

Agenda

Planning and regulatory committee

Date: **Wednesday 29 September 2021**

Time: **10.00 am**

Place: **Three Counties Hotel, Belmont Road, Belmont,
Hereford, HR2 7BP**

Notes: Please note the time, date and venue of the meeting. Watch the meeting on the Herefordshire Council YouTube channel through the link: <https://youtu.be/LdfG5Qw9nfk>.

For any further information please contact:

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If you would like help to understand this document, or would like it in another format, please call Matthew Evans, Democratic Services Officer on 01432 383690 or e-mail matthew.evans@herefordshire.gov.uk in advance of the meeting.

Agenda for the meeting of the Planning and regulatory committee

Membership

Chairperson **Councillor Terry James**
Vice-chairperson **Councillor Alan Seldon**

Councillor Paul Andrews
Councillor Polly Andrews
Councillor Sebastian Bowen
Councillor Toni Fagan
Councillor Elizabeth Foxton
Councillor John Hardwick
Councillor Tony Johnson
Councillor Graham Jones
Councillor Mark Millmore
Councillor Jeremy Milln
Councillor Paul Rone
Councillor John Stone
Councillor William Wilding

Agenda

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2.	NAMED SUBSTITUTES (IF ANY) To receive details of any Member nominated to attend the meeting in place of a Member of the Committee.	
3.	DECLARATIONS OF INTEREST To receive declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.	
4.	MINUTES To approve the minutes of the meeting held on 1 September 2021.	13 - 18
5.	CHAIRPERSON'S ANNOUNCEMENTS To receive any announcements from the Chairperson.	
6.	210640 - CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, HEREFORDSHIRE, WR6 5SG Application for removal of Condition 5 and the variation of condition 16 following Application No: 163902/F. (Demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16no. Accommodation Suites.	19 - 44
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9.	202412 - FLOW HOUSE, LAND NORTH OF SHEEPCOTTS COURT, ULLINGSWICK, HEREFORDSHIRE, HR1 3JQ Erection of 1 no. dwelling of and associated works including access, landscaping, outbuildings, infrastructure, lake creation and other engineering works.	101 - 130

10. DATE OF NEXT MEETING

Date of next site inspection – 19 October 2021

Date of next meeting – 20 October 2021



The Public's Rights to Information and Attendance at Meetings

In view of the continued prevalence of covid-19, we have introduced changes to our usual procedures for accessing public meetings. These will help to keep our councillors, staff and members of the public safe.

Please take time to read the latest guidance on the council website by following the link at www.herefordshire.gov.uk/meetings and support us in promoting a safe environment for everyone. If you have any queries please contact the Governance Support Team on 01432 260201 / 261699 or at governancesupportteam@herefordshire.gov.uk

We will review and update this guidance in line with Government advice and restrictions. Thank you very much for your help in keeping Herefordshire Council meetings a safe space.

YOU HAVE A RIGHT TO: -

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

Recording of meetings

Please note that filming, photography and recording of this meeting is permitted provided that it does not disrupt the business of the meeting.

Members of the public are advised that if you do not wish to be filmed or photographed you should let the governance services team know before the meeting starts so that anyone who intends filming or photographing the meeting can be made aware.

The reporting of meetings is subject to the law and it is the responsibility of those doing the reporting to ensure that they comply.

The council may make an official recording of this public meeting or stream it live to the council's website. Such recordings form part of the public record of the meeting and are made available for members of the public via the council's web-site.

Public transport links

The three counties hotel is accessible by bus; bus stops in each direction are positioned on the Belmont Road at the front of the hotel.

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 Terry James (Chairperson)	Liberal Democrat
Councillor Alan Seldon (Vice-Chairperson)	Independents for Herefordshire
Councillor Paul Andrews	Independents for Herefordshire
Councillor Polly Andrews	Liberal Democrat
Councillor Sebastian Bowen	True Independents
Councillor Toni Fagan	The Green Party
Councillor Elizabeth Foxtan	Independents for Herefordshire
Councillor John Hardwick	Independents for Herefordshire
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	Independents for Herefordshire

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

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

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

Who attends planning and regulatory committee meetings?

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: Those registered to speak in accordance with the public speaking procedure are able to attend the meeting in person to speak or participate in the following ways:

- *by making a written submission (to be read aloud at the meeting)*
- *by submitting an audio recording (to be played at the meeting)*
- *by submitting a video recording (to be played at the meeting)*
- *by speaking as a virtual attendee.)*

Role of the local ward member

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

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

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

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

1. Selflessness

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

2. Integrity

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

3. Objectivity

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

4. Accountability

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

5. Openness

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

6. Honesty

Holders of public office should be truthful.

7. Leadership

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

Minutes of the meeting of Planning and regulatory committee held at Three Counties Hotel, Belmont Road, Belmont, Hereford, HR2 7BP on Wednesday 1 September 2021 at 10.00 am

Present: Councillor Terry James (chairperson)
Councillor Alan Seldon (vice-chairperson)

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

In attendance: Councillors Lester (virtually) and Summers

19. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Mark Millmore.

20. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes.

21. DECLARATIONS OF INTEREST

Councillor Jeremy Milln declared an other interest in respect of agenda item no. 8, application 204317 – Land at Bicton House; the applicant was previously known by the member in a professional capacity.

22. MINUTES

RESOLVED: That the minutes of the meeting held on 4 August 2021 be approved.

23. CHAIRPERSON'S ANNOUNCEMENTS

The Chairman informed the meeting that he had agreed to the deferral of consideration of application 210640 – Crumplebury Farm to a later meeting date due to the late receipt of notification by the applicant's agent. The application would be deferred to a later meeting date when all interested parties could attend to provide representations to the committee in line with the rules for public participation.

24. 203268 - ROBINS NEST AT THE YARD, WOOFFERTON GRANGE, WYSON LANE, BRIMFIELD, HEREFORDSHIRE, SY8 4NP

(Councillor John Stone left the committee to act as the local ward member for the next application.)

The senior planning officer gave a presentation on the application.

In accordance with the criteria for public speaking, Mr G Burton, spoke in opposition to the application.

In accordance with the council's constitution, the local ward member spoke on the application. In summary he explained that the concerns relating to the application included: the impact on residential amenity from noise; suitability of the location for the development; the impact on the local Road network; and concern over the classification of the operation as a B2 business use given its position in a residential area.

The committee discussed the application.

The development manager north team explained that the change in use to B2 had prompted the current application. Such business use was not generally located in residential areas but an application for such an operation could be approved with suitable conditions.

The local ward member was given the opportunity to close the debate and explained that significant concerns remained in the local community regarding the application.

A motion that the application be refused due to: the adverse impact on residential amenity; the adverse impact on the local highway network; and that it was contrary to planning policies RA6 in the core strategy, BLH18 in the neighbourhood development plan and B2 business usage was carried.

RESOLVED: that planning permission be refused due to the adverse impact on residential amenity; the adverse impact on the local highway network; and the application was contrary to planning policies BLH18, RA6 and B2 business usage.

(There was an adjournment at 10:54 a.m., the meeting reconvened at 11:04 a.m.)

(Councillor John Stone resumed his seat on the committee)

25. 204317 - LAND AT BICTON HOUSE, BICTON, KINGSLAND, LEOMINSTER, HEREFORDSHIRE, HR6 9PR

(Councillor Sebastian Bowen left the committee to act as the local ward member for the next application.)

The planning officer gave a presentation on the application.

In accordance with the criteria for public speaking Mr A Godding, the applicant, had submitted a written submission in support of the application which was read to the meeting.

