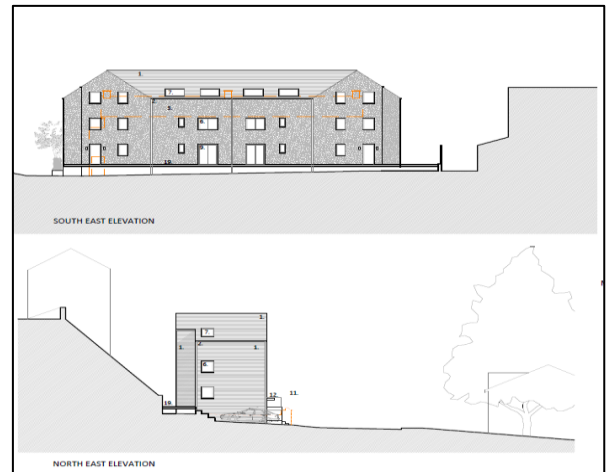
- 1.8 It is noted that the current access arrangements for the flats is raised above street level and via external communal steps and the lower level flats via a front balconies and the upper floors have an exposed external staircase as illustrated within the photographs below. The proposed access to the flats will be via an enclosed communal stair located at end of the building. Access to the north-eastern stair is made via three external steps or use of the parking space as a ramp. Whereas the entry to the south-western end of the building is reached via a replacement set of external steps. Inside either staircore there are via steps leading up to the entry level apartments. It is also noted that this level also affords access to the rear communal amenity area.
- 1.9 The proposed ground floor would contain car parking for four vehicles and space for cycle storage, as well as a communal bin store and cycle store as well as communal entrance at either end for the flats.
- 1.10 The proposed first floor would contain 2x2 bedroom flats with a kitchen/dining area, sitting area and bathroom. A private balcony area proposed on the Street Elevation (Wye Street) and windows proposed on the rear elevation and access onto a small private decking area. Access via communal stair.

- 1.11 The proposed second and third floor would each contain 2x2 bedroom flats with a kitchen/dining area, sitting area and bathroom. Windows proposed on the front and rear elevation. Access via communal stair.

The proposed materials are render (colour to be confirmed), stone cladding, grey aluminium windows and a slate roof.



Proposed first floor layout



proposed rear elevation and side elevation



Images taken from Planning, Design and Heritage statement

- 1.12 The car parking arrangement of the proposed dwellings are described in more detail in section 6.62.
- 1.13 The following supporting documentation has been deposited with the application, during consideration of this application by officers:

- Flood Risk Assessment
- Planning Design Heritage and Access Statement
- Application form

2. Policies

- 2.1 The Herefordshire Local Plan Core Strategy policies that are considered to be relevant are listed below.

Herefordshire Local Plan – Core Strategy (CS):

- | | | |
|-----|---|--|
| SS1 | - | Presumption in Favour of Sustainable Development |
| SS2 | - | Delivering New Homes |
| SS3 | - | Releasing Land For Residential Development |

- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- LD1 - Landscape and Townscape
- LD2 - Biodiversity and Geodiversity
- LD3 - Green Infrastructure
- RW1 - Development in Ross on Wye
- SD1 - Sustainable Design and Energy Efficiency
- SD3 - Sustainable Water Management and Water Resources
- SD4 - Waste Water Treatment and River Water Quality

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

These 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 Ross on Wye Neighbourhood Plan (NDP) (at referendum stage) (The policies in the NDP can be afforded significant weight.)

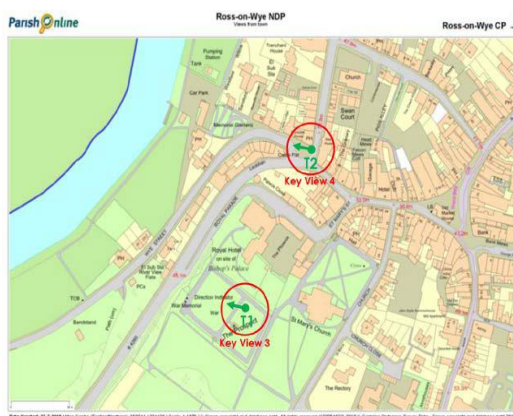
The Ross-on-Wye Neighbourhood Development Plan was sent for examination on 14 October 2019. The examiner's report was received on 30 January 2020. The referendum for voters within the Ross-on-Wye parish area will be held on a date to be confirmed (likely May 2021)

Policy EN1: Ross Design Policy

Ross Design Policy states: The design of all new development within the town, while being clearly of its time, should demonstrate its relationship and applicability to its site, setting and context in terms of scale, materials, form, details, layout, public realm and historic character. This is of particular importance within the Conservation Area and Town Centre.

Policy EN7: Key Views Policy

Ross Key views policy states Development proposals likely to affect the Key Views shown on Figure 10 of the NDP (see below) should assess the effect of the proposals on the view(s) and demonstrate how any adverse impacts have been addressed.



<https://www.herefordshire.gov.uk/directory-record/3101/ross-on-wye-neighbourhood-development-plan>

2.3 National Planning Policy Framework (NPPF):

Chapter 2	-	Achieving sustainable development
Chapter 4	-	Decision making
Chapter 5	-	Delivering a sufficient supply of homes
Chapter 6	-	Building a strong, competitive economy
Chapter 8	-	Promoting healthy and safe communities
Chapter 9	-	Promoting sustainable transport
Chapter 11	-	Making effective use of land
Chapter 12	-	Achieving well designed places
Chapter 14	-	Meeting the challenge of climate change, flooding and coastal change
Chapter 15	-	Conserving and enhancing the natural environment

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

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

2.4 Wye Valley AONB Management Plan

The Wye Valley AONB Management Plan is a material consideration and the following policies are particularly applicable –

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

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

2.5 National Planning Practice Guidance (NPPG) categories have been revised and updated to make it accessible and should be read in conjunction with the NPPF. NPPG can be accessed at the following link:

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

3. **Planning History**

3.1 The following applications are considered to be relevant to the current proposals:

- **192547/O** – Withdrawn: Proposed demolition of existing block of flats and rebuild with modern multi residential apartment block. 17/9/2019
- **183381/F** – Withdrawn: Proposed alterations and extension to four existing flats 27/6/2019
- **151650** – Approved with conditions: Proposed conversion of four existing (two bedroom) flats to form two (three bedroom) houses with new bedroom house with garage. 30/7/2015

4. Consultation Summary

Statutory Consultations

4.1 Welsh Water comments

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

We have reviewed the information submitted as part of this application and note that the existing building is to be redeveloped with extensions proposed and that the intention is to drain foul water to the mains sewer but it is not clear where surface water currently drains and how it will be captured as part of the new proposal.

We have had the opportunity to comment on previous applications at this address and drew attention to the close proximity of the building to a public rising main. We have conducted an asset location survey and the position of the sewer as shown on the attached public sewer record has been confirmed and verified. We therefore request that a further plan is submitted with the position of the public rising main annotated and the required protection zone of 3 meters either side of the centre line of the sewer is clearly marked with no new operational development proposed in the easement.

Notwithstanding the above and in light of further information required 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.

The planning permission hereby granted does not extend any rights to carry out any works to the public sewerage or water supply systems without first having obtained the necessary permissions required by the Water industries Act 1991. Any alterations to existing premises resulting in the creation of additional premises or merging of existing premises must also be constructed so that each is separately connected to the Company's water main and can be separately metered. Please contact our new connections team on 0800 917 2652 for further information on water & sewerage connections

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.

4.2 **Historic England**

The proposed development is located in part of the Ross on Wye Conservation Area that is the focus of classic views across the flood meadows of the River Wye of the town and its Grade I listed church. The design of the existing building does not positively contribute to the conservation area or the setting of the church and its redevelopment therefore offers the opportunities recognised in Sections 12 and 16 of the NPPF to enhance significance and contribute to place-making.

In considering a previous application (19/2547) Historic England regarded the principle of redevelopment as acceptable, but was concerned that the scale, form, design and appearance of the proposal resulted in harm to the significance of the conservation area and the Grade I church. The current application proposes a smaller building of four rather than six storeys adopts a gabled form and is of a mass that responds much more positively to the conservation area and to historic buildings nearby. The building is seen in both near and distant views in the context of mature trees and the cliff behind, the palette of recessive and typically natural materials responds well to this.

We consider that the current application addresses the concerns we raised previously and therefore have no objection to it. The quality of the building will depend much upon the details of weatherings, junctions between different materials, choice of materials in terms of quality and colour. We therefore urge you to control these by condition.

Recommendation

Historic England has no objection to the application on heritage grounds. We consider that the application meets the requirements of the NPPF, in particular paragraph numbers 192, 193, 200. In determining this application you should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas and section 38(6) of the Planning and Compulsory

Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. Your authority should take these representations into account in determining the application. If there are any material changes to the proposals, or you would like further advice, please contact us. Please advise us of the decision in due course

Internal Council Consultations

4.3 **Principal Building Conservation Officer:**

Whilst there is no heritage objection to the conversion/adaption of Riverview Flats, or their sympathetic replacement, it is considered that the proposed scheme, by virtue of its uncharacteristic scale, architectural form, and materiality, would fail to satisfy the requirements of Sections 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; namely, to preserve the setting of listed buildings, and preserve or enhance the character and appearance of conservation areas.

The degree of harm determined in this instance would be classed as *less than substantial*, but this should be afforded ***great weight*** by decision makers within the planning balance (Para. 193, National Planning Policy Framework).

In *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council & Ors [2014]*, Lord Justice Sullivan determined that under section 66(1) of the Act there was an overarching statutory duty for decision makers to give '***considerable importance and weight***' to a finding of harm to the setting of a listed building when undertaking the balancing exercise; and that a finding of *less than substantial* harm does not equate to a *less than substantial* planning objection.

Legislation & Policy:

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66(1) –

In determining planning applications which affect listed buildings Local Planning Authorities are required to pay '**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(1) –

In determining planning applications within Conservation Areas Local Authorities have a statutory obligation ensure the following, '**special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area**'

National Planning Policy Framework

Paragraph 140 –

Permission should be refused for development of poor design that fails to take the opportunities available for **improving the character and quality of an area** and the way it functions.

Paragraph 189 –

For planning applications which affect heritage assets applicants are required to **describe the significance of any heritage assets affected, including any contribution made by their setting**, and, determine **the potential impact of the proposal on their significance, or any ability to experience that significance.**

Paragraph 192 –

In determining applications, local planning authorities should take account of: the desirability of **new development making a positive contribution to local character and distinctiveness**.

Paragraph 193 –

When considering the impact of a proposed development on the significance of a designated heritage asset, **great weight should be given to the asset's conservation** (and the more important the asset, the greater the weight should be). This is **irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance**.

Paragraph 194 –

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require **clear and convincing justification**.

Paragraph 196 –

Where a development proposal will lead to **less than substantial harm** to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 197 –

Where a development proposal will affect the significance of a non-designated a **balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset**.

Paragraph 200 –

Local planning authorities should look for opportunities for **new development within Conservation Areas..., and within the setting of heritage assets, to enhance or better reveal their significance**. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Herefordshire Core Strategy

Policy LD1 –

Development proposals should:

demonstrate that **character of the landscape and townscape has positively influenced the design, scale, nature and site selection**, protection and **enhancement of the setting of settlements and designated areas**;

Policy LD4 –

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’.

Where opportunities exist, **contribute to the character and local distinctiveness of the townscape** or wider environment, **especially within conservation areas**;

Heritage Background:

Riverside Flats are situated within the Ross-on-Wye Conservation Area (1970 & 1976) and adjacent to No.'s 11-14 Wye Street, and the Masonic Hall (British & Foreign School), all of which are Grade II listed buildings.

In addition, the Riverside Inn and No's 22 & 23 Wye Street, situated opposite Riverside Flats, are considered non-designated heritage assets given their age, and architectural/historical merit.

The significance of these heritage assets relates primarily to their architectural form, character and material construction, which represents prevailing 18th-19th century market town fashions, and characteristics which enable understanding of their purpose and function, and define their status within the wider domestic/commercial/civic hierarchy of the area.

Their setting encompasses the surrounding riverside landscape and the immediate development landscape which neighbours and bounds them; it is one which has remained largely unaltered over intervening centuries, with the Riverside Flats development being the single most substantive change.

It is this degree of historic uniformity and continuity which enables their significance to be experienced and appreciated; and, although *of its time* in many ways, the key characteristics of the Riverside Flats development sufficiently referenced the domestic form of adjacent assets, which helped maintained their setting.

This sector of the conservation area has development origins dating back to the 17th century, but its most significant period of expansion came in the 18th century with the growth of Wilton as a river port, and the advent of the picturesque movement - and with it, tourism - which it is acknowledged began with the publication of William Gilpin's '*Observations of the River Wye...*', in 1800.

The later introduction of Wilton Road, in 1833, provided a greater degree of access to Ross from the north-west, and provided new opportunities for views out over the properties on Wye Street and out across the river.

A floodplain topography characterises the land which bounds the river between Wilton, Ross and Greytree and this has ensured the area has remained largely undeveloped, thereby providing much opportunity for public access and recreational activities.

It is this flat, open, and largely accessible landscape which Wye Street forms a backdrop to, and the street's architectural character is a prominent feature for those experiencing the riverside both now, and as it has been experienced continuously since the 19th century.



Heritage Statement:

Contrary to the requirements of Paragraph 189 of the NPPF, the submitted heritage statement has not described the significance of the surrounding heritage assets, nor established the extent of their setting, or how it contributes to their significance being experienced; it has also failed to identify the potential impact the proposals will have on significance.

As a result, the scheme has not benefitted from the baseline understanding necessary to determine, objectively, what is achievable in development terms if legislative and policy requirements are to be satisfied, and has failed to identify any harm.

Historic England advise

'A Statement of Heritage Significance is not an advocacy document, seeking to justify a scheme which has already been designed; it is more an objective analysis of significance, an opportunity to describe what matters and why, in terms of heritage significance.'
(Advice Note 12, 2019).

Refurbishment of Existing Flats:

Whilst the deteriorated state of the building and wider site is an obvious concern within the area, it is a situation which appears to have arisen, and rapidly worsened, since 2017 when the building was previously occupied; the site has been in single ownership over this period and the loss of occupancy has no doubt influenced its current state.

No evidence has been provided to support the assertion that refurbishment of the existing building in its current form is economically unviable; the building appears to be structurally sound, so a largely cosmetic adaption should be achievable.

Given the laudable aspiration for sustainable development, demonstrating viability, or lack of it, is an important point as the high financial and embodied energy costs associated with any demolition of the existing structure will impact significantly on what degree of sustainability can ultimately be realised.

Existing & Proposed Development:

One of Wye Street's primary visual characteristics is its roofscape arrangement, which descends westwards along its southern side; this distinctive treatment, largely governed by the prevailing topography, defines views in both directions along the street, and contrasts with the less densely developed character of its northern side.