In accordance with the council's constitution, the local ward member, spoke on the application. In summary he commented that the application would provide affordable housing where there was a need locally. The design of the development was appropriate, it was not set in open countryside but was located in a hamlet and would have no impact on the river Lugg.

The committee discussed the application.

The development manager north team commented that the need for affordable housing had not been evidenced and the strategic housing manager had been unable to support the application without further information. The personal circumstances of the applicant were not material to the deliberations of the committee. The application was situated in the River Lugg catchment; before any permission could be issued an assessment would have to be conducted as to whether the proposed drainage from the development would have a significant impact upon the catchment.

A motion that the application be deferred to allow the applicant to provide greater detail concerning drainage and the need for affordable housing was carried. The chairman exercised his casting vote after an equality of votes for and against.

RESOLVED: that consideration of the application be deferred pending greater detail on drainage and the need for affordable housing.

(There was an adjournment at 11:41 a.m., the meeting reconvened at 11:51 a.m.)

(Councillor Sebastian Bowen resumed his seat on the committee)

26. 202910 - LAND ADJOINING LUCKNOW COTTAGE, PUTLEY GREEN, PUTLEY, HEREFORDSHIRE

The senior planning officer gave a presentation on the application and the updates/representations received following the publication of the agenda as provided in the update sheets and appended to these minutes.

In accordance with the criteria for public speaking Mr J Herbst of Putley Parish Council spoke on the application. Mrs F Fortnam, the applicant, spoke in support of the application.

In accordance with the council's constitution the local ward member spoke on the application. In summary he explained that the development was not in keeping with the local area and was contrary to the neighbourhood development plan and the protection of listed buildings. The design of the building was not of the local vernacular, it was located on a cramped site and its proximity to existing historic buildings was unacceptable.

The committee discussed the application.

A motion to defer consideration of the application was moved. The motion was later withdrawn.

The local ward member was given the opportunity to close the debate and thanked the committee for its consideration.

A motion to refuse the application due to: the unacceptable design of the development; its adverse impact on heritage assets; and it was contrary to LD4 in the core strategy and neighbourhood development plan policies PUT7 and PUT8 was carried.

RESOLVED: that planning permission be refused due to: the unacceptable design of the development; the adverse impact of the development on local heritage assets; and the application was contrary to planning policies LD4, PUT7 and PUT8.

The meeting ended at 12.37 pm

Chairperson

202910 - PROPOSED NEW DWELLING AT LAND ADJOINING LUCKNOW COTTAGE, PUTLEY GREEN, PUTLEY, HEREFORDSHIRE

For: Mrs F Fortnam per Mr Martin Teale, Acorns Business Centre, Office 10, Roberts End, Hanley Swan, Worcestershire, WR8 0DN

ADDITIONAL REPRESENTATIONS

Further to the publication of the officers' report, Land Drainage have provided an updated consultation response in relation to the amended block plan submitted on 18th August 2021. They comment as follows:

“Based on the proposed location of the drainage field, only Percolation Test Holes A, B and C should be used to establish a Vp rate, as these are located in the actual area proposed for the drainage field. Therefore the revised Vp rate for this area is 13.6 sec/mm. Therefore an EA permit will still be required. The EA permit is also an essential requirement due to the proposed drainage field location and its proximity (within 20m) of a well which is used as a water source. Our comments therefore still stand.”

Additionally, a letter of objection has also been received from a local resident. This is provided below:

“We note the revised submission by the applicant to relocate various drainage features in an attempt to comply with the rules. Unfortunately, the proposal still falls significantly short of what is set out in both the Building Regulations and the General Binding Rules. Therefore, planning permission should not be granted.

The drawings show that the drainage field would be squeezed in, just 10m from The Homestead and a similar distance from the new dwelling. This would not be permissible. Section H2 (p1.26 to 1.27) of the Building Regulations sets out the requirements for locating a drainage field to serve either a septic tank or package treatment plant. S1.27c says a drainage field should be located at least 15m from any building. The septic tank is also still within the 50m of two wells either side less than 20m to the Homestead and around 30m to the Twinings. Due to this close proximity there is still a requirement for an EA permit under Rule 7 of the General Binding Rules for small sewage discharges with effect from January 2015. These are legally binding requirements in regulations that set the minimum standards or conditions which apply. In this case the conditions are set in the Environment Permitting (England and Wales)(Amendment)(England) Regulations 2014.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/397173/ssd-general-binding-rules.pdf

Furthermore, the revised project would be an unprepossessing building which would not merge with the existing fabric of the housing group. It is so discordant that its presence would harm the character and appearance of the area. This guidance, PPG 4, is out of date and was withdrawn on 14 December 2015 and is no longer a relevant document having been superseded by other guidance. Please find link below.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/485181/pmho0706bjgl-e-e.pdf

OFFICER COMMENTS

Officers are aware of the requirement for a 15 metre offset from a package treatment plant to a building as defined in Building Regulations. However, BS 6297 offers different advice to the building regulations, to which Land Drainage defer to British Standards. Good practice indicates that the position of features including the location of wastewater treatment equipment, drainage fields for a single dwelling is to position them as far away as practical, and consider prevailing wind direction, with a recommended minimum of 7 metres for habitable buildings. The 10 metres proposed in this application would therefore meet and exceed good practice guidelines and thus, the Land Drainage comments at section 4.2 of the report still stand.

NO CHANGE TO RECOMMENDATION

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	29 SEPTEMBER 2021
TITLE OF REPORT:	<p>210640 - APPLICATION FOR REMOVAL OF CONDITION 5 AND THE VARIATION OF CONDITION 16 FOLLOWING APPLICATION NO: 163902/F (DEMOLITION OF 5NO. EXISTING REDUNDANT AGRICULTURAL OUTBUILDINGS TO FACILITATE EXPANSION OF EXISTING RESTAURANT AND FOLLOWING EVENTS FACILITIES: FUNCTION SUITE, FINE DINING RESTAURANT AND LOUNGE, CONFERENCE SPACE AND 16NO. AT CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, WR6 5SG</p> <p>For: Mr E Evans per Mr Ben Greenaway, PO Box 937, Worcester, WR4 4GS</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=210640&search-term=210640
Reason Application submitted to Committee – Re-direction	

Date Received: 17 February 2021

Ward: Bromyard
Bringsty

Grid Ref: 369989,256913

Expiry Date: 19 May 2021

Local Member: Cllr Shaw

1. Site Description and Proposal

- 1.1 The site comprises a moderately sized complex of modern buildings with associated host farmhouse, located approximately 1.25 miles (as the crow flies) west of Whitbourne. The site houses 'Green Cow Kitchens' restaurant, with associated buildings surrounding the restaurant, which were granted permission in 2017 (LPA reference: P163902/F). The majority of surrounding buildings are agricultural form with a mixture of Victorian brick alongside contemporary steel and timber framed structures, and presence of stone and extensive glazing.
- 1.2 The site is set within estate farmland, defined by grazing fields and woodland beyond the northern boundary, leading up to Badley Wood Common. Boundary treatments post-and-rail and wire fencing and recently planted hedgerow to the western boundary adjacent to the main tarmacked car parking area. The topography of the land is that the buildings appear slightly elevated when viewed from the south of site at the point of the private access road, looking west towards the main parking area and site access (when viewed from the south elevation), before flattening off across the remainder of the application site. The topography to the south-east gradually rises as you head towards Whitbourne Hall Unregistered Park and Garden and to the north with topography rising towards Badley Wood Common.
- 1.3 The closest residential properties are the on-site farmhouse and 'The Helts', a pair of semi-detached dwellings located approximately 100 metres south-west of site. They are tenant occupied. Approximately 415 metres south-east of the application site (as the crow flies), is the

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

Grade II* Listed 'Whitbourne Hall', sub-divided into residential apartments. There are also a small cluster of dispersed dwellings heading north towards Badley Wood Common and adjacent to the common itself, albeit at varying orientations and distances. The nearest is approximately 450 metres north as the crow flies and 435 metres measuring north-east, as identified on the Council's Geographical Information System ('GIS')). PROW Footpath WH16 runs to the east of the site, albeit almost equidistant between the site and Whitbourne Hall.