With the exception of the Masonic Hall - a landmark building which presents *gable-on* to the street – the majority of roofs present *eaves-on* to the street, and elevations provide the appearance of contiguous frontages with little physical punctuation; verticality is expressed below eaves level, in a traditional manner, largely by way of diminution of aperture sizes across floors. Some buildings make use of dormer windows at roof level, but these are later adaptations rather than components of original design, and their scale and execution is very much subservient in nature.

Overall, these characteristics create positive uniformity which contributes to the setting of the heritage assets and significance of the conservation area in this sector.

The existing Riverside development conformed to this pattern in most of these aspects (ridge height, roof type/orientation, uniformity), and, as a result, presented a form which positively referenced its immediate architectural surroundings, albeit in a manner contemporary with its time; this marked it out as architecture which was largely *typical* of the wider streetscape, rather than *unique* to it as intended landmark buildings such as the Masonic Hall, or the Royal Hotel, at Royal Parade.

In this instance, the scale and explicitly expressed vertical rhythm proposed for the replacement structure would have more in common with those *unique* landmark structures than it would with the principles of the *typical* residential vernacular it would sit amongst, thereby dominating the south-western end of the streetscape, competing with, and detracting from, the surrounding heritage assets.

Furthermore, no clear and convincing justification has been presented for this approach (Para. 194, NPPF), and the design proposed could easily be translocated to an entirely different context, which suggests it doesn't sufficiently respond to the specific characteristics of this location.

The appropriateness of the original approach – in terms of minimal bulk, lightness of presence and wider cohesion – is illustrated in the image submitted within the D&A statement, where it is evident the Riverside Flats development does not dominate its setting in any overt way, and that by satisfying the basic characteristics previously outlined the building was able to express its modernity in other material ways.



Proposed Materials:

As with the form of the existing building its material make up (brickwork) is historically representative and imbues a degree of quality which has deteriorated little despite the more general, run-down, condition of the building.

Whilst render is a treatment which is present within the street its use is representative of the *polite* 18th-19th century architectural aspirations of the buildings from that period, particularly along its northern side and at its eastern end; however, sandstone is the predominant material at the western end (south side).

The specification of render in a contemporary design context is a generic approach which provides little character and can be challenging to maintain in the longer term, particularly where multiple ownership is a factor.

As the western gable defines the start of the development boundary on the southern side of the street (bandstand and public toilets accepted) its physical/material appearance is an important consideration.

4.4 Principal Natural Environment Officer (Landscape) comments:

The site setting was visited 25th August, viewed from the street and the riverside path. There is no objection to the proposal in terms of landscape character or visual amenity. It is a degraded site and the proposal will improve this as a positive contribution to the urban section of the Wye Valley Area of Outstanding Natural Beauty.

In terms of the landscape scheme, retention of the existing vegetated bank is welcome, for its green infrastructure and visual amenity value. If the application is to be approved, then details of the proposed hard and soft landscape scheme should be provided. This should particularly take account of:

- How the narrow strips of plants and steeped planters will be constructed with suitable soil conditions and plants that will tolerate the microclimate.
- Ensuring the amenity decking area to the rear is usable, not slippery (considering damp, leaf drop and shading) and how the private areas will be delineated.

This is required to protect and enhance the character and amenity of the area in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

4.5 Tree Officer comments

Fundamentally I do not object to the planned demolition and erection of apartments. The design indicates that despite some tree removals on the eastern embankment there are minimal arboreal constraints.

I do however have a requirement for a tree retention/removal & tree protection plan to be submitted as a condition along with a landscaping plan. My one observation regarding green infrastructure is:

New soft landscaping should consist of native species and also take into account the constrained nature of the site and consist of trees that are adapted to limited light and space.
Conditions CK3 – a) b) c)

4.6 **Principal Natural Environment Officer (Ecology) comments:**

Habitat Regs. Assessment-River Wye SAC

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 initial Habitat Regulations Screening Assessment identifies foul water and surface water as ‘likely significant adverse effects’. The applicant has indicated in their application that foul water will discharge to mains sewer. No information has been provided regarding surface water drainage management.

Welsh Water have confirmed in their letter dated 8th September 2020, that connection to mains sewer is achievable at this location. Details of how surface water run-off will be managed to ensure no increased discharge from site will occur and how potential pollution/contamination from vehicles, roadway and drives will be managed on site, incorporating SuDs where appropriate in accordance with Herefordshire Core Strategy Policy SD3.

Once this information has been supplied, a relevant condition can be included, and the Habitat Regs. Appropriate Assessment can be carried out to confirm a conclusion of ‘NO Likely Significant Effect’ on the River Wye SAC.

Bat presence/absence survey

A previous survey carried out in 2015 found a minor lesser horseshoe bat roost (day roost) was present within the building. Since that time, the building has remained in an increasingly dilapidated state, with opportunities for bats to access internal area at many locations.

As the original bat survey is now out of date (bat survey data is typically valid for 12 months, an updated bat survey is needed as bats are highly mobile and opportunistic species. Given the proximity to the River Wye and trees forming a habitat corridor ideal for bat foraging (within 100m to the north-west), and Wilton Bluff SSSI/Caroline Symonds gardens to the south and the known local presence of significant bat roosting, foraging and commuting, the presence of bats cannot be ruled out.

All bats and their roosts, whether bats are present or not are protected. Given the potential presence of bat species this LPA has a legal Duty of Care to ensure they are considered as part of the planning process. As a minimum a **Presence or Absence preliminary bat survey** (and considering nesting birds), should be carried out and supplied for consideration before this application can be determined. This survey should comply with Bat Conservation Trust Survey Guidelines: 2016 and should be carried out by a competent and Licensed Ecologist/Batworker.

If any evidence of bats or likely roosting features is found then further **Optimal Period surveys** (mid May to August inclusive) will be required to properly determine use, species involved and the required mitigation and compensation (this may involve revised plans being submitted) that will need to be included and supplied before this application can be determined and planning consent given by this LPA. The LPA must give planning consent before the required European Protected Species Licence (Bat mitigation) can be applied for to Natural England. (NERC Act, NPPF, Wildlife & Countryside Act, Habitat Regulations and Core Strategy LD1-3).

Biodiversity net gain

In line with NPPF Guidance, NERC Act and Core Strategy LD2 all developments should show how they are going to enhance the local biodiversity potential. Notwithstanding any legally required bat mitigation features that may be required I would suggest the final ecology report includes detailed plans for proposed biodiversity enhancement including features such as bat boxes/tubes/tiles/bricks, bird boxes, hedgehog homes and insect habitat boxes. Heavy duty, long-lasting boxes such as those by Schwegler or Greenwood Ecohabitats are recommended.

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

Condition Eco 06 – Prove Biodiversity Enhancement (Net Gain)

Prior to first occupation} evidence (such as photos/signed Ecological Clerk of Works completion statement) of the suitably placed installation within the site boundary of at least TWO bird nesting boxes for a site appropriate range of bird species TWO Bat roosting features; ONE Hedgehog home; ONE Insect hotel; should be supplied to and acknowledged by the local authority; and shall be maintained hereafter as approved unless otherwise agreed in writing by the local planning authority.

To ensure Biodiversity ‘Net Gain’ and species 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.

Bats & lighting

Given the location of the property close to the wooded River Wye corridor, and the presence of numerous bat species in the local area, including Annex II listed Lesser Horseshoe bats, no disturbance of bat flight lines to and from any identified roosting would be acceptable, nor would loss of any foraging or commuting potential. The following lighting condition should apply to any approved permission.

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

- a) At no time shall any external lighting except in relation to safe use of the approved building be installed or operated in association with the approved development; and no permanently illuminated external lighting shall be operated at any time, without the written approval of this local planning authority.
- b) No external lighting should illuminate any biodiversity enhancement, boundary feature, or adjacent habitats.
- c) All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals and Bat Conservation Trust.

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

4.7 Transportation Manager comments

Whilst there are no highway objections to the principle of the redevelopment of the currently unoccupied site the reduction in parking, provision has been thoroughly considered in the comment below. The current provision is one space per dwelling in the garages under the existing dwellings. This proposal seeks to increase the number of apartments to six and create one additional space, resulting in five spaces. This will clearly leave one apartment with no parking provision.

The design and access statement sets out that the site is in a sustainable location, closely located to the amenities of Ross on Wye and from this point, active travel options are likely to be desirable for local residents. The proximity of the car park located circa 300m from the site would allow parking of vehicles should they be required by the residents. Taking into account the existing situation, the proximity of amenities and the alternative parking options it is considered that this is acceptable for the site.

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

There are however, technical issues that will require resolution relating to the formation of the new parking space to the side of the building. This appears to show the parking bays removed to accommodate the access. This creates a contradictory situation with the current traffic regulation order that is in force on Wye Street. It is currently permitted under the provision of the TRO to park along the channel of Wye Street on its southern side. By introducing a dropped kerb, it is then not permitted to park across the dropped kerb. The Advice from the Traffic Regulation Team at BBLP is that the correct resolution for this is to revoke the current TRO and re-make it to end the parking bay each side of the access, as has happened elsewhere in the street. This conflict in with the legal order is considered to be contrary to policy MT1 of the core strategy.

In order for the Local Highway Authority to return a response of no objection to the development this will need to be considered by the applicant and an appropriate mitigation put forward.

In considering the cycle storage, which is clearly a vital pillar of the access strategy to support the reduced car parking provision, it is unclear how the storage operates for the two apartments serviced by the 'cycle store'. This facility appears small and may result in a difficult to access facility for the two apartments that are not being provided with garages. Further detail on the acceptability of this facility will be required; however, the LHA is content for this clarification to be subject to condition CB2.

The proposal is unacceptable, due to the conflict of the proposed access and the current traffic regulation order, but can be made acceptable by reviewing those provisions and advancing appropriate mitigation.”

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>

4.8 **Public Rights of Way officer comments:**

No objection

4.9 **Environmental Health Service Manager (Contaminated Land):**

No comments to make.

5. **Representations**

5.1 Ross on Wye Town Council Comments

Members of the Planning Committee have no objections to this application. However, they have made the following comments:

- the accuracy of the planning application drawings needs to be verified by the Planning Officer.
- additional residential parking should be considered.
- the need for the re-configuration of on-street parking in order to create and maintain disabled access to the toilet block.
- the need for the use of traditional materials when building - particularly at the front of the site.
- the need for a plan for the protection and retention of existing trees on the site.
- the need, if appropriate, for a bat survey on the site.

5.2 To date a total of **14 representations** have been received to the application. The 9 comments within the objecting representations are summarised below:

Summary of comments:

- Desirable to replace the 'eyesore' of these derelict flats, object strongly to anything higher than the original build. Inappropriate development
- Design out of character with historic Wye Street
- Add further problems to the parking. Parking already at a premium.
- Loss of car parking 3 spaces
- Unacceptable impact on the street scene and river area
- High rise building out of keeping with its location in AONB
- Effect on conservation area
- Improvement on previously withdrawn scheme but still one storey too high
- Encroaching on privacy, light and massing would destroy character of street
- Mass dominates
- Loss of views ice house, habitable rooms will be over looked, right hand stairwell in front of ice house not acceptable
- Physiological impact on family living in ice house less light and privacy
- Not in keeping with surrounding buildings
- Encourage refurbishment but be unsightly obstructive and unnecessary to create large block of flats in an AONB by increasing their height
- Located in food plain
- Over development
- Height makes the building intrusive, obstructing views from both ends of the street. Key entrance to the town
- Sensitivity in the development is paramount
- Additional height will make the building overbearing and for neighbouring properties
- Need to enhance the beauty of the area. Sympathetic development is essential
- Building left to deteriorate over so many years.
- Timber cladding deteriorates quickly
- Ecological consideration. Presence of lesser horseshow bats. Full surveys are required and impact assessed.

The 5 comments within the supporting representations are summarised below:

- Well thought out plan which will enhance the current street scene
- Long last positive action was being taken after so many years to rectify this carbuncle on our beautiful riverside and entrance into town
- Enhance beautiful town and area
- Currents flats are an eyesore and give an appalling view of Ross on Wye
- Proposal can only improve immensely our image.
- Concerns about buildings opposite being derelict

5.3 A petition of support has been submitted by the applicant and has the following information alongside 20 names and addresses:

We have concerns regarding the flats that are empty in Wye Street and have been causing major issues over the last few years. We have had lots of problems with youths getting into the buildings and people sleeping in the grounds and taken drugs and alcohol. The police have been involved many times and the local residents are having to police the building to prevent fires and further vandalism. This has been a major health and safety Issue and it's only a matter of time when someone will get seriously injured. As a community we are working hard to build the local businesses in the area and to create jobs for the locals. Ross-On-Wye depends on tourists visiting the area and bringing revenue to local shops, restaurants and guest houses. The people visiting

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

are constantly making comments about the rundown building and how it makes the area look degrading. As residents in Wye Street we have worked hard to develop our businesses and would very much appreciate any further development in the area that would enhance the local businesses. We have already seen the plans and we are aware of who the local developer is and we have been told this work will be commencing in January. Could you please confirm that this development is going to take place in January as we are very nervous this is not going to happen? If this development does not happen this could have further impact on our local businesses. As you are very much aware this is a hot spot for tourists and we need to encourage tourists not to push them away into other areas

- 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=202391

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

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

6. Officer's Appraisal

Policy context

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

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

- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). It is also noted that the site falls within the Ross-On-Wye Neighbourhood Area, where the Plan is at referendum stage. At this time the policies in the NDP can be afforded significant weight as set out in paragraph 48 of the National Planning Policy Framework 2019, which itself is a significant material consideration.

- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework 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 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. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.

- 6.4 With regards to heritage matters, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."*

- 6.5 Similarly, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states “with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’.
- 6.6 The legal framework for AONBs in England and Wales is provided by the Countryside and Rights of Way Act (CRoW) 2000 which reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty, and sets out responsibilities for their management. In particular relevance to the proposal are the following sections –
- Section 82 reaffirms the primary purpose of AONBs: to conserve and enhance natural beauty;
 - Section 84 confirms the powers of local authorities to take appropriate action to conserve and enhance the natural beauty of AONB and
 - Section 85 places a duty on all public bodies and statutory undertakers to ‘have regard’ to the ‘purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.
- 6.7 The NPPF is a significant material consideration and has ‘sustainable development’ central to planning’s remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people’s quality of life.
- 6.8 Policy SS1 of the Herefordshire Local Plan – Core Strategy (CS) sets out that proposals will be considered in the context of the ‘presumption in favour of sustainable development’ which is at the heart of national guidance contained within the NPPF. This policy states:

‘When considering development proposals Herefordshire Council will take a positive approach that reflects the presumption in favour of sustainable development contained within national policy. It will always work proactively to find solutions which mean that proposals can be approved wherever possible and to secure development that improves the social, economic and environmental conditions in Herefordshire.