1.4 In 2017, planning permission was granted (reference: P163902/F) with the following description of development: *"Demolition of 5 no. existing redundant agricultural outbuildings to facilitate the expansion of the existing restaurant and the following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16 no. Accommodation Suites"*.

1.5 The development is complete, although a number of conditions are currently in the process of being discharged. However, none are viewed to run to the heart of the permission or constitute pre-commencement conditions, most notably conditions 8 (passing places on Norton Lane) and 21 (signage), which are relevant commencement and first occupation, respectively.

1.6 This application, made as a Section 73 application, proposes to amend two conditions from the 2017 permission (reference P163902/F), namely conditions 5 and 16. Condition 5 states:

This permission shall enure for the benefit of Mr J & Mrs K Evans only and not for the benefit of the land or any other persons interested in the land.

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances having regard to Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework

Condition 16 states:

No amplified or other music shall be played in the premises outside the following times: 12.00hrs to 23.00 hrs.

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

1.7 This application proposes to remove condition 5 and vary condition 16 to read as follows:

16. No amplified music shall be played in the premises outside of the following times: 12:00pm hours to 00:00am.

1.8 The site area is the same as set out in the original permission. Thus, as a Section 73 application, this does not necessarily require plans to be submitted for consideration. It is noted that the two conditions relate to whom the permission benefits and different times for the playing of amplified music. Therefore, there are no plans for consideration.

1.9 Members of committee will be familiar with the site following a previous section 73 application to remove condition 4 and vary condition 16 in November 2020 (reference: 194408/F). The application was refused on grounds of highway safety and residential amenity and an appeal has been lodged with the Planning Inspectorate. However, this application is materially different given the application seeks to remove condition 5, instead of condition 4.

2. Policies

2.1 Herefordshire Local Plan – Core Strategy (CS)

SS1	-	Presumption in favour of sustainable development
SS4	-	Movement and transportation
SS5	-	Employment provision
SS6	-	Environmental quality and local distinctiveness
SS7	-	Addressing climate change
RA6	-	Rural economy
MT1	-	Traffic management, highway safety and promoting active travel
E1	-	Employment provision
E4	-	Tourism
LD1	-	Landscape and townscape
LD2	-	Biodiversity and geodiversity
LD3	-	Green infrastructure
LD4	-	Historic environment and heritage assets
SD1	-	Sustainable design and energy efficiency
SD2	-	Renewable and low carbon energy
SD3	-	Sustainable water management and water resources
SD4	-	Waste water treatment and river water quality

The Core Strategy policies together with any relevant supplementary planning documentation can be viewed in full on the Council's website through 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 has yet to be 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. From reviewing those policies contained within the Core Strategy that are pertinent to the determination of this application, they are viewed to be entirely consistent with the NPPF and as such, significant weighting can be afforded to these policies.

2.2 Whitbourne Neighbourhood Development Plan (Whitbourne NDP) made on 1 December 2016

LU9	-	Environmental Considerations
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The Whitbourne NDP, together with any relevant supplementary planning documentation can be viewed on the Council's website through the following link:-

https://www.herefordshire.gov.uk/directory_record/3119/whitbourne_neighbourhood_development_plan_made_1_december_2016

2.3 National Planning Policy Framework (July 2021)

- 2 - Achieving sustainable development
- 4 - Decision-making
- 6 - Delivering a strong, competitive economy
- 8 - Promoting healthy and safe communities
- 9 - Promoting sustainable transport
- 12 - Achieving well-designed places

- 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

Planning Practice Guidance, can be accessed through the following link:
<https://www.gov.uk/government/collections/planning-practice-guidance>

3. **Planning History**

- 3.1 P210527/U – application for a certificate of lawfulness for the continued use of the venue for hosting civil weddings and wedding receptions – undetermined
- 3.2 P210447/XA2 – application for approval of details reserved by conditions 2 3 4 5 6 11 13 & 15 attached to planning permission 200500 – APPROVED on 10 June 2021
- 3.3 P194408/F – Proposed removal of condition 4 and variation of condition 16 of planning permission P163902/F (Demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: function suite, fine dining restaurant and lounge, conference space and 16no. accommodation suites) – REFUSED on 10 November 2020, currently being considered by Planning Inspectorate (APP/W1850/W/21/3271872)
- 3.4 P200500/F – 1) Change of use of the barn from agricultural to office space. Works undertaken include replacement beams and glazing to open north gable end of barn. 2) Formalise an historic change of use from riding arena to car park - works included tarmacking the arena. 3) Access road. (All works retrospective) – APPROVED WITH CONDITIONS on 10 November 2020.
- 3.5 P200858/XA2 – Application for approval of details reserved by conditions 8 20 & 21 attached to planning permission 163902 – SPLIT DECISION issued on 3 April 2020 (Condition 8 is currently being signed off with regards to technical aspects of S.278 agreement; Condition 20 discharged; Condition 21 cannot yet be discharged, although this is pre-occupancy).
- 3.6 P200335/F – Proposed variation of conditions 2 and 4 of planning permission 182223 (Proposed construction of new mono-pitch building) - To allow for 2nd biomass boiler – APPROVED WITH CONDITIONS on 6 April 2020.
- 3.7 P193647/F – Proposed variation of condition 16 of planning permission 163902 (Demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16no. Accommodation Suites) - No amplified music shall be played in the premises outside the following times 12.00hrs to 00.00hrs – WITHDRAWN on 9 December 2019.
- 3.8 P182223/F – Proposed construction of new mono-pitch building – APPROVED WITH CONDITIONS on 8 October 2018
- 3.9 P181441/XA2 – Application for approval of details reserved by conditions 9 & 18 attached to planning permission P163902/F – APPROVED on 26 July 2018
- 3.10 P181140/XA2 – Application for approval of details reserved by condition 3 attached to planning permission 163902 – APPROVED on 1 May 2018
- 3.11 P180280/XA2 – Application for approval of details reserved by conditions 8, 11, 14, 17, 22 attached to planning permission P163902/F – APPROVED on 27 July 2018 (Conditions 11, 14,

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

17 and 22 are fully discharged with condition 8 subject to a Section 278 agreement so condition not fully discharged)

- 3.12 P163902/F – Demolition of 5no. existing redundant agricultural outbuildings to facilitate expansion of existing restaurant and following events facilities: Function Suite, Fine Dining Restaurant and Lounge, Conference Space and 16no. Accommodation Suites) – APPROVED WITH CONDITIONS on 3 August 2017
- 3.13 P131619/F – Retrospective change of use of existing outbuilding from B1 to A3 – APPROVED WITH CONDITIONS on 2 August 2013

4. Consultation Summary

4.1 Statutory Consultations

None

4.2 Internal Council Consultations

Transportation – No objection

“The local highway authority has no objection to the removal of condition 5 and the variation of condition 16 as proposed by this application. 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>”

Environmental Health (Noise & Nuisance) – No objections and conditions recommended

“With reference to noise and nuisance this application represents a resubmission of planning application 194408 with a request to extend the hours when amplified music can be played inside the main hall (Grand Hall) from 23:00 to midnight.

Our department did not object to this proposal on noise and grounds and does not object to this proposal.

We take the view that noise emanating from this venue at peak occupancy will not, with controls in place, cause unacceptably adverse impacts on neighbours and that there are therefore no planning grounds on which noise could be cited as a reason for refusal. (RA6 and SD1).

The amended noise report dated 4th March 2020 undertaken by Audio Definitions is submitted by the applicant. The context is that the venue opened briefly at the end of 2019. Our department received noise complaints from 2 local residences at the end of 2019. We understand that during this period not all noise mitigation that could have been in place was. In January 2020 Audio Definitions visited the site made some recommendations for mitigation and undertook a noise survey. As a result of the visit a set of heavy duty acoustic curtains were installed to the north window of the Grand hall as well as the 2 fire exit doors to the east and west. Noise readings were then undertaken to measure the impact of this immediately to the north of the dance studio and also at the boundary to the premises of this mitigation the result of which is discussed on 4th March 2020 report. Our department was notified prior to a subsequent single large event with the mitigation in place which we understand was held on 1st March 2020 but no further complaints were made to ourselves. Since that time a number of lockdowns in relation to the Coronavirus pandemic have taken place which means that there has been no further opportunity for the mitigation to be demonstrated.

The noise assessment finds a 6dB reduction in noise at 1 m from the outside of the Grand Hall and concludes that the curtain should be used in all instances where a live band is playing at

night. The applicant has supplied an updated noise management plan which includes the planned use of this curtain as a control measure when amplified music is played.

The noise assessment uses the BS4142 methodology as a tool to assess the impact of noise 300m to the north. Whilst this methodology is designed for the assessment of industrial noise, (and not noise from the entertainment industry for which there is no technical assessment available), it has been used to as a mechanism to assess the impact of the attenuated noise at 300m distance against background noise levels. The calculation supplied in the assessment finds that with the curtains in place, noise levels emanating from the premises will be significantly below the background noise level. The applicant's acoustic technician included within this assessment the effects of attenuation by distance, ground absorption and topography of the landscape.

It is noted that a desk top review (no site assessment) of Audio Definitions report was undertaken by Clear Acoustic Design commissioned by an objector dated 3rd March 2020 which is supplied as an objection to this application. This desk top review made a number of critiques of the Audio Definitions report and a response was supplied by Audio Definitions on 1st April 2020 this is contained in the email trail for this application under 'correspondence'. Our department reviewed this correspondence at the time of the earlier reports and concluded together with supporting evidence that there were no grounds to object to the earlier proposal on noise and nuisance grounds. We have taken this opportunity to review this correspondence as part of this application and conclude that the original Audio Definitions working background noise levels against which the assessment was made of 27dB LA90 are considered appropriate.

We have had sight of the comments provided by the applicant's noise consultant Audio Definition Ltd dated 18th March 2021 which is in further response to the comments made by Clear Acoustic Design in their second submission dated 28/5/20.

A site visit was undertaken by 3 local authority Environmental Health Officers on 18th March 2021 in the early evening. The purpose of the visit was to evidence the noise mitigation in place and also to witness the impacts of amplified music on and off the site including inside and outside some local residences. At this visit we were able to witness the noise limiter in operation (we understand that this is for all the noise including singing and speaking as well as amplified music in the Grand Hall as noise is monitored from the ceiling), the acoustic curtains as recommended by Audio Definitions Ltd and additional mitigation by way of sound absorption installed over the glazing of the 2 fire doors in the Grand Hall. The music was put on a loop by the applicant and the door leading from the Grand Hall to the reception area (The Atrium) left open. Reception area doors were left open and the bar door (The Drinking Trough) leading to the sunken terrace outside to the west of the proposal left open. The music remained on and doors open until departure. With the fire doors kept shut, there are no openings direct to the outside from the Grand Hall where amplified music is played.

Whilst the music was playing officers undertook some noise clips and measurements of the music in different locations. It was noted that the noise from the music playing was substantially attenuated between the Grand Hall and the reception area and then again into the bar area. The main opening from the reception area is to the south and shielded by the building itself from all the dwellings in the distance to the north and east. Outside the open doors at the sunken terrace from the bar and reception area, the music although audible was not loud. To the north of the Grand Hall, at 40m into the field the music could only be heard very faintly.

Officers visited 4 locations close to or at local residences in the area around the north and eastern sides of the proposal and found that the music noise was either inaudible or barely audible. One officer remained on site to witness that the doors remained open and music was not turned down during this exercise. Whilst it is accepted that the noise listening exercise was not undertaken at a representative time of day (between the hours of 17:00 and 19:00) to that of a late evening operation, this is a locality where background noise levels are low all the time daytime and night

time. Other noise was occasionally audible, such as bird song but no music noise was heard between birdsong. No road traffic noise could be heard as such.

It should be noted that this is a purpose built venue with planning permission to operate until 23:00. There are no external doors to the main function room (Grand Hall) save for fire doors and there is no need for any attendees to exit the function room other than via the large reception/lobby area. The structure of the building is well insulated and designed for its purpose. An air handling unit is in situ to provide ventilation to the Grand Hall.

An extension of the playing of amplified music would allow events at the venue to continue later and thus result in a later departure time from the site. We note that concerns have been raised by some neighbouring residents regarding the noise generated by voices and car doors closing or slamming.

The area in which these events would take place is limited and the residences themselves at some considerable distance. The updated Noise Management Plan dated 1st April 2021 identifies the Sunken Terrace as the only area that guests may congregate in the evenings beyond 9.00pm and this location is sunken and shielded by the main building from properties to the north east. Furthermore this location and indeed the whole of this proposal including the car park are at considerable distances from the closest residential properties allowing for very significant sound attenuation by distance and ground absorption.

Our department does not object to the extension of the playing of amplified music from 23.00 to midnight on noise and nuisance grounds. We do not take the view that the business will cause a noise nuisance to neighbours if the noise management plan is adhered to. That is not to say that there would be absolutely no noise impacts ever at all but that they would be minimal and not be intrusive, harmful nor cause significant adverse impact.

We refer to the National Planning Policy Framework (NPPF) 2018, the Noise Policy Statement for England and the Planning Practice Guidance for Noise. We are of the view that noise from the proposal is likely to be either not noticeable or noticeable and not intrusive and would therefore come within the classification of between No Observed Effect Level and No Observed Adverse Effect level. Noise will either not be present or at the worst noise may be heard but does not cause any change in behaviour, attitude or other physiological response.

Hence our view that any refusal is likely to fail on appeal. Our department has no objections on noise and nuisance grounds provided that the following conditions are met:

- The noise management plan shall be reviewed at a minimum at least once a year and supplied to the local authority in writing on request.
- There shall be no playing of amplified music outside the premises at any time.
- There shall be no use of Chinese lanterns at these premises.

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

Ecology – No objections

“There is no objection to removal of condition 5. It is noted that removal of Condition 16 is already subject to an appeal against refusal of application 194408. There was no objection to this previous application and no ecology objection is now raised.”

Landscape – No objections

“Condition 5 relates to who the permission benefits – no landscape issues. Condition 16 relates to noise – increasing noise would be dealt with by Environmental Health colleagues.”

Building Conservation Officer – No objections

“Comments: No comment/objection. Condition 5 – Limits the benefit of planning permission to the applicants only – This is not a heritage concern. As the heritage impact has been established in the extant permission, limiting the implementation of this permission would result in no additional benefit or harm. Condition 16 – Relates to the hours of music played – This has no heritage impact.”