Planning applications that accord with the policies in this Core Strategy (and, where relevant, with policies in other Development Plan Documents and Neighbourhood Development Plans) will be approved, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or the relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking account whether:

- a) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in national policy taken as a whole; or*
- b) Specific elements of national policy indicate that development should be restricted.*

Assessment

- 6.9 The most pertinent matters to consider in determining the application are the effect on the character and appearance of the area which is designated as a conservation area and within the Area of Outstanding Natural Beauty, impact on heritage assets, proposed massing, scale and design and impact on neighbouring residential amenity, highway and ecology matter

Heritage

- 6.10 The application site is located within the setting of a number of listed buildings and is within the Ross Conservation Area and also opposite a number of non-designated heritage assets, therefore the consideration of any impact to these heritage assets is important to the overall acceptability of the proposal. The legislative and policy context for considering these matters is set out below.

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

- 6.11 When considering the impact on the heritage assets the Local Planning Authority has a number of statutory duties in this regard. These statutory duties are set out under the Planning (Listed Buildings and Conservation Areas) Act 1990 ('LBCA Act' henceforth); Section 16 (2) requires that in considering whether to grant listed building consent for any works and Section 66 (1) also requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In relation to any building or other land in a conservation area, Section 72 requires a general duty for any of the planning functions under the Planning Acts that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.
- 6.12 These duties are manifested through the policies of the development plan and the guidance of the National Planning Policy Framework. The historic environment is an important aspect of the framework at Chapter 16; paragraph 184 lays out that whilst there are a range of heritage assets, they are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 6.13 In relation to the determination of applications, the framework (at paragraph 189) includes an expectation that applicants should describe the significance of any heritage asset affected, including any contribution made by its setting, with this level of detail being proportionate to its setting but no more than is sufficient to understanding the impacts of a proposal on significance. Following on, paragraph 190 of the framework indicates that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, seeking to avoid or minimise any conflict between the conservation of an asset and a proposal. Further, local planning authorities, ought to take into account the desirability of sustaining and enhancing the significance of a heritage asset, the positive contribution that conserved assets can make to communities and the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.14 However the framework is clear at paragraph 191, where there is evidence of deliberate neglect or damage to a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
- 6.15 In this respect, the advice set out at paragraph 193 of the Framework is relevant, insofar as it requires that great weight be given to the conservation of a designated heritage asset. The more important the asset, the greater the weight should be. Paragraph 194 goes on to advise that any harm to, or loss of, the significance of designated heritage assets should require clear and convincing justification.
- 6.16 The framework sets out two tests for cases where harm is identified, that being the test for substantial harm under paragraph 195 and the less than substantial harm test under paragraph 196. In interpreting the framework the High Court held in the Bradford case that there are only three levels of harm (as identified in the framework), 'substantial harm, less than substantial harm and no harm'. There are no other grades or categories of harm, and it is inevitable that each of the categories of substantial harm, and less than substantial harm will cover a broad range of harm; it follows that if there is minimal harm it must fall to be considered within the category of less than substantial harm and the appropriate test undertaken.
- 6.17 At paragraph 195, it states that where substantial harm is identified local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. For cases of less than substantial harm to the significance of a designated heritage asset (under paragraph 196), this harm should be weighed against the public benefits of the proposal including, where

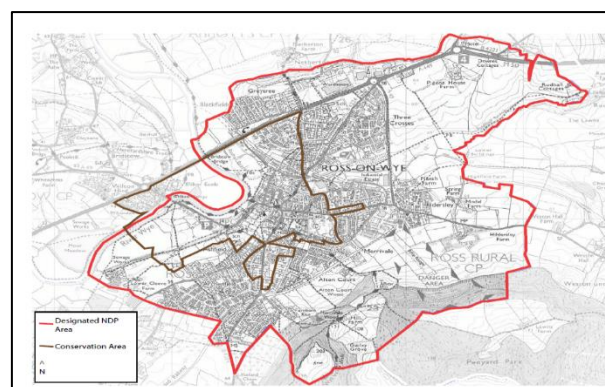
appropriate, securing its optimum viable use. Providing the desirability of preserving has been given considerable weight, and the balance tipped appropriately in favour of preservation, the assessment of the weight to the actual harm to significance (or special interest) in the overall balances is a matter for the decision maker.

- 6.18 Paragraph 200 sets out that Local Planning Authorities should look for opportunities for new development within Conservation Areas and within the setting of listed buildings to enhance or better reveal their significance; proposals that preserve those elements of the setting that make a positive contribution to the asset should be treated favourably. At paragraph 201 the framework notes that not all elements of a conservation area necessarily contribute to its significance.
- 6.19 The policies of the development plan relevant to development within a Conservation Area and heritage assets are Core Strategy policies LD4 and LD1 which broadly require that proposals contribute to the character and local distinctiveness of the townscape and wider environment; especially within Conservation Areas. From the emerging Ross Neighbourhood Plan, Policy EN1 states that all new development should be of good design and make a positive contribution to the character of Ross. Development should have regard to the Ross-on-Wye Character Assessment Portfolio (2017) and respond to its surroundings in terms of scale, materials, form, details and layout.
- 6.20 Policy SD1 of the Core Strategy requires that development proposals take into account the local context and site characteristics. Moreover, new building should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area. Policy SS6 states that development proposals should be shaped through an integrated approach to planning a range of environmental components from the outset, including the historic environment and heritage assets. Moreover, Policy LD4 states 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 design.
- 6.21 The emerging Ross NDP does not have a specific conservation area/heritage policy but NDP Policy EN1 as advised earlier in the report states that all new development should be of good design and make a positive contribution to the character of Ross. Development should have regard to the Ross-on-Wye Character Assessment Portfolio (2017) and respond to its surroundings in terms of scale, materials, form, details, layout, public realm and historic character.
- 6.22 The application is accompanied with a heritage statement as part of the documents submitted, however, this is not considered to adequately describe the significance of the surrounding heritage assets, nor establish the extent of their setting, or how it contributes to their significance being experienced; it has also failed to identify the potential impact the proposals will have on significance. As a result, the scheme has not benefitted from the baseline understanding necessary to determine, objectively, what is achievable in development terms if legislative and policy requirements are to be satisfied, and has failed to identify any harm contrary to the requirements of Paragraph 189 of the NPPF.
- 6.23 As the application site is within a conservation area, the Local Planning Authority must ensure special attention is paid to the desirability of preserving or enhancing the character or appearance of the conservation area, when it is determining this application, as per Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 6.24 Significant case law exists in relation to the assessment of the significance and the harm and the conservation area and this has been taken into account by officers in making their assessment and coming to their recommendation

- 6.25 As noted by the Building Conservation Officer in their consultation response, this part of the conservation area has development origins dating back to the 17th century, but its most significant period of expansion came in the 18th century with the growth of Wilton as a river port, and the advent of the picturesque movement - and with it, tourism - which it is acknowledged began with the publication of William Gilpin's *'Observations of the River Wye...'*, in 1800.
- 6.26 The later introduction of Wilton Road, in 1833, provided a greater degree of access to Ross from the north-west, and provided new opportunities for views out over the properties on Wye Street and out across the river. A floodplain topography characterises the land which bounds the river between Wilton, Ross and Greytree and this has ensured the area has remained largely undeveloped, thereby providing much opportunity for public access and recreational activities.
- 6.27 It is this flat, open, and largely accessible landscape which Wye Street forms a backdrop to, and the street's architectural character is a prominent feature for those experiencing the riverside both now, and as it has been experienced continuously since the 19th century.
- 6.28 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.
- 6.29 A number of heritage assets are in the vicinity of site, including:
- The site is located within the Ross-on-Wye Conservation Area (1970 & 1976)
 - adjacent to No.'s 11-14 Wye Street, Grade II listed.
 - Masonic Hall (British & Foreign School), Grade II listed.

Non-designated heritage assets (located opposite)

- The Riverside Inn
- No's 22 & 23 Wye Street,



Proximity of listed buildings marked by black dots (as detailed with Planning, design and access statement) and conservation area and NDP boundary map.

- 6.30 At the core of the significance of Ross on Wye Conservation Area is its landscape & topography and the dramatic sequence of views which this allows and their association with the birth of modern tourism and the picturesque movement. Ross on Wye makes the claim as the birthplace of modern tourism, this dates from 1745 when Dr John Edgerton started to take his friends for trips down the River Wye, showing off the drama of the scenery and historic buildings. Later in the C18, Gilpin made a tour of the Wye, publishing an account of it, which became the starting point of the Picturesque movement which considered drama, sequences of views and ruination to be fashionable and important aspects of the landscape.

- 6.31 The road forms part of a sequential series of views leading to Ross Prospect, a key viewing point within the Conservation Area. It is characterized by c19 3 storey housing with stone walls & sash windows stepping up the hill with views to the North of a green space towards the Wye.
- 6.32 The housing to the North East is separately listed at Grade II. The British Foreign School of 1837 is unusual for its height and date, the education acts in the UK came into force in the 1870's. The view to the building from the south is important, as its height is a key part of its architectural and historic importance, demonstrating the aspirations and intent of the original builders.
- 6.33 Above the site to the East lies the Ross Prospect and Royal Hotel with key views to and from the West and Wilton, the historic gateway to the town, which are intrinsic to the character of the Conservation Area. The past and current visual connection of the site with the river, as is an important part of the character of the site. In terms of impact upon heritage assets, the key test is the degree of harm to the assets' significance.
- 6.34 The existing Riverside development presents a form which positively references its immediate architectural surroundings, albeit in a manner contemporary with its time; this marked it out as architecture which was largely typical of the wider streetscape, rather than *unique* to it as intended landmark buildings such as the Masonic Hall, or the Royal Hotel, at Royal Parade. Officers consider the proposal in respect to its scale and explicitly expressed vertical rhythm would be dominating within the south-western end of the streetscape, competing with, and detracting from, the surrounding heritage assets.
- 6.35 The Council's Building Conservation Officer's consultation response, to which officers have afforded significant weight, raises an objection. Albeit, it is noted this reply does advise there is no heritage objection to the conversion/adaption of Riverview Flats, or their sympathetic replacement, it is considered that the proposed scheme, by virtue of its uncharacteristic scale, architectural form, and materiality, would fail to satisfy the requirements of Sections 66(1) & 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; namely, to preserve the setting of listed buildings, and preserve or enhance the character and appearance of conservation areas.
- 6.36 Officers consider the scheme does not 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 EN1 of the emerging Ross NDP.
- 6.37 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 considered not to preserve the setting of listed buildings, nor preserve or enhance the character and appearance of conservation areas and would affect and raise harm to non-designated heritage assets or their setting. Officers consider there is therefore a need to undertake the public interest test prescribed at paragraph 196 of the NPPF, as less than substantial harm has been identified.

Design / Appearance

- 6.38 In regards to the design of proposal, the Local Planning Authority has a statutory duty under Section 39 of the Planning and Compulsory Purchase Act 2004 to have regard to the desirability of achieving good design.
- 6.39 When considering the design and landscape impact of a proposed development, Policy SD1 of the Core Strategy is significant as it requires 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.

- 6.40 Policy LD1 requires that proposals demonstrate that the character of the landscape and townscape has positively influenced the design, scale, nature and site selection of the development, as well as the protection and enhancement of the setting of settlements and designated areas. Development proposals should conserve and enhance the natural, historic and scenic beauty of important landscapes and features (specifically designated assets) through the protection of the area's character and by enabling appropriate uses, design and management. New landscape schemes along with their management should ensure development integrates appropriately into its surroundings and maintains tree cover. In wider terms, policy SS6 sets out that development proposals should conserve and enhance environmental assets that contribute towards the county's distinctiveness, in particular its settlement pattern, landscape, biodiversity, heritage assets, and especially those with specific environmental designations. All proposals should be shaped through an integrated approach to planning to ensure environmental quality and local distinctiveness.
- 6.41 With regards to landscape impacts, policy LD1 applies, which seeks to conserve and where possible, enhance the rural landscape and AONBs. I am also aware that 'great weight' should be afforded to conserving and enhancing the landscape and scenic beauty of AONBs as identified at paragraph 172 of the NPPF, which is also epitomised at Policy SS6 of the CS. There is no denying that the proposal for a residential development on this site will alter its character. The proposed scheme would change the character and appearance of the site, however, it is noted the landscape officer has not objected on landscape grounds.
- 6.42 It is clear that Core Strategy Policy LD1 requires proposals to demonstrate that the character of the landscape has positively influenced the design, scale, nature and site selection of the development and it also requires that development proposals should conserve and enhance AONBs through the protection of the area's character and the Wye Valley AONB Management Plan Policy. WV-D2 requires a high standard of design to complement the local landscape character and distinctiveness. The existing site does act as a gateway site and can be considered to be sensitive and in a prominent location, it is one which is a gateway to an historic market town located within an Area of Outstanding Natural Beauty.

The design as submitted is shown below:



- 6.43 It is acknowledged that the scheme under consideration has been reduced from the previously withdrawn scheme and has revised elements of the proposal in light of the pre-application advice received. While it is considered that some form of three storey development could be

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accommodated on the site, there is concern from officers regarding the massing of the proposed building in particular the front gables and roof height. The current design results in the building appearing somewhat overbearing and out of place with the open character of the northern side of the street. While it is recognized that some efforts have been made to step the first and second floors inward, this is limited and the design still appears incongruous and awkward within the streetscene. The ground level would still sit directly on the boundary of the site and is an intrusive addition to the street forming a hard line which cuts off views to the park and narrows the street.

Photographs of Wye Street street scene below:

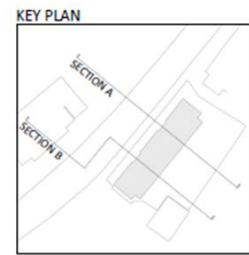
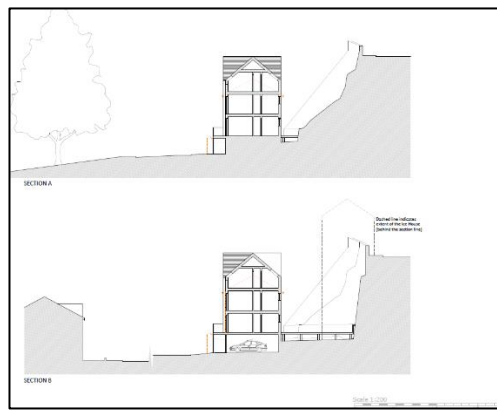


- 6.44 The comments from the landscape officer are noted. They have raised no objection to the proposal in terms of landscape character or visual amenity as in their opinion due to it being a degraded site the proposal will improve this as a positive contribution to the urban section of the Wye Valley Area of Outstanding Natural Beauty. This response is likely even with an amended scheme that addresses the issues addressed above.
- 6.45 It is acknowledged that the applicants have worked with the Local Planning Authority to try and find a solution based upon consideration of key local vernacular and materials. Furthermore it is clear from discussions that when looking for a suitable proposal in such a sensitive location with responses to contexts the number of units and the additional floor was considered to be critical for the development in respect to the viability issue. No viability report has been provided in this instance.
- 6.46 Paragraph 130 of the NPPF says that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. It is appreciated that due to the current disrepair of the building, that it would be easy to say the proposal is a better option than letting the building fall into further disrepair. However, the application has, as it stands, not seized the opportunities to satisfactorily mitigate the harm that this development would have on the character and appearance of the location or to create an appropriate sense of place. The proposed extensions and alterations to the building would have a detrimental impact on the character or appearance of the area and is not compatible with the character of the area in terms of scale, form and materials. It is apparent that one of Wye Street's primary visual characteristics is its roofscape arrangement, which descends westwards along its southern side; this distinctive treatment, largely governed by the prevailing topography, defines views in both directions along the street, and contrasts with the less densely developed character of its northern side.