5. Representations

5.1 Whitbourne Parish Council – Objection:

Due to the extensive length of this representation, officers have summarised comments below:

- The 2017 application was presented as an extension of the existing Estate restaurant business and to support corporate conferences and the Estate’s shoot business. No mention was made of weddings and no suggestion to sell/transfer the venue to an independent commercial entity.
- A separate limited company (Whitbourne Estate Ltd) owns the development. A different limited company (Crumplebury Ltd) appears to be the trading company that appears to run the development. It would appear there has already been a breach of Condition 5.
- The 2017 officers’ report makes clear that this was very much a Whitbourne Estate venture and there was a very close interrelationship between the Estate and the proposed development. By removing condition 5, applicant may be able to sell the development.
- The Planning Officer recognised, as did the Parish Council, that the proposed development was integral to the Estate and a “bold venture” (that entailed significant risk), that it was justified as an extension to the Estate’s diversification and was highly dependent for its success on the personal commitment of the applicant. The Parish Council consider the circumstances were exceptional and that it was reasonable and necessary to impose this condition.
- It is understood that representatives of the Environmental Health Department were due to attend the development and the surrounding area on 18th March to undertake various tests relating to the efficacy of an acoustic curtain. The Parish Council had no notice of this proposed visit before the meeting that was held (on 15th March) to consider the application.
- The Parish Council’s previous comments make reference to the acoustic curtain and the fact that all circumstances need to be taken into account including the fact that the curtain will have no impact on noise emanating from outside the building and when guests leave the venue. The Parish Council Object to the amendment of Condition 16 for the reasons previously stated.
- Conditions which attempt to protect residential amenity are necessary and reasonable particularly given the applicant's clear assurances. Applicants could have appealed these conditions before any development took place. They did not appeal the conditions and implicitly accepted that the conditions were appropriate. The applicants chose to adopt the 23.00 hours threshold [Condition 16] for the purposes of their Noise Management Plan - which HCC required. They explicitly accepted that this threshold was reasonable and necessary.
- Four functions have resulted in residents calling Environmental Health to register distress at loud noise nuisance and the fact that at least in the case of the wedding celebration it continued until midnight in breach of Condition 16.
- Residents are concerned that it may well take over an hour after the entertainment has finished before the party attendees have left the venue with all the attendant post party outside noise - laughing, shouting and car doors slamming.
- Use of external areas during the Summer months is likely [as is the unauthorized opening of fire doors] because the Grand Hall does not have any external opening doors [save for fire doors] or windows and it has no air conditioning or cooling system.
- Applicants do not have planning permission for D2 events [live music and dancing] and are already been in breach of their existing permission in this respect.

- Any relaxation of the conditions which control the usage of the facility or an extension of the condition which allows amplified music to be played is very likely to exacerbate the already unacceptable light pollution.
- Understand the applicants have attempted to ameliorate levels of amplified noise by the installation of an acoustic curtain. This is a positive step but even if successful, it cannot justify the removal and amendment of the conditions in question given all the circumstances.
- In the view of the Parish Council, the conditions are, therefore, both necessary and reasonable in order to protect the residential amenity of local residents in accordance with Core Policy SD1 and RA6.
- Consultants instructed by the objectors have considered the reports prepared by the applicant's consultant and concluded in March that: "The issued noise impact assessment report cannot be considered a professional report, contains no information about the measurement equipment used, is lacking in technical detail, contains no measurement data of any kind, provides no objective assessment, and is not seen to be suitable to support a planning application of this nature".
- It seems likely that the Environmental Health department may have approached this matter from a statutory nuisance perspective. Planning authorities (and Environmental Officers) should obviously consider noise and other emissions in the wider context of the planning process and not just from the narrow perspective of statutory nuisance.
- The NPPF states planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

5.2 There have been 25 letters of representation from 19 parties, therein comment as follows:

21 letters of representation from 16 different parties, object on the following grounds:

- Conditions 5 and 16 are essential;
- Condition 5 was clearly reasonable;
- Adverse impacts on residential amenity;
- Highway safety;
- Noise and light pollution;
- Impact on quality of life;
- Would put the estate at risk from external development;
- Consistency principle should apply;
- Retrospective nature of application;
- Licensing is a separate regime and should not apply the same in planning terms;
- Quality of the building and noise-mitigating measures inadequate;
- Loss of tranquillity;
- Application inaccuracies;
- Other poor examples of corporate involvement;
- Whitbourne Hall and Crumplebury should not be compared; and
- Health and Safety

2 letters from 1 party make general comments:

- Whitbourne Hall is a traditional country house venue and that Crumplebury is a contemporary venue

The remaining 2 letters from 2 parties support the application with the following comments:

- Whitbourne Hall as a wedding venue has live music until 12 and has done so previously;
- Allow for Crumplebury to have a future rather than be a folly;
- 24:00 is a standard condition on many licensing permission;

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

- Following sound measuring meeting, sound reducing equipment is effective

5.3 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=210640&search-term=210640

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 The application 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. 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 development plan comprises the Herefordshire Local Plan – Core Strategy (CS) and Whitbourne Neighbourhood Development Plan (Whitbourne NDP). The National Planning Policy Framework (NPPF) is a significant material consideration, but does not constitute a statutory presumption, unlike the development plan which carries the statutory presumption as set out above. The NPPF sets out the Government's planning policies for England and how these are expected to be implemented. Specifically paragraph 30 sets out that once a NDP has been made, the policies it contains take precedence over existing non-strategic policies in a local plan (namely, CS), where they conflict.
- 6.3 The presumption in favour of sustainable development does not change the statutory status of the development plan as a starting point for decision making. Where a application conflicts with an up-to-date development plan (including neighbourhood plans that form part of the development plan), permission should not usually be granted as set out at paragraph 11c) of the NPPF, unless material considerations indicate otherwise.

Introductory Comments

- 6.4 Considering the acceptability of location, officers note the development plan and NPPF seek to support rural enterprises, although this is subject to a number of criteria. The site is some distance beyond Whitbourne and is viewed to be within open countryside. Given the provisions of Policies RA6 of the Core Strategy and Policy LU9 of the NDP, the council has granted planning permission P163902/F on the grounds that the location of the application site to be spatially acceptable for a rural business use.
- 6.5 This application proposes to amend two conditions imposed on the original decision notice, issued under P163902/F. Condition 5 is proposed to be removed, and condition 16 is proposed to be varied to allow amplified music to be played until 00:00 rather than 23:00. The use of the site is authorised by the existing planning permission, which includes restrictions by way of planning condition. Being a Section 73 application, if members come to a resolution of refusing this application, the applicant can continue the operation of the site as a restaurant, conference centre and guest accommodation, all year round.
- 6.6 Conditions imposed on a decision notice do not preclude further development or subsequent applications being submitted to the Council for determination. Consideration must be given as to whether the reasons for imposing such conditions are still applicable and/or whether different

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

conditions could be imposed to give appropriate alternative mitigation. If neither are acceptable, the application should be refused.

Use of Planning Conditions

- 6.7 The NPPF advises the use of planning conditions and where they should be implemented. Paragraphs 55 and 56 clarify that,

“55. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition”

“56. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decisionmaking. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification”

- 6.8 The NPPF is supplemented through Paragraph 003 (Reference ID: 21a-003-20190723) of Planning Practice Guidance (PPG) on use of planning conditions and conditions should be used, where they satisfy the following six tests:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects.

This is reinforced by Paragraph 005 (Reference ID: 21a-005-20140306) of PPG, which states that: *‘Any proposed condition that fails to meet any of the 6 tests should not be used.’*

- 6.9 Paragraph 015 of PPG (Reference ID: 21a-015-20140306) confirms that when planning permission is granted, it runs with the land. It is rarely appropriate to provide otherwise. There may be the odd occasion where development that would not normally be permitted may be justified on planning grounds because of whom the permission would benefit. For example, a condition limiting new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need or a dwelling of outstanding or exceptional quality. However, a condition limiting the benefit of the permission to a company is inappropriate because shares can be transferred to other persons without affecting the legal personality of the company, circumnavigating the issue altogether.

Condition 5

- 6.10 In this instance, members will note condition 5 of decision notice P163902/F states:

“5. This permission shall enure for the benefit of Mr J & Mrs K Evans only and not for the benefit of the land or any other persons interested in the land.

Reason: The nature of the development is such that it is only considered acceptable in this location having regard to the applicant's special circumstances having regard to Policy SD1 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework”.

- 6.11 As can be seen in PPG, it is rare to use personal conditions. When granting planning permission, it will usually run with the land, although it is appreciated that there may be the rare instance when

such a condition may be justified in the circumstances e.g. a worker with a specific business that would be contrary to the development plan.

- 6.12 From reading the case officers' report for delegated decision report P163902/F, no reference within the report is made specifically to the personal circumstances of the applicant or moreover, that the permission should only endure for the benefit of the applicant. Simply, condition 5 is included in the recommendation of the personal condition and the name of the applicants, which is subsequently translated onto the decision notice, as a standard condition.
- 6.13 Reading the report further, the case officer made an informed decision that the economic clout that the proposal would bring to the immediate local economy and given the proposals' compliance with the CS, NPPF and Whitbourne NDP, came to the view that the proposal aligned with the development plan, taken as a whole. In short, aside from the condition actually being placed into the recommendation and subsequently onto the decision notice, no justification was given to the requirement of such a condition, albeit in the decision notice, which simply confirms that given the nature of the proposal, it is only considered acceptable in this location and had regard to the applicant's special circumstances.
- 6.14 This does not correlate with what the officer had written in the report and indeed, the report confirmed the proposal clearly aligned with the development plan and that there were no material considerations which outweighed such a view. Indeed, had that been the case, the proposal would have represented a departure from the development plan and the application would have been referred to planning committee at that time, which did not materialise.
- 6.15 There are similar examples across Herefordshire and the country, which have similar operations and uses which do not have personal conditions attached to decision notices, although officers are mindful that every application should be treated on its own merit. Of course, an applicant has a right to appeal against a local planning authority's decision to impose certain conditions attached to a planning permission which they may not agree with. However, no such appeal was lodged back in 2017. In this instance, officers do not consider condition 5 to satisfy the six tests as advocated in PPG, namely the tests of necessity, the lack relevance to the development to be permitted and its reasonableness.
- 6.16 This is given that this is not a unique application and the circumstances that led to the approval of the 2017 permission, particularly given the proposal, in the view of the relevant officer, accorded with the development plan. The Council approved the expansion of Crumplebury on clear planning grounds and it is clearly plain to see that there were no exceptional circumstances that would indicate why the permission should benefit the applicants personally. Hence, in the view of officers, condition 5 should be removed from the decision notice.

Condition 16

Highway Safety

- 6.17 The removal of condition 5, as well as the proposed variation of condition 16, is certainly a material consideration on the basis in which Highways considered the original application. The Transport Statement submitted with the original application (163902/F) states "*The proposed expanded provision at the restaurant is predicted to see a doubling in the average number of visitors each week, to 200. In exceptional circumstances 160-guest events will be held. These will require 18 staff but will only occur approximately 12 times a year*".
- 6.18 For reference, planning permission was granted on the understanding that the site was to operate an arrangement of a one direction usage in and out of the junction for visitors from the east (coming via the A44) and west (coming via the B4203), along Norton Lane/Parish Road, an unclassified public highway (U65018), albeit with gated access at the A44 junction, which is in third party ownership.

- 6.19 Promoting two separate routes to and from site through route signage on the ground, verbal confirmation at booking and continued publication on the applicants' website is important. Unfortunately, a condition to ensure access to site would only be served off the B4203 and not the A44, would not meet the six tests for conditions, as set out in the PPG. In particular, this would be difficult to enforce. The only way this could be done is for directions to be provided on the applicant's (Crumplebury's) website and signs to be put up.
- 6.20 Whilst highways were comfortable at the time with the applicants transport statement regarding 100 covers per week, they still felt a suitable condition must be placed on this usage and additional events, although this is not apparent on the decision notice.
- 6.21 It is not disputed that the removal of condition 5 and variation of condition 16 certainly has implications on highways. However, members will note the highways area engineer does not object to this particular application before them.
- 6.22 Furthermore, the lawful use of the site is a material consideration. This includes a restaurant, guest accommodation and a conference centre. Additionally, the premises and the land associated within the red line can be used for any purpose ancillary to the restaurant, guest accommodation, or conference centre permitted by the planning permission. Indeed, temporary use of land can be achieved under Class B, Part 4, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 6.23 Even if members come to a resolution to refuse this application, the operation of the site as a restaurant, conference centre and guest accommodation 365 days of the year and playing amplified music until 23:00 can continue. Subsequently, associated issues raised by third parties, including loss of tranquillity and increased light pollution (discussed later) would remain, irrespective of resolution. Officers consider significant weighting should be afforded to this fall-back position.
- 6.24 In considering the highway arrangements for this application, officers note the consultation responses from the Local Highway Authority (LHA) as well as the local representations received on this matter. The development plan, at policy RA6 of the Core Strategy, sets out that rural enterprises would be supported where they: do not generate traffic movements that can't safely be accommodated within the local road network; and are located close to existing highways and do not have an unacceptable impact on traffic, in addition to the highways safety requirements of Core Strategy policy MT1.
- 6.25 In considering highway safety, the fact remains that an extant permission exists for the site which permits daily use. Regard must also be given to the nature of events which can take place as permitted. The use of the site is unconstrained in terms of the number of guests able to attend an event at any one time. The original application allowed for 100 whereas the applicant states that the site is now being marketed for groups of up to 200. It is worthwhile to address the point regarding the size of groups allowed in the venue. There is no limit set out in the original permission however capacity is realistically limited due to health and safety. Whilst this raises a point on the intensification of the use, in the view of officers, a judgement is being made specifically about timing of vehicle movements likely to arise, but there is no clear evidence to support the conclusions that are being made as shown above.
- 6.26 The venue is entirely self-contained. It provides on-site catering. Indeed, it is likely that only one type of event will be taking place at Crumplebury at any one time. Associated vehicular movements are therefore going to be similarly in line with what is taking place. In the view of officers, when considering the nature of the application, the proposal would not amount to being unacceptable in highway terms or the residual cumulative impact being severe, as clearly outlined by the NPPF at paragraph 111 and Policies MT1 and RA6 of the Core Strategy.