- 6.47 As highlighted within the Buildings Conservation Officer's comments, with the exception of the Masonic Hall, which presents gable-on to the street the majority of roofs present eaves-on to the street, and elevations provide the appearance of contiguous frontages with little physical punctuation; verticality is expressed below eaves level, in a traditional manner, largely by way of diminution of aperture sizes across floors. Some buildings make use of dormer windows at roof level, but these are later adaptations rather than components of original design, and their scale and execution is very much subservient in nature. These characteristics do create a positive uniformity which contributes to the setting of the heritage assets and significance of the conservation area in this area. Again as stated within the previous section and by the Historic Buildings officer comments, the proposed alterations, the scale and the vertical rhythm proposed would dominate the end of the streetscape and as confirmed by the HBO would clearly dominate the south-western end of the streetscape as well as competing with, and detracting from, the surrounding heritage assets.
- 6.48 The proposal would dominate its setting in an explicit way as the street character and the existing riverside residential building seem less overbearing. The proposed development would alter the character of the street and the exterior design of the building with its front gables in stark contrast to most of the other buildings in the area. The general appearance will dominate the streetscape and detracts from the peaceful setting of the streetscape. The proposal would also create additional massing which would be overbearing and out of character with the adjacent buildings.
- 6.49 It is noted that the Town Council have raised concerns in regards to the proposed materials and it is acknowledged that the use of materials is an important consideration. The existing building is current brick and yellow render and it is noted that render is present within the street. Its use is representative of the polite 18th-19th century architectural aspirations of the buildings from that period, particularly along its northern side and at its eastern end and sandstone is the predominant material at the western end (south side). The use of render and its colour and amount in a contemporary design can be challenging in a sensitive location. The proposed building due to its massing, design and scale would visually dominate the site, streetscape and harm key views both in terms of its appearance and height.
- 6.50 A reduction in scale and height of the building was explored during discussions with the applicant and their architects but a reduction in height and mass would result in a reduction in room numbers and the scheme's viability would be compromised. As such, a decision, based on the submitted scheme was progressed.
- 6.51 The proposal is contrary to Herefordshire Core Strategy policies SS6, RW1, LD1 and SD1, the emerging Design policies of the Ross on Wye NDP and Design aims and objectives of the NPPF.

Residential Amenity

- 6.52 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.



Proposed sections A & B

Riverview flats with The Ice House located to the rear.

6.53 CS policy SD1 requires development to safeguard residential amenity for existing and proposed residents. The NPPF goes a little further, requiring safe and healthy living conditions (para 117) and creation of 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 (para 127f). Objections have been received from residents and in particular from 'The Ice House', with regards the adverse impact of the proposal on their amenity due to privacy concerns into their 3 habitual rooms which will be overlooked as well as overlooking into their outdoor space. They have also raised concerns in respect to the location of the proposed right hand stairwell. It is clear that development of the site would significantly alter the appearance of the site due to the increase in height and bulk and the outlook for these properties. The Ice House is located behind the flats (south) as seen on the above photograph and section and contains main aspect windows to their rear elevation and private outdoor amenity space. The proposal is contrary to Herefordshire Core Strategy policies SS6, RW1, LD1 and SD1, the emerging Design policies of the Ross on Wye NDP and Design aims and objectives of the NPPF.

Ecology and trees

- 6.54 Policies LD2 and LD3 of the Core Strategy are applicable in relation to ecology and the impact on trees. These state that development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of the County and protect, manage and plan for the preservation of existing and delivery of new green infrastructure. The proposal does necessitate the removal of a number of trees on the eastern embankment, however, as confirmed by the Tree Officer there are minimal arboreal constraints. The Tree Officer has also recommended conditions in respect to existing tree retention and protection if the application was recommended for approval and recommends any proposed planting consist of native species and also take into account the constrained nature of the site and consist of trees that are adapted to limited light and space which could be duly conditioned.
- 6.55 The Planning Ecologists have identified that 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 therefore subject to a formal Habitat Regulations Assessment (HRA) process by this local planning authority (LPA) as the competent body in consultation with Natural England. Under the Conservation of Habitats and Species Regulations 2017, Herefordshire Council has a legal duty to screen the development and ensure that it would have no likely significant adverse effect upon the integrity of the designated site.
- 6.56 The proposal has been assessed by the Council's Ecologist and a Habitats Regulations Assessment – Screening and Appropriate Assessment has been undertaken as a report. This initial Habitat Regulations Screening Assessment identifies foul water and surface water as 'likely significant adverse effects'. The applicant has indicated in their application that foul water will discharge to mains sewer. However, no information has been provided regarding surface water drainage management. It is also acknowledged that Welsh Water have confirmed that connection

Further information on the subject of this report is available from Ms Heather Carlisle on 01432 260453

to mains sewer is achievable at this location. It is noted that subject to the submission of this information colleagues will be able to undertake an Appropriate Assessment and this can be carried out to confirm a conclusion of 'NO Likely Significant Effect' on the River Wye SAC.

- 6.57 Notwithstanding the above, an assessment has also been provided in respect of other ecological considerations associated with the application. The Ecology Officer confirms that a previous survey carried out in 2015 found a minor lesser horseshoe bat roost (day roost) was present within the building. It is not disputed that the current building is now in an increasingly dilapidated state, with opportunities for bats to access internal area at many locations. Ecology colleagues have confirmed the original bat survey is out of date and an updated survey is required especially as the presence of bats cannot be ruled out within the building.
- 6.58 The ecology officer has highlighted due to the potential presence of bat species the Local Planning Authority has a legal Duty of Care to ensure they are considered as part of the planning process. The advice given is that the minimum of a Presence or Absence preliminary bat survey (and considering nesting birds), should be carried out and supplied for consideration before this application can be determined. It is acknowledged that this has not been supplied by the applicant, however, officers can confirm the applicant has confirmed they are willing to produce reports as requested. Officers are aware this further information is dependent on being undertaken at the right time of year. Therefore in this aspect, the proposal is not considered to accord with Policies LD2 and SD4 of the Core Strategy. On the matter of biodiversity, this could be satisfactorily dealt with by a suitably worded condition as suggested by the Ecology Officer.

Access and Highway Safety

- 6.59 Policy MT1 of the CS and NPPF policies require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where 'the residual cumulative impacts of development are severe.'(NPPF para. 109).
- 6.60 In respect of sustainability it is noted the site is sustainably located. As can be seen from the consultation responses from the Council's Transportation Manager, revisions have been sought in order to assess the highways impacts as a result of the additional dwellings in this location. While the concerns raised by local residents and the Parish are acknowledged, the revisions which demonstrate that a safe access can be achieved means that it is not found to amount to a 'severe' cumulative impact. The proposed development does not present an unacceptable impact on highway safety and does not result in detrimental impacts in regards to capacity.
- 6.61 The applicant has actively engaged with the Local Highway Authority to seek clarification and overcome concerns. A solution has been put forward to omit the parking space located at the side of the flats and use the area for improved bin storage and amenity space. This was considered to be a way forward and the Local Highway Authority would potentially support 2 car free units, taking into account the alternative options in the area. Alternatively if the 5th parking space at the side of the building was to remain then the applicant would actively have to seek an undertaking to re-make the Traffic Regulation Order for the road, which would probably be off-site works. Car parking spaces have been provided and albeit final details have not been agreed to the satisfaction of the Transportation Manager, it is considered within this location the parking provision would be acceptable. The proposal is therefore considered to adhere to CS SS4 and MT1 and subject to conditions would have the support of the Local Highways Authority. As directed by the NPPF, and corroborated by the lack of objection from the Transportation Manager, refusal on highways grounds is not found to be justified. With this in mind, the proposal is found to meet the aims of policy MT1 of the Core Strategy.

Climate Change

- 6.62 CS policy SS7 seeks to address climate change and at a strategic level this includes designing developments to reduce carbon emissions and sets out key considerations, which include ensuring design approaches are resilient to climate change impacts, and demonstrating water efficiency measures to reduce demand on water resources, amongst other things. Policy SD1 – Sustainable design and energy efficiency, also sets out what developments should utilise physical sustainability measures, such as orientation of buildings, water conservation measures, storage for bicycles, recycling and waste, and sustainable construction methods amongst other things. Elements specifically relating to addressing and mitigating climate change in line with Core Strategy policy SS7 could be secured by condition. However, within the supporting information the flats are proposing the following has been advised with the aim of achieving a low carbon output:

'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'

- 6.63 It is noted that the proposal does not provide any solar array, but within the supporting information it states that the site and building are not ideally located for solar gain. The adjacent Ice House and the steep bank cast shadows across the site. However, there is potential for an array of photovoltaic panels to be added to the roof of the south-west facing elevation.
- 6.64 Notwithstanding the above, the proposal provides recycling, waste and 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 which is consistent with the NPPF and its sections on addressing climate change.

Other Considerations

- 6.65 In respect of waste arrangements, the applicant has confirmed the 'refuse and recycling' storage area is to be erected to the front of the premises.
- 6.66 It is evident that the existing building is in a state of disrepair and is a concern to local residents, and has deteriorated within the last few years and is currently vacant. As highlighted by the Historic Buildings officer, no supporting evidence has been submitted to support the claim that refurbishment of the existing building in its current form is economically unviable.

S106

- 6.67 The proposed residential development is considered to be below the threshold at which Herefordshire Council seeks developer contributions by way of a Section 106 agreement of the Town & Country Planning Act 1990 (as amended), therefore it has not been appropriate to seek contributions for this development.

Party Wall Act

- 6.68 Concerns have been raised due to the close proximity of the build to the Ice House and consideration should be given to the party wall. Anything governed by other legislation cannot be a material planning consideration and for example damage to neighbouring properties is deemed to be dealt with under party wall legislation (or the common law of damage in the case of premises which are too far away to be covered by party wall legislation).

Summary and planning balance

- 6.69 The main points of contention in this case relate to the environmental role. In this respect the site's proximity to nearby listed buildings and non-designated heritage assets and the statutory duty "*to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses*" are noted and taken account of in the planning balance. In addition the impacts upon the setting of the identified conservation area are also key.
- 6.70 Historic England have not raised an objection to the proposed development and in their opinion regard the principle of redevelopment as acceptable and have no objection. The Council's own Building Conservation Officer has raised their own concerns about scale and height and the impacts of this development on nearby listed buildings as well as the impacts upon the setting of the Conservation Area.
- 6.71 The proposed development will result in harm. This harm is considered to be less than substantial harm to the significance of the asset. Therefore the correct approach to decision-making is to weigh this harm against the public benefits arising from the scheme in an unweighted balancing exercise. It is not necessary for the harm to significance to demonstrably and significantly outweigh benefits for refusal to ensue.
- 6.72 In accordance with s.38 (6) of the 2004 Act, the application must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Core Strategy constitutes a spatial strategy and policies designed to achieve sustainable development under the three objectives; social, economic and environmental. The NPPF, a material consideration, also seeks sustainable development through the economic, social and environmental objectives for planning. To enable a conclusion to be reached on whether the application proposals are in accordance with the development plan and to take account of material considerations, I now consider the conflicts with the development plan alongside the benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn.
- 6.73 In support of the development is the provision of an additional 2 new residential units in a location that has good access to a range of services and facilities. In seeking to bring forward housing development in an accessible location, the proposal accords with the general thrust of the development plan to some extent. There would be some social and economic benefits in boosting housing supply and associated with employment during the construction phase. Cumulatively, these benefits are modest and I afford them moderate weight.
- 6.74 However, in terms of its more detailed effects, the proposal would result in material harm to the character and appearance of the Ross Conservation Area, which, even though less than substantial, still attracts considerable importance and weight against the proposal. It would also be in conflict with the development plan on the basis of the harm to character and appearance and living conditions, which also weighs heavily against the scheme in the overall planning balance.
- 6.75 Planning's social role incorporates providing and the creation of a high quality built environment. The proposal is considered of a design that is not influenced by its location and does not maintain

or enhance the setting, which is an important key location within an historic market town within an AONB. Local distinctiveness is neither maintained nor enhanced. As such the social objective is considered to not be satisfied and weight is attributed to this harm.

- 6.76 The environment objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy). The repair of a building which is currently in disrepair is welcomed, however the proposal would neither maintain nor enhance the gateway location to the historic market town through its layout and built forms As such the environmental objective is considered to not be satisfied and weight is attributed to this harm.
- 6.77 On balance, the harms arising from the development significantly outweigh the modest benefits and the sum of the public benefits would not be sufficient to outweigh the less than substantial harm to the Conservation Area and setting of nearby heritage assets.
- 6.78 To conclude it is considered that the proposal would represent an incongruous overbearing addition to the host property and street and the surrounding conservation area and as such the proposed development is considered to be unacceptable with regard to its impact on the character of the street and surrounding conservation area. It is also considered that the proposed development would have an adverse amenity impact for adjoining occupiers.
- 6.79 Whilst it is acknowledged that in due course a positive HRA AA may be achieved and an update ecology survey can be submitted as this cannot be established at this point in time this matter is also therefore included as a reason for refusal.
- 6.80 As such, the potential benefits that could be delivered by the scheme have also been considered above, however, officers are of the opinion that these do not outweigh the harm that can be attributed to the proposal. It is accordingly recommended that planning permission be refused for the reasons set out below.