Residential Amenity

- 6.27 CS policy SD1 requires, amongst other things, that all development proposals safeguard the residential amenity and/or living conditions of existing residents and that they do not contribute to adverse impacts arising from noise and light pollution. Further, policy RA6 supports development so long as it does not cause unacceptable adverse impacts on the amenity of nearby residents by virtue of design and mass, noise, dust, lighting and smell; with Whitbourne NDP policy LU9 echoing this, supporting development that does not have a detrimental impact on surrounding living conditions.
- 6.28 Crumplebury is circa 100 metres from 'The Helts' and 415 metres (as the crow flies) from Whitbourne Hall. The closest activity on the site is that of the biomass boilers, circa 30 metres from the curtilage of the neighbouring properties at The Helts. The effect of the removal of condition 5 and variation of condition 16 is to be assessed against the residential amenity of dwellings as a whole and not in relation to specific elements of any nearby residential property.
- 6.29 Condition 16 currently restricts the times to which amplified or other music may be played inside the premises. Indeed, condition 16 was imposed in the interests of residential amenity. The applicant currently benefits from a premises license granted by the Council, permitting the playing of live music between the hours of 1900 – 0100 Monday – Saturday and 1900 – 2400 Sundays; recorded music 0700 – 0100 Mondays – Thursday, 0700 – 0200 Friday – Saturday and 0800 – 2400 Sundays.
- 6.30 The Council's licensing authority are responsible for ensuring that activities do not cause a statutory nuisance. There is of course, a distinct difference between amenity and nuisance and this is something that interested parties have commented upon. Officers acknowledge that there have been complaints raised by third parties on this site. However, the principal matters of residential amenity have already been considered under the original planning application P163902/F. The threshold is key in this instance between what is defined as a nuisance and what impinges on residential amenity and officers are assessing on grounds of residential amenity as a whole and not merely statutory nuisance.
- 6.31 It is reasonable to consider whether new suitably drafted planning conditions to secure control over areas where noise producing activities take place and their implications, may be of long-term benefit and whether this can be improved on what is allowed on the existing permission.
- 6.32 Members will acknowledge the applicant can currently play amplified music until 23:00. The assessment to consider is what additional harm of extending the playing of amplified music by 1 hour would have on amenity. The noise management plan, which has previously been approved by Herefordshire Council, will need to be reviewed, as recommended by the Council's Environmental Health Officer, should this application be approved, to provide additional mitigation for nearby residential receptors. A new time-restricted condition is proposed to be added to facilitate this in the interests of residents.
- 6.33 In supporting the application, an up-to-date noise survey has been commissioned and provided since the application was validated, although third party representations dispute this and have sought to provide a counter report, although the latter appears to be a desktop study and not based on an actual site visit. This has been considered in the comments by Environmental Health.
- 6.34 Notwithstanding this, since the refusal of P194408/F, the site has been visited by the Council's Environmental Health Team, in March 2021, to witness a 'test event'. Third parties do dispute the validity of the results given the time of day (17:00-19:00) although this is a locality where background noise levels are low throughout the time daytime and night time.
- 6.35 In the view of the Council's Environmental Health Officer, it is reasonable to consider that suitably drafted planning conditions to secure control over the areas where noise producing activities take

place, including an updated Noise Management Plan, will provide appropriate mitigation and, in the view of your officers, will be a considerable improvement on the existing permission. This includes the retractable acoustic curtain which under the original permission, the applicant does not have to use.

6.36 Members will acknowledge that the Environmental Health concludes the following:

“Our department does not object to the extension of the playing of amplified music from 23.00 to midnight on noise and nuisance grounds. We do not take the view that the business will cause a noise nuisance to neighbours if the noise management plan is adhered to. That is not to say that there would be absolutely no noise impacts ever at all but that they would be minimal and not be intrusive, harmful nor cause significant adverse impact.

We refer to the National Planning Policy Framework (NPPF) 2018, the Noise Policy Statement for England and the Planning Practice Guidance for Noise. We are of the view that noise from the proposal is likely to be either not noticeable or noticeable and not intrusive and would therefore come within the classification of between No Observed Effect Level and No Observed Adverse Effect level. Noise will either not be present or at the worst noise may be heard but does not cause any change in behaviour, attitude or other physiological response.

Hence our view that any refusal is likely to fail on appeal. Our department has no objections on noise and nuisance grounds provided that the following conditions are met:

- *The noise management plan shall be reviewed at a minimum at least once a year and supplied to the local authority in writing on request.*
- *There shall be no playing of amplified music outside the premises at any time.*
- *There shall be no use of Chinese lanterns at these premises.*

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

6.37 Notwithstanding this, officers and in turn, members are being asked to consider residential amenity, as a whole, including cumulative impacts. It is also relevant that use of the site itself has generated levels of noise in relation to its operation and associated vehicle movements.

6.38 However, officers view the conditions specified and recommended in the consultation response by Environmental Health meet the six tests set out in PPG and can be implemented with regard to this proposal, namely to update the site's noise management plan in a timely fashion, as well as the prohibiting of fireworks and Chinese lanterns. That is not to say that there would be absolutely no noise impacts at all but that they would be minimal and not cause significant adverse impact that would lead to conflict with the development plan. Officers have afforded significant weighting to the views of the technical consultee to offer their perspective on this matter and accounting for cumulative impacts.

6.39 The applicant is willing to accept a condition, limiting the hours in which music may be played. In turn, the Council will be able to re-dress outstanding concerns over residential amenity by ensuring the acoustic curtain is installed, as well as prohibiting any fireworks/Chinese lanterns being used altogether.

6.40 For avoidance of doubt, any statutory noise nuisance can be dealt with through Environmental Health legislation, namely under the Environmental Protection Act 1990. Complaints which are submitted through this channel can be and are investigated.

6.41 Members will acknowledge that the relevant technical consultee advises that impacts can be managed to acceptable levels to reduce and mitigate any adverse impact from the development. The mitigation proposed now is a considerable step forward from what was originally consented

in 2017. That, in terms of residential amenity, is sufficient in officers' opinion for the development to not result in additional harm to residential amenity, nor the amenity of users of the public right of way, accounting cumulative impacts. Further it is presumed that the site would continue to operate efficiently and as designed in line with paragraph 185 of the NPPF.

- 6.42 By mitigating potential adverse impacts resulting from noise, in the view of officers, the proposal would not give rise to significant adverse impacts on health and quality of life, and that the proposal would not conflict with paragraph 185 of the NPPF, Policies SD1 and RA6 of the Core Strategy and Policy LU9 of the made Whitbourne NDP, although this is subject to the insertion of new conditions, as laid out in officer recommendation.

Heritage

- 6.43 The LPA has a statutory duty to give due diligence to the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66(1) requires decision makers to “*have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*”
- 6.44 Officers are aware of the result of the judgement of *Catesby Estates Ltd v Steer Secretary of State for Communities and Local Government v Steer* - [2018] EWCA Civ 1697; specifically in relation to the effect of setting in that the judge in this case provided guidance in the interpretation of the concept of “setting”, to include much more than visual impact.
- 6.45 A number of heritage assets are in the vicinity of the site, including Whitbourne Hall (Grade II* Listed); Whitbourne Hall Unregistered Park & Garden; The Sconce (Grade II Listed); and Rose Cottage (Grade II Listed). Given the clear significant separation distances, in conjunction with the existing built forms and landscape features between the application site and any heritage asset, the listed buildings' orientations and outlooks, officers do not consider that the proposals submitted would be deemed to cause harm to the ‘significance’; experience or additionally setting of any listed building or heritage asset nearby.
- 6.46 The Council's Building Conservation Officer raises no objections to which significant weighting has been afforded to this view. Accordingly, officers consider the scheme to accord with Policy LD4 of the Council's Core Strategy in that the proposal will conserve the identified heritage assets and the wider historic environment and Section 16 of the NPPF, and the Council has exercised its right in regards to section 66 of the Act.
- 6.47 There are no physical proposed alterations to the approved development, which incidentally relate to the uses of the site, which are not considered to adversely affect, namely Whitbourne Hall (Grade II* Listed); Whitbourne Hall Unregistered Park & Garden; The Sconce (Grade II Listed); and Rose Cottage (Grade II Listed). Accordingly, officers consider there is no need to undertake the test prescribed in paragraph 202 of the NPPF, as no harm has been identified.

Landscape

- 6.48 Members will note the Council's landscape officer has no objections, on the grounds that there are no landscape implications and given the application relates to the uses of site. Accordingly, the proposal is considered to conserve the landscape character and locality, in line with Policy LD1 of the Core Strategy and Policy LU9 of the Whitbourne NDP and Section 15 of the NPPF.

Ecology/Biodiversity

- 6.49 Members will note the return of no objection from the Council's ecologist, to which officers afford significant weighting to this view. In terms of biodiversity, the application is considered to accord with Policy LD2 of the Core Strategy and Policy LU9 of the Whitbourne NDP.