RECOMMENDATION

That planning permission be refused for the following reasons:

- 1. The proposal with its uncharacteristic scale, architectural form, and materiality and by virtue of the site's location within the Ross Conservation Area has a detrimental impact upon nearby heritage assets, the character of the streetscape and the setting of the Conservation Area and fails to maintain or enhance the character and appearance of the locality, one that forms a gateway and location to the historic market town of Ross on Wye and is located within the Wye Valley Area of Outstanding Natural Beauty. As such the which would be contrary to Policies LD4, LD1, RW1 and SD1 of the Herefordshire Local Plan Core Strategy and the guidance found in Chapters 12 and 16 of the National Planning Policy Framework 2019. The adverse impacts identified in this regard would significantly and demonstrably outweigh the modest social and economic benefits of the scheme, and the proposal would hence not be representative of sustainable development.**
- 2. The proposal would result in less than substantial harm to the setting of No.s 11-14 Wye Street and the Masonic Hall which are Grade II listed buildings which is not outweighed by the public benefits of the proposal. The proposal neither conserves nor enhances the setting of the heritage asset and impacts on the public's ability to experience the heritage asset from vantage points. The proposal fails to accord with paragraph 196 of the National Planning Policy Framework, Policies LD4 & SS6 of the Herefordshire Local Plan: Core Strategy and policy EN1 of the emerging Ross Neighbourhood Development Plan.**

3. The proposed extensions by reason of their height, scale and bulk and relationship with adjoining buildings would have an adverse impact on the amenity of adjoining occupiers as a result of a loss of outlook, increased sense of enclosure and a loss of light/overshadowing and as such the proposal fails to accord with Policies LD1 & SS6 of the Herefordshire Local Plan: Core Strategy and policy EN1 of the emerging Ross Neighbourhood Development Plan and the NPPF.
4. The proposed extensions due to their design, massing and scale would constitute an unsympathetic and over dominant addition to the existing streetscene and as such the proposal fails to accord with paragraph 196 of the National Planning Policy Framework, Policies LD1,LD4 & SS6 of the Herefordshire Local Plan: Core Strategy and policy EN1 of the emerging Ross Neighbourhood Development Plan.
5. The application is lacking sufficient details for the proposed surface water drainage strategy for the flats and as such it is not possible to evaluate the potential adverse effects on the local environment or the River Wye Special Area of Conservation and has not undergone the Appropriate Assessment required by the Habitat Regulations Assessment given the sites location within the catchment of the River Wye Special Area of Conservation and as such conflicts with the Conservation of Species and Habitats Regulations 2017 and Policy LD2 of the Herefordshire Local Plan Core Strategy, the Natural Environment and Rural Communities (NERC) Act 2006 and the guidance set out at Paragraphs 174-177 of the National Planning Policy Framework.
6. In the absence of an up-to-date detailed ecological survey as requested including any identified optimum period survey requirements, the Local Planning Authority is unable to assess the potential impact upon protected species, in particular bat species. The proposal is therefore contrary to policy LD2 of the Herefordshire Local Plan – Core Strategy, paragraph 99 of circular 06/2005 and the relevant aims and objectives of the National Planning Policy Framework 2019.

Informative:

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations and identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which have been clearly identified within the reason(s) for the refusal, approval has not been possible.

Decision:

Notes:

Background Papers

Internal departmental consultation replies.

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	3 MARCH 2021
TITLE OF REPORT:	<p>201220 - OUTLINE PERMISSION FOR THE DEMOLITION OF AN EXISTING DWELLING, THE ERECTION OF UP TO 3 X RESIDENTIAL DWELLINGS WITH ASSOCIATED DRIVE AND ACCESS ALTERATIONS (ALL OTHER MATTERS RESERVED) AT LAND AT HILL VIEW, DINEDOR, HEREFORDSHIRE</p> <p>For: Mr Lively per Mr Chris Moore, Clarendon House, 42 Clarence Street, Cheltenham, Gloucestershire, GL503PL</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=201220&search-term=201220
Reason Application submitted to Committee – Redirection	

Date Received: 20 April 2020

Ward: Dinedor Hill

Grid Ref: 353743,236659

Expiry Date: 27 November 2020

Local Member: Councillor David Summers

1. Site Description and Proposal

- 1.1 The site currently comprises a detached chalet bungalow and its garden curtilage located to the south east of Hollow Farm Road, in the parish of Dinedor. The site is located at the eastern edge of Dinedor village and is approximately 1.2km from Rotherwas Industrial Estate.
- 1.2 To the east of the site are existing residential properties, to the south (rear) of the site are agricultural fields and to the west is a currently undeveloped site with a recent approval for up to 6 dwellings (P193329/O).
- 1.3 The proposal is for the demolition of the bungalow (known as Hill View) and erection of three dwellings with associated drive and access. All matters, with the exception of access, are reserved and an indicative plan has been submitted to show the three dwellings in a linear form fronting the roadside.



- 1.4 It should be noted that the original proposal was for 4 dwellings with an indicative plan showing a cul-de-sac layout. However following discussions with Officers, the proposal was amended to three units to facilitate a linear form fronting the road.
- 1.5 The application is accompanied by a Planning Statement, a Transport Statement, a Preliminary Ecological appraisal and an indicative drainage layout.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy (CS)

- SS1 - Presumption in favour of sustainable development
- SS2 - Delivering new homes
- SS3 - Releasing land for residential development
- SS4 - Movement and transportation
- SS6 - Environmental quality and local distinctiveness
- SS7 - Addressing climate change
- RA1 - Rural housing distribution
- RA2 - Housing in settlements outside Hereford and the market towns
- MT1 - Traffic Management, highway safety and promoting active travel
- LD1 - Landscape and townscape
- LD2 - Biodiversity and geodiversity
- LD3 - Green Infrastructure
- LD4 - Historic environment and heritage assets

- SD1 - Sustainable design and energy efficiency
- SD3 - Sustainable water management and water resources
- SD4 - Waste water treatment and river water quality

The 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

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 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. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.

2.2 Dinedor Neighbourhood Development Plan (DNDP)

A Neighbourhood Area was designated on 12 August 2013 and the Plan was submitted for Examination on 8th October 2020, at the time of writing the Examiners Report had not been received, therefore at this stage moderate weight can be afforded to the Plan.

- Policy A - New housing development in Dinedor village
- Policy C - High quality design
- Policy F - To protect and enhance the rural environment and landscape
- Policy G - Protecting local Heritage assets
- Policy J - Local Residents enjoyment of the Parish

<https://www.herefordshire.gov.uk/downloads/file/21031/neighbourhood-development-plan-january-2020>

2.3 National Planning Policy Framework (NPPF)

- Chapter 2 - Achieving sustainable development
- Chapter 4 - Decision-making
- Chapter 5 - Delivering a sufficient supply of homes
- Chapter 9 - Promoting sustainable transport
- Chapter 12 - Achieving well-designed places
- Chapter 14 - Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 - Conserving and enhancing the natural environment
- Chapter 16 - Conserving and enhancing the historic environment

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf

3. Planning History

- 3.1 No planning history on this site.

4. Consultation Summary

Statutory Consultations

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

Internal Council Consultations

4.2 **Team Leader Area Engineer**

No objections to the proposed amended plan condition as follows: -

CAB - Visibility Splays – 2.4 x 52.9m, northeast bound and 2.4 x 43.6m south west bound

CAD - Access gates 5 m

CAE - Vehicular access construction – Road standard construction

CAH - Driveway gradient

CAI - Parking – single/shared private drives

CAT - Construction Management Plan

CB2 - Secure covered cycle parking provision

I11 – Mud on highway

I09 – Private apparatus within the highway

I45 – Works within the highway

I05 – No drainage to discharge to highway

I47 – Drainage other than via highway system

I35 – Highways Design Guide and Specification

4.3 **Principal Building Conservation Officer**

The amended scheme has satisfactorily address previous heritage concerns; approval with conditions is recommended A reduction in dwelling numbers has enabled better spatial use of the site, which has improved containment and minimised the impact on both streetscape and landscape aspects.

The indicative elevations present an architectural and material character which would be considered appropriate in this context, and a good balance between residential and agricultural scale and form.

4.4 **Principal Natural Environment Officer (Ecology)**

Initial Comments

The proposed works seeking approval include demolition of existing buildings.

The 'non technical summary' of the supplied Preliminary Ecology Appraisal (PEA) report by Sharpe Ecology dated February 2020 states:

“The site has the potential to support roosting bats (within the house), reptiles (particularly slow-worm), hedgehog and nesting birds. Therefore, the demolition of the house of the works has the potential to impact bats (and their roosts), while site clearance works have the potential to impact reptiles, hedgehog and nesting birds.

As such, further surveys to establish the presence / absence of bats and reptiles are required, and if found to be present, to inform detailed mitigation. “

These are discussed in greater detail in Section 6 of the PEA. These further 'optimal period' surveys – eg for bats emergence and return surveys completed between mid-May and August inclusive (to allow for consideration of any maternity roosts) do not appear to have been supplied in support of this application.

The LPA has a duty of care to ensure all potential effects on protected species if they are present – as identified in the PEA – are fully considered PRIOR to any grant of planning consent, in particular where significant works are proposed and potential permanent loss of habitats or roosting is proposed (eg through Demolition). The LPA cannot make the required considerations without further specific baseline data on which comments and any relevant conditions for discharge at the Reserved Matters stage can be made and included on any outline consent granted.

The LPA Ecology must raise an Objection to the application as currently submitted. This position can reviewed once further detailed, optimal period ecology surveys have been undertaken to provide clear evidence whether any protected species are present and could be impacted by the development. This additional report must include full details of survey efforts, survey results, relevant discussions, clear conclusions on presence or absence and the level of use and specific species involved if a presence is confirmed. The outline details of any required mitigation-compensation must also be detailed so the LPA can be assured these can be accommodated within the new development. This will allow the LPA to ensure relevant conditions are included on any outline consent granted in respect of any further ecology assessment required and secure any species licences that will be needed.

As currently proposed the application is contrary to; Conservation of Habitats and Species Regulations (2017), Wildlife & Countryside Act (1981), NPPF (2019), Core Strategy (2015) policies SS6 and LD2.

Additional ecology comments, notwithstanding the above:

In addition to any mitigation or compensation required as part of the updated ecology report all developments should clearly demonstrate a 'biodiversity net gain'. A relevant condition can be included on any consent finally granted. As a minimum Net Gain enhancements for Bats, Birds, insects /Invertebrates and Hedgehogs are expected.

There are known local populations and commuting and foraging routes for nocturnal protected species in the locality including adjacent habitats such as the brook corridor and hedgerows. The area is an 'intrinsically dark landscape' creating amenity and nature conservation interest. To ensure this is maintained after any development occurs a relevant condition is requested.

The site falls within the catchment of the River Wye Special Area of Conservation and a Habitat Regulations assessment process is triggered by this application. The appropriate assessment completed by the LPA should be subject to consultation and a 'no objection' response received prior to any final grant of outline planning consent.

The following points are notes in relation to the HRA process based on information available to the LPA and supplied by the applicant.

- Plot specific private treatment plants will be installed.
- The individual PTP will discharge to a shared soakaway field managing the outfall from all THREE proposed plots and their PTPs.
- The management/maintenance for the lifetime of the development of the shared drainage field can be secured through a relevant condition on any consent granted
- The LPA has no reason to believe that the proposed drainage field cannot be achieved at this specific location
- All surface water will be managed through onsite soakaway-infiltration systems

The agreed drainage scheme can be secured by condition on any outline consent granted.

Subject to any comments by Natural England suggested conditions

Further comments following additional details

The detailed 'optimal period' bat survey and final report by Star Ecology dated 23rd September 2020 supplied by applicant is noted, including the results that there is a small bat roost within the current building and so a relevant European Protected Species Licence issued by Natural England is required PRIOR to any works commencing on or adjacent to the existing building being demolished. The report appears relevant and appropriate and should be secured by a relevant condition on any planning consent granted.

The reptile survey and report also by Star Ecology and dated 23rd September 2020 is noted and the presence of habitats that could support reptiles is noted. The suggested mitigation (ecological working methods) appear relevant and appropriate and should also be secured by condition on any consent granted.

Standard condition CKP should be utilised with relevant amendments and inserted text as highlighted.

The previously requested conditions for managing Lighting and Biodiversity Net Gain enhancements and the Habitat Regulations Assessment and associated condition all remain valid.

No further ecology comments and **no objection** is now raised.

4.5 **Principal Minerals and Waste Officer**

Minerals

The site is within an area identified under policy M5 of the HUDP for the safeguarding minerals due to the presence of a sand and gravel deposit which is present underneath the site and in the surrounding area.

If an area is identified as being within a Mineral Safeguarded Area it does not automatically preclude other forms of development. Neither is there a presumption that an application to extract the mineral resource defined within the Mineral Safeguarding Areas will be granted permission. What it does mean however, is that attention to the presence of important mineral resource is needed and that any proposals should adequately and effectively considers the importance and nature of the reserve in land-use planning decisions.

The NPPF requires mineral planning authorities to maintain a minimum land bank of 7 years for sand and gravel. At the end of 2019 the land bank for sand and gravel (using a 10 year sales average) stood at 21.5 years. The HUDP does not currently identify any 'preferred' sites for future extraction of sand and gravel, nor does it identify constraints of sites with known minerals resources.

The Council recognises that mineral resources are finite and must be protected for future generations to meet their own needs. Minerals can only be worked where they naturally occur but with increased pressure on land use the Council must also ensure that those resources are not needlessly sterilised by other forms of development.

On balance, I am satisfied that given the characteristics of this site and its surrounds, together with there not currently being an immediate need within the County for sand and gravel, the physical sterilisation of this relatively small resource is not significant in a local and national context. Similarly, it is considered unlikely that the prior extraction of the resource would be environmentally and economically viable.

In conclusion, I have no objection to the application with regards to saved Policy M5 of the HUDP and national planning policy contained within the NPPF and NPPG

Waste

The treatment and handling of any site waste is a necessary initial requirement before any demolition and groundworks are undertaken in the interests of pollution prevention and efficient waste minimization and management so as to comply with the Policy SD1 of the Herefordshire Local Plan - Core Strategy. Where possible the production of waste from the development should be minimised and options for the reuse or recycling of any waste produced should be utilised.

If you are minded to recommend a condition be imposed requiring a Construction Environmental Management Plan (CEMP), I recommend that a scheme for the management of all waste material arising from the site (i.e. stockpiles, waste soils, materials movements etc) form a sub component of such a Plan.

5. Representations

5.1 Dinedor Parish Council

Initial comments

Dinedor Parish Council has considered this application at a meeting held on 19th May and wishes to object to the application on the following grounds:

1) This application is separate from, but adjacent to three other applications for multiple dwellings on existing single dwelling sites along the main access road into the village. Total dwellings on the adjacent sites, if granted, would amount to 13, or 17 including the 4 for this site. We believe the current undecided applications should be reviewed in the light of this additional, albeit unconnected, proposed development as the total impact on the village is considerable.

2) The proposed development is on a very narrow, single track road leading from the B4399 (Holme Lacy Road) into the village. This road provides the main access into and out of the village so is used by residents and agricultural vehicles. Concern has been expressed on many occasions that visibility on exiting the village at the B4399 is poor and has led to several near misses and we have requested that improvements to this junction be a condition of several of the current applications. If approved, we would reiterate that request again for this application.

3) There is a very sharp bend in the single track access road between the junction with the B4399 and the proposed development(s). Vehicle speed and volume along this road with virtually no vehicle passing places has led to further near misses at this location. We feel strongly that the additional traffic generated by the proposed development(s) represents an unacceptable increase, leading to greatly reduced safety for vehicle and pedestrian traffic. We would wish to highlight that there is no public transport accessing the village/site and Dinedor has little in the way of facilities. Residents have no option but to travel outside the village for shops, medical services, schools and most social activities (we have one village hall). We would expect the total of the proposed developments to increase the number of vehicles using this road by at least 35 vehicles with the potential for upwards of 200+ vehicle movements per day.

4) Drainage along the road is poor and the road floods when it rains. We are concerned that run off water from the proposed development(s) will increase the amount of water entering the road, increasing the potential for flooding. We are further concerned that the intensity of the development(s) will create difficulty in providing suitable soakaways for the sites themselves exacerbating the existing problems and we would suggest that a review of the cumulative effect of drainage of surface water from all the proposed sites along that limited stretch be reviewed and consideration given to a drainage solution, including holding pond, to encompass all sites/dwellings at that location.

Similarly, the village has no mains drainage or sewerage system. The proposed development will need an adequate system to deal with sewerage and surface drainage for each of the dwellings with adequate provision for soakaways within the property. Currently, drainage issues result in septic tank back ups when the road floods, leading to sewerage flooding at the lowest point of the village-the village hall. These issues must be resolved before any further development is permitted.

5) The village consists of single dwellings in a linear form along the roadways, generally within large plots. The proposed development of four homes for this application is in a cul-de-sac layout which is not in keeping with the overall design and visual amenity of the village. Taking alongside the other agreed and outstanding applications for this site, represents a total change in the village design and is not in keeping with our draft Neighbourhood Development Plan (currently being submitted under Regulation 16). It is contrary to the views expressed during extensive consultation with residents under the Neighbourhood Plan process.

6) The proposed development is outside of the development area identified within our draft Neighbourhood Development Plan.

Considerable concern has also been expressed by residents that potential construction traffic if the current application and two undecided applications receive permission, would result in considerable disruption for the entire village and potentially block the access road for residents and possibly emergency vehicles. Conditions relating to hours of work, damage to the road, drainage channels and verges would need to be considered during any construction.

Following amended plans

Dinedor Parish Council has considered the amendment to the proposals for this site at a meeting held on 23rd June and whilst welcoming the reduction in proposed dwellings from 4 to 3 and the revised layout which is more in keeping with the linear development within the village, still feels its letter dated 20th May applies in all other respects. In particular we would wish to reiterate that all the proposed development on adjacent sites should be considered as a single entity albeit submitted by separate developers.

5.2 To date a total of five representations have been received, stating the following points:

- Along with the adjacent applications this could lead to 14 new properties in a short distance;
- No local amenities in the village
- Impact upon traffic on local roads
- Limited visibility from the village road onto the B4399
- Impact upon local residents
- Development not in keeping with existing linear development
- Road has no passing places other than private drives
- Concerns over surface water flooding on the road
- No transport links

- 5.3 No further letters were received following the publishing of amended plans (site notice displayed on 24th June 2020).
- 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=201220&search-term=201220

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

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

6. Officer's Appraisal

Policy context and Principle of Development

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows:
"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."
- 6.2 In this instance the adopted development plan is the Herefordshire Local Plan – Core Strategy (CS). The National Planning Policy Framework (NPPF) is also a significant material consideration. It is also noted that the site falls within the Dinedor Neighbourhood Area, which was sent for Examination on 8th October 2020, the Examiners Report has not yet been received at the time of publishing this report.
- 6.3 The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework requires a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted on 15 October 2015 and a review was required to be completed before 15 October 2020. The decision to review the Core Strategy 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. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain entirely consistent with the NPPF and as such can be afforded significant weight.
- 6.4 Policy SS1 states that Herefordshire Council will take a positive approach when considering development proposals that reflects the presumption in favour of sustainable development, which fully accords with the aims of the National Planning Policy Framework (NPPF). The approach to housing distribution within the county is set out in the Core Strategy at Policy SS2. Hereford, as the largest settlement and service centre is the recipient of up to 6,500 of the requisite 16,500 homes, with the market towns identified in the second tier as recipients of approximately 4,700 dwellings.
- 6.5 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 NPPF 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.

Further information on the subject of this report is available from Mrs G Webster on 01432 261803

- 6.6 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 the updated position in Herefordshire stands at 4.22 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 NPPF as a whole, or if specific policies in the current NPPF indicate development should be restricted.
- 6.7 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.
- 6.8 Housing in the rural parts of the county is delivered across the settlements identified at figures 4.14 and 4.15 under Policy RA2. Here the identified settlements are arranged according to the seven identified housing market areas. Figure 4.14 identifies the settlements which will be the main focus of proportionate housing development. Figure 4.15 classifies the 'other' typically smaller settlements where proportionate housing will be appropriate. Dinedor is a settlement listed under figure 4.15.
- 6.9 The preamble to Policy RA2 states that Neighbourhood Development Plans (NDPs) will be the principal mechanism by which new rural housing will be allocated. Where these are not in place, a sites relationship with the main built up part of the settlement will be assessed, where new residential development should be within or adjacent to such areas. As stated above, the NDP is afforded moderate weight at this stage.



6.10 The site is indicated on the plan above by the blue star. The settlement boundary indicated under the NDP submitted for examination is located to the west of the site terminating at the boundary of Hill View, whilst having moderate weight it does not yet have the full statutory weight attached to development plan documents. As such the site is regarded as being immediately adjacent to the settlement boundary.

6.11 I am also mindful of the outline scheme for five dwellings at The Oaks to the north east (ref: 174700) and the close proximity to the facilities that Dinedor does benefit from – the Church and Village Hall. Further, applications P193328 and P193229 have been approved in outline form directly adjacent to this site to the west thereby bringing the main built up area of the settlement directly adjacent to the site

6.12 Policy RA2 further states that if it is located within or adjacent to the main built up part of the settlement the following criteria should be 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 settlements, reflecting local demand.*

- 6.13 This part of Dinedor is largely represented by dwellings within their own plots comprising of ribbon development with the majority of dwellings fronting and addressing the public highway as it sinuously winds its way through the village.
- 6.14 Amended plans received on 5 June 2020 demonstrate that amendments to reduce the overall number of dwellings on the site shows a characteristic linear form of development with the properties fronting the road providing a strong relationship to the road. It is considered that this indicative proposal complies with the requirements of CS policy RA2 criteria 1 in that it follows the form, layout and character of the surrounding development within the village.
- 6.15 Whilst the DNDP emerging policy sets out that “*small scale proposals (up to 2 dwellings) for new market and affordable housing will be supported within the village settlement of Dinedor, (see Figure 6a, Policies Map) providing that it is proportionate to the existing number and form of housing in the immediate area of the village*”. The drafting of the policy only seeks to support developments of small scale developments but does not seek to preclude or limit residential developments for more than two dwellings. Thus I don't consider the proposal for 3 dwellings to be directly in conflict with this aspect of the draft policy.
- 6.16 The policy further states ‘Proposals for development that do not adjoin existing housing in Dinedor village and would lead to free-standing, individual, or small groups of dwellings will not be supported.’ It is not considered that this site is a free standing site as it adjoins existing development to the east and the approved schemes lie directly to the west.
- 6.17 In addition, the site is considered a brownfield site which further meets point ‘e’ of DNDP Policy A and criteria 2 of CS policy RA2.
- 6.18 Overall, it is considered that this outline application for three dwellings is in accordance to the CS policy RA2 which must be afforded greater weight than the emerging policies of the DNDP

Access and parking

- 6.19 Policy MT1 of the CS and NPPF guidance require development proposals to give genuine choice as regards movement. NPPF paragraph 103 requires local planning authorities to facilitate the use of sustainable modes of transport and paragraph 108 refers to the need to ensure developments generating significant amounts of movement should take account of whether safe and suitable access to the site can be achieved for all people and whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where ‘the residual cumulative impacts of development are severe.
- 6.20 The application seeks to utilise the existing access into the site, this access meets the highway in a perpendicular fashion. This maximises visibility and ensures that turning movements can happen efficiently, providing sufficient visibility splays in each direction. With regard to the impacts on the road and the associated traffic as a result of a three dwelling scheme, this is not found to amount to a ‘severe’ level. This is reinforced through the lack of objection to the proposal from the Team Leader Area Engineer.
- 6.21 The junction of B4399 and U72009 (some 420 metres from the site), has been raised as a concern by residents and although it is acknowledged that the visibility is restricted at the junction there are no officially recorded accidents at the junction and the junction has not been included in the Countywide accident cluster list. Therefore, it is not considered that this application will cause significant additional traffic that would amount to a severe impact level. Overall the proposal complies with CS policy MT1.

Ecology

- 6.22 Policy LD2 states that development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire through the retention and protection of nature conservation sites and habitats and important species, restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks and creation of new biodiversity features and wildlife habitats. Policy LD3 states that development proposals should protect, manage and plan for preservation of existing and delivery of new infrastructure.
- 6.23 The application has been supported by a preliminary Ecological report, followed by additional submissions of a Reptile survey and Bat report on 5th October 2020, which makes several recommendations. The Principal Natural Environment Officer (Ecology) has had sight of the assessments and does not object to their conclusions. The reports will be conditioned to be carried out on any approval.
- 6.24 With the foregoing in mind, subject to recommended conditions being attached to any approval the proposal is found to be compliant with CS policies LD2 and LD3.

Drainage

- 6.25 CS policy SD3 states that measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk, avoid an adverse impact on water quality, protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation and will be achieved by many factors including developments incorporating appropriate sustainable drainage systems to manage surface water. For waste water, policy SD4 states that in the first instance developments should seek to connect to the existing mains wastewater infrastructure. Where evidence is provided that this option is not practical alternative arrangements should be considered in the following order; package treatment works (discharging to watercourse or soakaway) or septic tank (discharging to soakaway).
- 6.26 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). The River Wye SAC is an internationally important conservation site which has been designated for its special features of ecological and biodiversity value.
- 6.27 The application form accompanying the submission states that foul water will be disposed of via private package treatment plants for each dwelling with the outfall utilising a shared managed soakaway field. Surface water will be managed through on site soakaway-infiltration systems. With these methods aligning with the aims of policies SD3 and SD4, and given the area of the land within the applicant's ownership, they are considered acceptable and the proposal complies with CS Policies SD3 and SD4.
- 6.28 The development has been the subject of an Appropriate Assessment under the Habitat Regulations. The HRA AA concluded that subject to conditions there would be no likely significant effect upon the River Wye SAC. Natural England has been consulted on the completed HRA with details of the condition recommended by the Council's Ecologist. Natural England confirmed no objections to the proposal. The strategy conforms to CS policies SD3 and SD4 and following Natural England agreement will have no unmitigated effects upon the River Wye Special Area of Conservation/Site of Special Scientific Interest in accordance with CS policy LD2.

Climate Change

- 6.29 CS policy SS7 requires focus 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.
- 6.30 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 NPPF sets out at paragraph 108 that LPAs in assessing sites for specific applications for development should ensure 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.
- 6.31 In line with the provision of car charging points, the government has reaffirmed by way of a Written Ministerial Statement on 18 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 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.
- 6.32 The completion of the Climate change checklist has been requested and an update will be provided prior to the Planning and Regulatory Committee meeting.

Heritage

- 6.33 There is no Conservation Area designation within Dinedor but there are a number of designated and undesignated heritage assets within the locality. The Grade II listed Church of St Andrew and the Grade II listed Glebe Farmhouse, and the Grade II Listed roadside barn are worthy of note as designated assets, the land to the south of the Church is also the site of a former mediaeval village, which is a Scheduled Ancient Monument. All four heritage assets are situated within 300m to the south west of the proposed site, and the character of the settlement forms part of their setting, and influences how they are experienced. In addition, a number of other historic buildings within the settlement, including Dinedor Hall and Brookfield, are considered non-designated heritage assets due to their age, architectural merit and associative value.
- 6.34 In this regard there is a statutory provision pursuant to Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990 to have special regard to their setting. This provision is underpinned by the requirements of CS policy LD4 to protect, conserve and where possible enhance the character and setting of heritage assets.
- 6.35 The proposed scheme will retain the existing domestic plot dimensions, and although it will increase the density of development in this gateway location, the amended plans demonstrating the linear form of three dwellings set back into the site it maintains the established building line and would not impact upon the streetscape and landscape character.

- 6.36 With no technical objection from the Principal Buildings Conservation Officer, it is considered that the proposed development will not harm the setting of heritage assets and would therefore accord with National policy and the CS policy LD4.

Conclusion

- 6.37 CS policy SS1 and paragraph 11 of the National Planning Policy Framework engage the presumption in favour of sustainable development and require that developments should be approved where they accord with the development plan. The NPPF encompasses the government's view of what is meant by sustainable development in practice. The three themes, economic, environmental and social should be pursued jointly and simultaneously.
- 6.38 The application is for housing and in the light of the housing land supply deficit must be considered against the test prescribed at NPPF paragraph 11 and CS Policy SS1. Permission should be granted, therefore, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF when considered as a whole.
- 6.39 While the site is located outside the settlement boundary indicated within the DNDP, given the stage at which the NDP is at the time of determination an assessment against policy RA2 of the Core Strategy is required. In assessing the location and proximity of the site to the main built up part of the settlement, I am content that the site accords with the aims of policy RA2.
- 6.40 In assessing the three elements of sustainability:

Economic

- 6.41 Economic benefits would be derived from the construction of three dwellings and associated infrastructure through both the supplies and employment of the required trades. After completion the occupiers would contribute some disposable income to the local economy and Council Tax revenue and New Homes Bonus would accrue. The impact of three new dwellings as proposed would result in modest benefits.

Social

- 6.42 The provision of housing, in the context of a shortfall, would contribute to the supply and the social needs of the county. In addition occupiers could contribute to village life at the village hall and Church, as well as potentially supporting other facilities in other villages in the locality (the primary school and colleges at Holme Lacy for example). It is recognised that this could help to provide towards the population to help sustain them and three new dwellings would make a modest contribution in this regard.

Environmental

- 6.43 The site is immediately adjacent to the main built up area of the settlement identified as being suitable for proportionate growth, and as such is considered to be locationally sustainable within the current policy framework. In landscape terms, the site is not in a protected landscape nor is it the subject of any site specific heritage designations, although the setting of designated and undesignated heritage assets has been assessed. Whilst it is recognised that there is some opposition to the impact of the proposed development upon the character of the village, the set back linear form proposed and existing developed nature of the site mitigates the visual impact and whilst officers do not consider there to be harm in this instance, were this to be identified, it would not be adverse nor is it considered that it would outweigh the NPPF presumption in favour of development.

- 6.44 Having undertaken an overall assessment of the proposal in light of its economic, social and environmental impacts as required by the NPPF, it is considered any economic and social benefits would be modest. The environmental impacts are limited for the reasons set out above and lead officers to conclude that the proposal is representative of sustainable development and approval is therefore recommended.

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:

That planning permission be granted subject to the following conditions:

1. **C02 - Time limit for submission of reserved matters (outline permission)**
2. **C03- Time limit for commencement (outline permission)**
3. **C04 - Approval of reserved matters - layout, scale, appearance and landscaping**
4. **C06 - Development in accordance with the approved plans 3184 P (0) 002D; 3184 P (0) 009; SP01E; SP02E; SK01G**
5. **CBK - Restriction of hours during construction**
6. **CE6 - Efficient use of water**
7. **A Construction Site Waste Management Plan shall be submitted to and approved by the LPA prior to development commencing on site to ensure waste management provisions compliment the construction activities on site and that all waste emanating from the development are dealt with in an appropriate manner and follows the waste hierarchy. The Plan shall include, but not be limited to:**
 - (i) **a description of the likely quantity and nature of waste streams that will be generated during construction of the development;**
 - (ii) **measures to monitor and manage waste generated during construction including general procedures for waste classification, handling, reuse, and disposal, use of secondary waste material in construction wherever feasible and reasonable, procedures or dealing with green waste including timber and mulch from clearing activities and measures for reducing demand on water resources;**
 - (iii) **measures to monitor and manage spoil, fill and materials stockpiles, including details of how spoil, fill or material will be handled, stockpiled, reused and disposed of, and locational criteria to guide the placement of stockpiles; and**
 - (iv) **details of the methods and procedures to manage construction related environmental risks and minimise amenity impacts associated with waste handling.**

Construction works shall thereafter be carried out in full accordance with the CEMP Sub-Plans.

Reason: To ensure, manage and co-ordinate the protection and enhancement of the Environment in accordance with the requirements of Policies SD1, SD3, SD4, LDI, LD4 of the Herefordshire Local Plan - Core.

8. CAB - Visibility splays - 2.4 x 52.9m, northeast bound and 2.4 x 43.6m south west bound
9. CAD- Access gates - 5m
10. CAE - Vehicular access construction - Road standard construction
11. CAH - Driveway gradient
12. CAI - Parking - single/shared private drives
13. CAT - Construction Management Plan
14. CB2 - Secure covered cycle parking provision
15. The ecological protection, mitigation, compensation and working methods scheme and any required European Protected Species Mitigation Licence (Bats), as recommended in the ecology reports (Reptile and Bats) by Star Ecology dated 23rd September 2020 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.

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy (2015) policies LD1, LD2 and LD3.

16. Prior to any construction above damp proof course levels, a detailed scheme and annotated location plan for proposed biodiversity net gain enhancement features including as a minimum significant provision for Bat Roosting, Bird Nesting, pollinating insect 'hotels', wildlife refugia and Hedgehog homes (and movement corridors through any fencing) 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.

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.

17. At no time shall any external lighting except in relation to safe use of the approved dwellings be installed or operated in association with the approved development; and no permanently illuminated external lighting shall be operated at any time, without the written approval of this local planning authority.
No external lighting should illuminate any biodiversity enhancement, boundary feature, highway corridor or adjacent habitats.

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

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

Further information on the subject of this report is available from Mrs G Webster on 01432 261803

18. All foul water shall discharge through connection to new plot specific private treatment plants with final outfall to suitably sized 'shared' soakaway drainage field 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

19. All surface water shall be managed through plot specific soakaway and infiltration features 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 SD3

20. Prior to first occupation of any property approved under this permission 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

21. Prior to the commencement of any works on site a tree-hedgerow protection plan in accordance with BS5837:2012 shall be submitted and approved in writing by the local planning authority and thereafter implemented in accordance with the approved details for the full duration of the construction phase.
No trees over 75mm diameter shall be lopped, topped, pruned or removed without the prior written consent of the local planning authority

Reason: To safeguard all retained trees during development works and to ensure that the development conforms with Policies LD1, LD2 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework (2019).

22. 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.

23. Prior to the first occupation of any dwelling of the residential development hereby permitted a scheme to enable the charging of plug in and other ultra low emission vehicles (e.g provision of cabling and outside sockets) to serve the occupants of the dwellings hereby approved shall be submitted to and approved in writing by the local planning authority.

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

INFORMATIVES:

1. Application Approved Following Revisions

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**
- 3. I09 - Private apparatus within highway**
- 4. I45 - Works within the highway**
- 5. I05 - No drainage to discharge to highway**
- 6. I47 - Drainage other than via highway system**
- 7. I35 - Highways Design Guide and Specification**

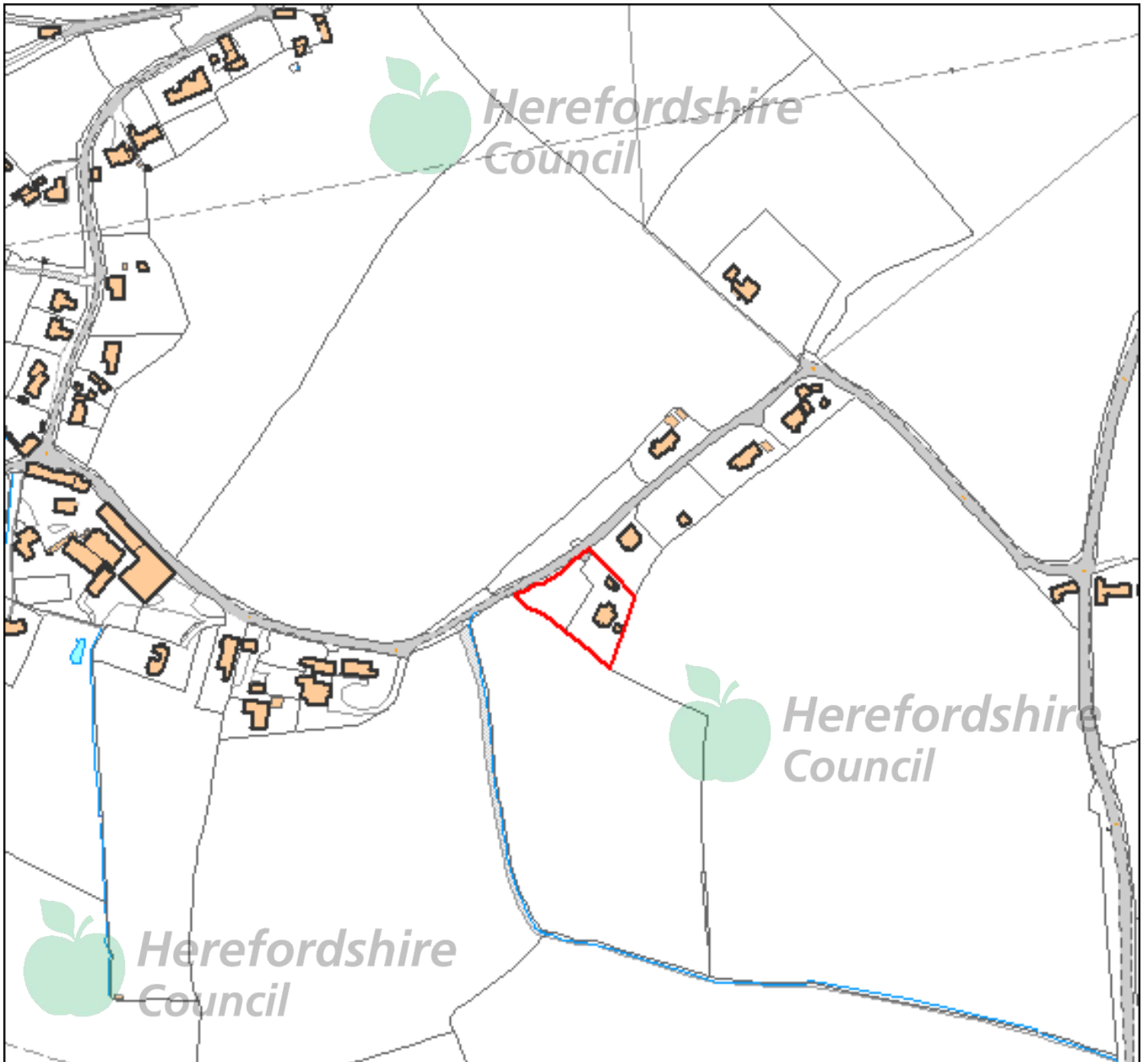
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 201220

SITE ADDRESS : LAND AT HILL VIEW, DINEDOR, HEREFORDSHIRE

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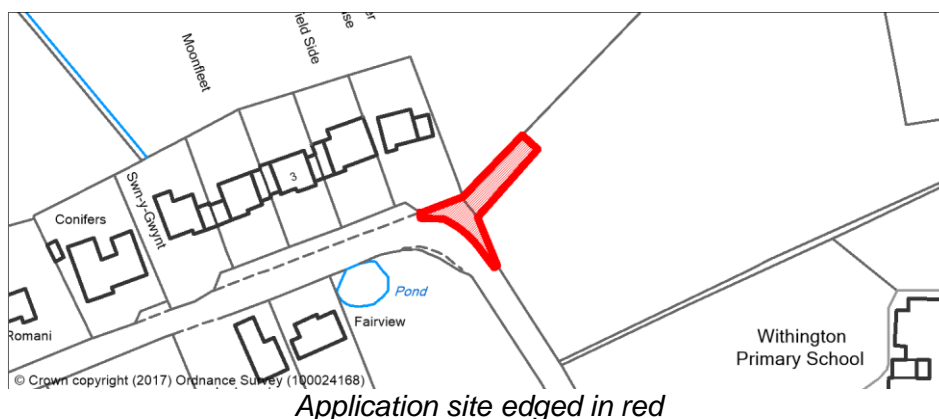
Further information on the subject of this report is available from Mrs G Webster on 01432 261803

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	3 MARCH 2021
TITLE OF REPORT:	204274 - PROPOSED IMPROVEMENTS TO EXISTING FIELD ACCESS AND CONSTRUCTION OF FARM TRACK AT LAND ADJOINING DUKE STREET, WITHINGTON, HEREFORDSHIRE For: Ms Leake per Mr Paul Smith, 1 Whitby House, Commercial Street, Hereford, Herefordshire, HR1 2EH
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=204274&search-term=204274
Reason Application submitted to Committee – Redirection	

Date Received: 3 December 2020 Ward: Hagley Grid Ref: 356395,243620
Expiry Date: 28 January 2021
Local Member: Councillor Paul Andrews

1. Site Description and Proposal

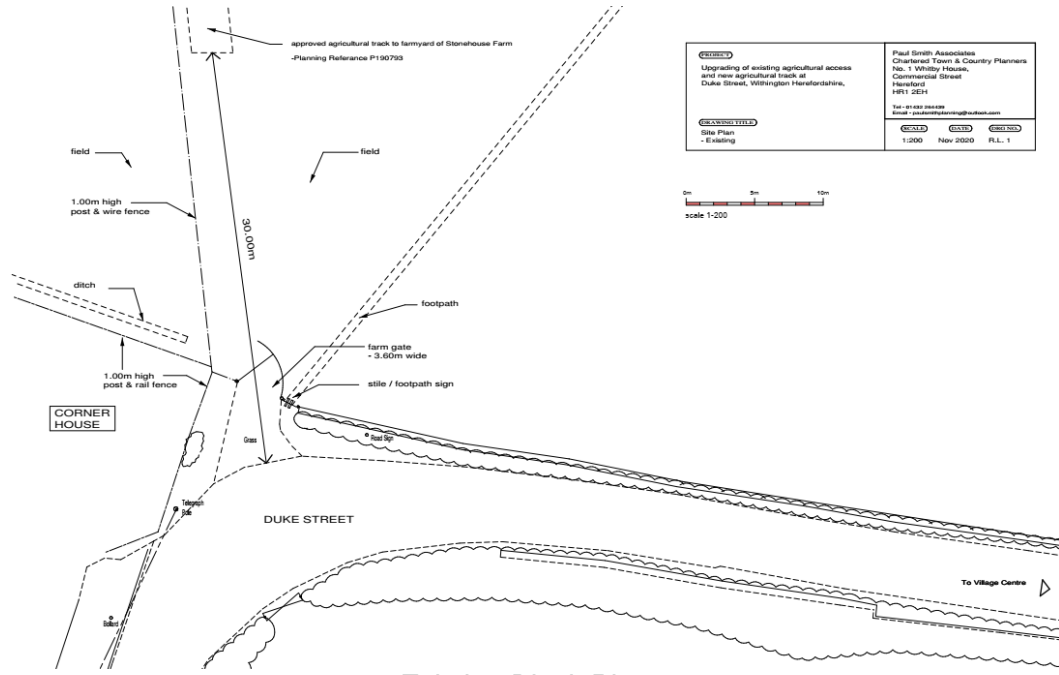
1.1 The application relates to land adjoining Duke Street, Withington. The site is presently occupied by a field gate which allows for access from the agricultural field onto the classified public highway (C1129). The site is within the Withington Conservation Area, is identified as local green space in the Withington Neighbourhood Development Plan and is crossed by a Public Right of Way (WT16).



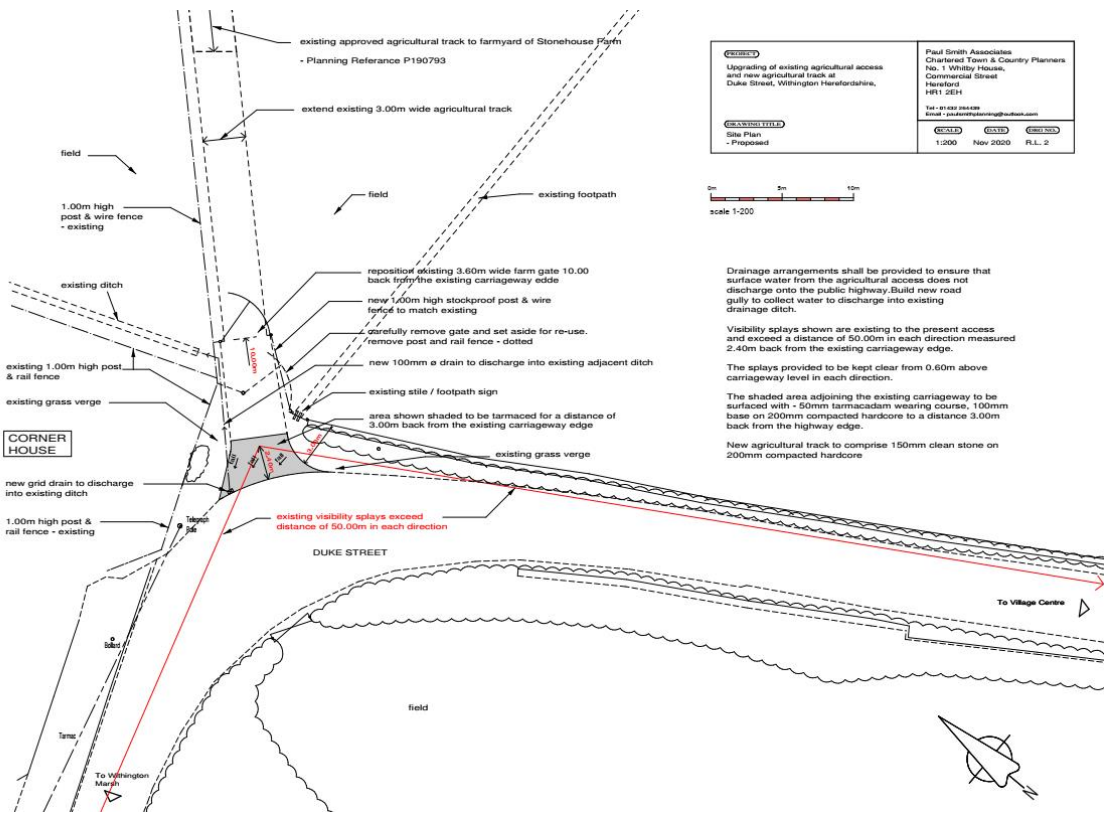
1.2 The application is for only operational development for proposed improvements to existing field access and construction of farm track. These works include the resiting of the field gate back ten metres from the carriageway edged and the formation of a track for approximately 30 metres, along with the provisions of highway visibility splays for 50 metres in either direction. No changes are proposed to the footpath nor its stile. Rather than describe the proposal in extensive detail,

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

Officers refer one to the plans under consideration, with excerpts of the existing and proposed block plans being included below, along with two site photos.



Existing Block Plan



Proposed Block Plan

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



Site Photo of existing field gate



Site photo looking across application site towards Duke Street

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

2. Policies

Herefordshire Local Plan – Core Strategy

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

- SS1 - Presumption in Favour of Sustainable Development
- SS4 - Movement and Transportation
- SS6 - Environmental Quality and Local Distinctiveness
- RA6 - Rural Economy
- MT1 - Traffic Management, Highway Safety and Promoting Active Travel
- 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

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

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

Withington Group Parish Neighbourhood Development Plan (made on 11 October 2019)

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

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

- Policy P5 - Local Green Spaces
- Policy P7 - Conserving Historic Character

National Planning Policy Framework (2019)

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

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

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

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

3. Planning History

3.1 The following planning history on the site and immediately adjoining is pertinent for the present considerations:

190884 – Planning Application - Erection of Holiday Cottage and Construction of Vehicular Access and Drive – Refused – Appeal dismissed (appeal reference: 3244488)

190793 (adjoining land) – Agricultural Prior Approval – Prior notification of agricultural or forestry development - proposed road– Prior Approval Not Required. This agricultural track links from Stone House Farm to the current application site.

4. Consultation Summary

Statutory Consultations

4.1 None

Internal Council Consultations

4.2 Highways Engineer – No Objection

“The proposal to enhance the existing highway access is considered acceptable. The proposal includes a setback of circa 10m for the gates and this is considered appropriate for the nature of the access to create an off highway waiting area whilst the gates are opened.

The geometry of the highway network at this point allows for appropriate visibility in this type of road environment.

The construction of the access is proposed to be bound for around 3m from the carriageway edge. This construction should extend back to the limit of the extent of the highway and this is set out below for the avoidance of doubt. This can be secured by applying condition CAE in the event that permission is granted.



There are no highways objections to the proposal subject to the recommended condition being applied.”

4.3 Public Rights of Way – No objection

“Public footpath WT16 crosses the access point. If work is likely to endanger footpath users a temporary closure must be applied for.”

5. Representations

5.1 Withington Group Parish Council – Objection

“The WGPC would like to object to the application on the following grounds:-

The increased use of the field access would endanger vehicular and pedestrian safety on this residential section of Duke Street at a sharp bend, where there is no pavement and the pedestrian entrance to Withington Primary School is just to the south.

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

Please see initial Highways objection to application for holiday house, 190884 which used the same access point.”

5.2 Hereford Ramblers Association – No objection

“No objection. However, I wonder if it would be prudent at this time to inspect the stile and if found to be in poor condition to have it replaced with a metal pedestrian gate.”

5.3 Third Party Representations

The application has received 20 representations to date objecting to the development, the main points raised are summarised below:

- Highway safety implications from the increased use of the access by agricultural vehicles
- Duke Street is a busy rat run in a parlous state which already accommodates school traffic, commuter traffic and heavy goods vehicles
- There is no justification for an additional access onto Duke Street, it is not in the public interest
- Vehicles turning right into the access across the ninety degree bend would have limited forward visibility of oncoming traffic

5.4 All consultation responses may 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=204274&search-term=204274

6. Officer’s Appraisal

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

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

6.2. In this instance the adopted development plan (taken as a whole) is the Herefordshire Local Plan – Core Strategy (CS) and the Withington Neighbourhood Development Plan. The National Planning Policy Framework (‘NPPF’ or ‘the framework’ henceforth) is also a significant material consideration, but does not constitute a statutory presumption, unlike the development plan which carries the statutory presumption as set out above.

6.3. The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the 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 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. In this case, the policies relevant to the determination of this application have been reviewed and are considered to remain consistent with the NPPF and as such can be afforded significant weight.

- 6.4. 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.

Principle of Development

- 6.5. As a starting point for consideration, Officers note that the site is presently occupied by a field gate for agricultural access into the field and the proposal is for the resiting of this existing gate back from the highway, along with the formation of an agricultural track. In broad policy terms proposals which support the retention of existing agricultural businesses are supported under policy RA6 of the Core Strategy, with the Withington NDP being silent on this matter.
- 6.6. 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 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. In this instance the Highways Engineer considers that the proposed development would be acceptable, given the provision of highway visibility splays and the agricultural use of the access with the proposal being to enhance the existing access. Having regard to the representations received, officers consider the proposed development to be acceptable in highway terms and it accords with the provisions of the development plan and the framework in this regard.
- 6.7. Policy SD1 of the Core Strategy requires that development proposals take into account the local context and site characteristics. Moreover, new building should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development, while making a positive contribution to the architectural diversity and character of the area. Policy SS6 states that development proposals should be shaped through an integrated approach to planning a range of environmental components from the outset, including the historic environment and heritage assets. Moreover, Policy LD4 states 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 design. The Withington NDP Policy P7 relates to conserving historic character, it requires that all applications consider the significance of any heritage assets affected including the contribution made by their setting; the policy sets out that significant weight will be given to the conservation of a heritage asset and any harm will require clear and convincing justification in line with the national policy (which is set out the framework); further within the conservation area, new development must preserve or enhance the character or appearance of the area (thus reflecting the statutory requirements for conservation areas); development adjacent to any heritage asset should be carefully considered to ensure that no harmful effects arise.
- 6.8. The application site is within the Withington Conservation Area, thus the Local Planning Authority has a duty as respects conservation areas in exercise of planning functions and must pay special attention to the desirability of preserving or enhancing the character or appearance of that area, when it is determining this application, as per Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The House of Lords in the South Lakeland case (4) decided that the “statutorily desirable object of preserving the character of appearance of an area is achieved either by a positive contribution to preservation or by development which leaves character or

appearance unharmed, that is to say preserved.” However it goes on to acknowledge that change per se isn’t unacceptable, as all development must involve a form of change and if the purpose of the legislation was to prevent development it would have done so in very different language. In that way where a particular development is not considered to have any adverse effect on the character or appearance of the area and is otherwise unobjectionable on planning grounds, that would not be a sound planning reason for refusing it.

- 6.9. The application site has previously been the subject of an appeal decision where a Planning Inspector appointed by the Secretary of State dismissed an appeal for development including improvements to this vehicular access; it is well held in case law that previous appeal decisions can be material considerations for subsequent applications. In this case, Inspector Gibson identified at paragraph 14 of the decision letter (appeal reference: 3244488):

“14. ...The proposed access driveway would also serve to visually erode the physical extent of the Conservation Area, by encroaching within the Conservation Area and constructing a new post and wire fence and field gate to enclose the driveway area.

15. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be given to the desirability of preserving or enhancing the character or appearance of conservation areas. The proposed access driveway and associated structures enclosing it would directly harm the CA by eroding the visual and physical extent of the CA, which attracts great weight.”

- 6.10. However equally the inspector noted at paragraph 19 that “...the access track subject of the prior approval determination stopped short of the access driveway proposed and does not appear to be accompanied by enclosing structures such as fences and gates as is proposed under this appeal. As such, I do not consider the cases and their effects to be comparable in this regard.” In this manner the Inspector found the encroachment of built form and the enclosure of the driveway to be harmful but the agricultural track alone to not be of harm (though this was not the primary subject of consideration). In this manner officers note that the proposed location of the field gate broadly adjoins the existing boundary line and does not project wildly into the open field.
- 6.11. Further to being designated as a Conservation Area, the application site is identified in the Withington NDP as being a Local Green Space on the ‘Withington Policies Map’ and at NDP Policy P5, which seeks to protect identified areas from development which would detract from the character, appearance and function of the locale.
- 6.12. Turning to consider the matters of the character and appearance of the development in the context of the locale and the statutorily desirable objective of preserving the character of appearance of an area, Officers consider that the character of the area would remain unchanged due to the continuance of the agricultural use and whilst there is an element of change to the appearance of the area, this would not be harmful. Further the function would remain unchanged. Thus the development is acceptable from both a heritage standpoint with no harm identified and in terms of the local green open space where equally no harm is identified.
- 6.13. The proposed development is not considered to give rise to the possibility of a ‘likely significant effect’ to the River Wye Special Area of Conservation as it is not a form of phosphate generating development and so there is no possibility of additional phosphates reaching the River Lugg as a result of this proposal; accordingly it is screened out of the Habitat Regulations Assessment and is considered to conform with policy LD2 of the Core Strategy.
- 6.14. The application is not considered to give rise to conflict with the Public Right of Way nor harm its amenity, nevertheless an informative is included as part of the recommendation for clarity.

Conclusion

- 6.15. To conclude, the development plan carries a statutory presumption in its favour and the proposal is considered to accord with the policies of the development plan when taken as a whole, with there not being any material considerations to the contrary. Accordingly officers recommend the application for approval subject to conditions.

RECOMMENDATION

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

- 1. C01 - Time limit for commencement (full permission)**
- 2. C07 - Development in accordance with approved plans and materials**
- 3. CAE - Vehicular access construction**

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.

- 4. Before any other works hereby approved are commenced, visibility splays, and any associated set back splays 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 50 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.

INFORMATIVES:

- 1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against planning policy and any other material considerations, including any representations that have been received. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. P1 Positive and proactive.**
- 2. A public right of way crosses the site of this permission. The permission does not authorise the stopping up or diversion of the right of way. The right of way may be stopped up or diverted by Order under Section 257 of the Town and Country Planning Act 1990 provided that the Order is made before the development is carried out. If the right of way is obstructed before the Order is made, the Order cannot proceed until the obstruction is removed.**

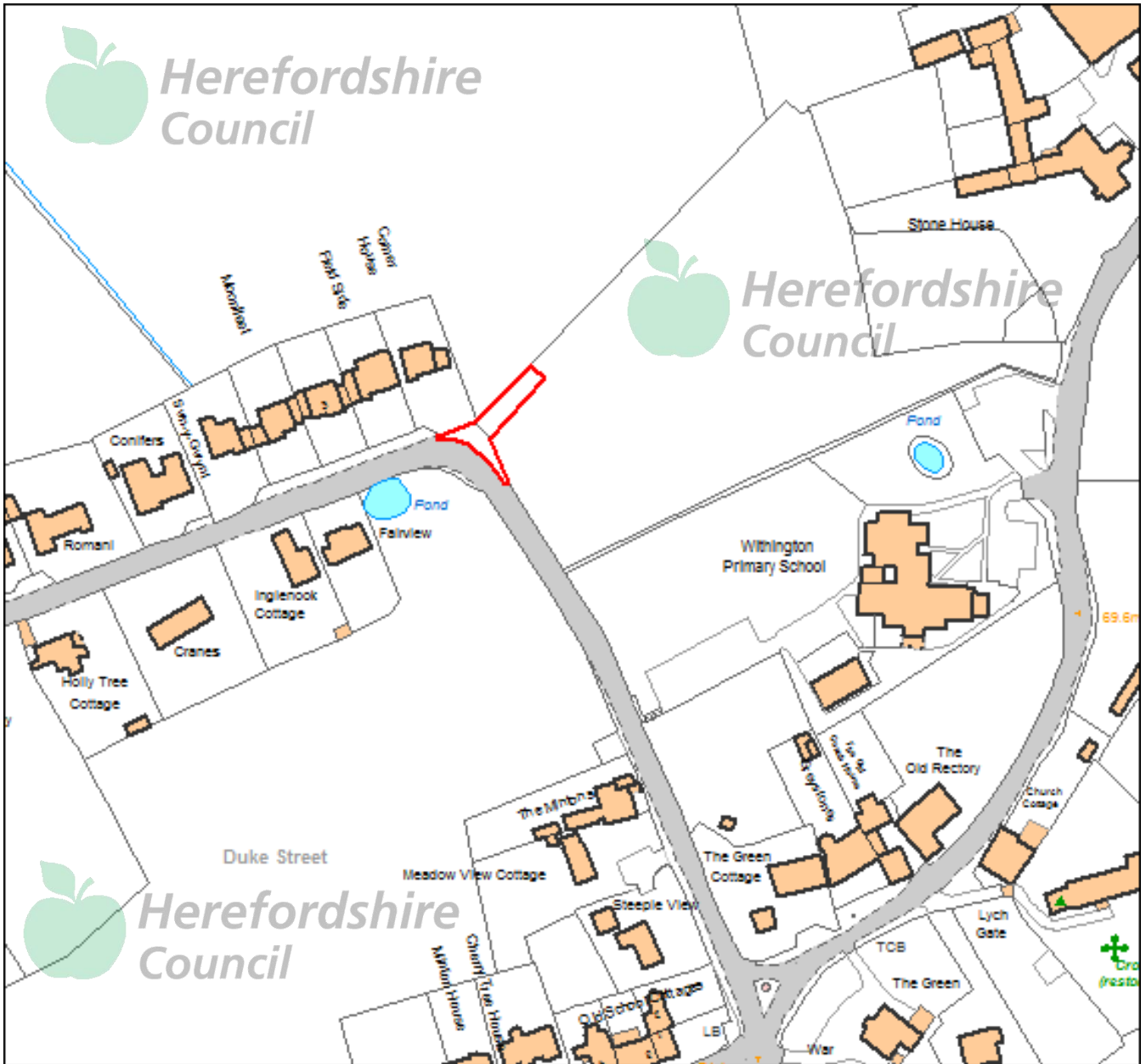
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 204274

SITE ADDRESS : LAND ADJOINING DUKE STREET, WITHINGTON, HEREFORDSHIRE

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