Other considerations

- 6.50 The impact upon surrounding business competition is not a material planning consideration and should not form part of any decision taken.
- 6.51 Whilst officers appreciate issues raised regarding the tranquillity and dark skies, this will still potentially be apparent regardless of the resolution taken by committee, given planning permission has already been granted here. The applicant has been made aware of this and has indicated to replace the existing lighting system with more subdued lighting, as requested by Council and the retractable acoustic curtain in respect of residential amenity.
- 6.52 Third party representations have raised matters concerning breaches of condition and issues on this site. Members should be aware that these aspects are dealt with through Planning Enforcement.
- 6.53 Comments stating that lifting condition 5 would put Whitbourne Estate at risk from external development needs to be put into context that the LPA would assess any planning application on its own merits in accordance with Local Plan Policies and other material planning considerations and is not comparing similar uses and layout e.g. against Whitbourne Hall or corporate involvement at Saltmarshe Caravan Park. Indeed, such views that a consistency principle should apply, must be borne in mind that this is a materially different application to P194408/F.
- 6.54 Members will be aware that licensing is a separate regime to the planning process and that Health and Safety of site is not a material planning consideration.

Summary and Conclusion

- 6.55 The NPPF states the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means the planning system has three overarching objectives (economic, social and environmental), which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).
- 6.56 These objectives should be delivered through preparation and implementation of plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Sustainable development is pursued in a positive way, so at the heart of the NPPF is a presumption in favour of sustainable development. The presumption does not change the statutory status of the development plan as the starting point for decision making. Where an application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted as set out at paragraph 11c of the NPPF.
- 6.57 Taking the above into account, there are no technical objections to this application. It is recommended that condition 5 be removed entirely and condition 16 varied to extend the hours amplified music may be played within the venue to 00:00. A number of additional conditions are recommended to ensure an appropriate form of development.
- 6.58 Given the application is made as a Section 73 (s73) application under the Town and Country Planning Act 1990, permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact. It is open to the applicant to decide whether to implement the new permission or the one originally granted. A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for

the purpose of clarity, restate the conditions imposed on earlier permissions that continue to have effect.

- 6.59 It is therefore appropriate to identify conditions in full, rather than simply identify those conditions which have been applied for. This includes details under discharge of condition applications that the Council has already approved prior to considering this application, in conjunction with recommended conditions by technical consultees and officers, to achieve an appropriate form of development. Given condition 5 is recommended to be removed, conditions 6 onwards would therefore move to condition 4 onwards, as material operations have commenced and hence, condition 1 is no longer required. Subsequently, condition 16, which is under consideration to be varied, would now appear as condition 14.

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. The development shall be carried out strictly in accordance with the approved plans (Drawing nos.1821/1000 Rev A, 1821/1100, 1821/3000 Rev A, 1821/3100 Rev A, 1821/3601, 1821/3602 and 1821/9001), except where otherwise stipulated by conditions attached to this permission.**

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

- 2. With respect to details of materials, the development shall be carried out in accordance with the approved details, confirmed under discharge of condition letter P181140/XA2 dated 30 April 2018, unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.**

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; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

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

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

- 4. The accommodation block building which is the subject of this application shall be used for holiday accommodation only and for no other purpose including any other purpose within Class C of the Schedule of the Town and Country Planning (Use**

Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: Having regard to Policy RA3 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework, the local planning authority are not prepared to allow the introduction of a separate units of residential accommodation, in this rural location.

5. None of the existing trees and or hedgerows on the site (other than those specifically shown to be removed on the approved drawings) shall be removed, destroyed or felled without the prior approval in writing of the Local Planning Authority.

Reason: To safeguard the amenity of the area and to ensure that the development conforms with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

6. Development shall not be occupied until the passing bays on Norton Lane have been constructed in accordance with the approved details, namely under discharge of condition letter P180280/XA2 dated 27 July 2018 and subject to a Section 278 agreement.

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

7. With respect to details of landscape design, this shall be carried out in accordance with decision notice P181441/XA2 dated 26 July 2018, unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.

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

8. The soft landscaping scheme approved under condition 7 shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development. The landscaping shall be maintained for a period of 5 years. During this time, any trees, shrubs or other plants which are removed, die or are seriously retarded shall be replaced during the next planting season with others of similar sizes and species unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 10- year maintenance period. The hard landscaping shall be completed prior to the first use of the development hereby permitted, unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.

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

9. With reference to details of Arboricultural Impact Assessment and arboricultural working method statement, this shall be implemented in accordance with details confirmed under discharge of condition letter P180280/XA2 dated 27 July 2018,

unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework, NERC 2006.

10. The ecological protection, mitigation, working methods and biodiversity enhancements as recommended in the Preliminary Ecological Report by Focus Ecology dated October 2016 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework, NERC 2006.

11. The Protected Species (Bats) protection, mitigation and working methods and compensation scheme with required European Protected Species Licence, as recommended in the detailed bat report by Focus Ecology dated June 2017 shall be implemented in full as stated unless otherwise approved in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and Policy LD2 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework, NERC 2006.

12. With reference to details of noise emanating from site, the development shall be carried out in accordance with the approved details, as confirmed under discharge of condition letter P180280/XA2 dated 27 July 2018, unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework

13. The loading and unloading of service and delivery vehicles together with their arrival and departure from the site shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays nor at any time on Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

14. **No amplified music shall be played in the premises outside of the following times: 12.00hrs to 00.00hrs.**
- Reason: In order to protect the amenity of occupiers of nearby properties and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.**
15. **With reference to details of foul and surface water drainage arrangements, this shall be implemented in accordance with details approved under discharge of condition letter P180280/XA2 dated 27 July 2018, unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.**
- Reason: In order to ensure that satisfactory drainage arrangements are provided and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy; Habitat Regulations and NERC Act and Policy LU9 of the Whitbourne Neighbourhood Development Plan.**
16. **With reference to floodlighting and external lighting, details shall be carried out in accordance with the approved details, as confirmed under discharge of condition letter P181441/XA2 dated 26 July 2018., unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.**
- Reason: To safeguard local amenities and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.**
17. **The development hereby permitted shall not be brought into use until an area has been properly laid out, consolidated, surfaced, drained and the spaces demarked on the ground within the application site in accordance with the approved plans for the parking of vehicles. These shall thereafter be retained and kept available for those uses at all times thereafter, unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.**
- Reason: To minimise the likelihood of indiscriminate parking in the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.**
18. **With reference to details of improving visibility for traffic joining Parish Lane after leaving the site, in an easterly direction, this shall be implemented in accordance with details approved under discharge of condition letter P200858/XA2 dated 3 April 2020, unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.**
- Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan-Core Strategy.**
19. **Prior to use of the development hereby approved, details for new signage along the A44 and B4203 shall be submitted for approval in writing of the local planning authority. The signs shall be installed in accordance with the approved details prior to the use of the development hereby approved, unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.**
- Reason: In the interests of highway safety and to conform with the requirements of Policy MT1 of Herefordshire Local Plan- Core Strategy together with requirements as set out in the Transport Statement dated 15 June 2017.**

20. With reference to the Construction Management Plan (CMP), the agreed details shall be implemented throughout the construction period, in accordance with the approved details under discharge of condition letter P180280/XA2 dated 27 July 2018, unless an alternative scheme is submitted to an approved in writing by the Local Planning Authority.

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

21. By 30 November 2021, an updated noise management plan, shall be submitted to and approved in writing by the local planning authority. The relevant details shall include, as a minimum:

- a. How the planned use of the acoustic curtains to the North Wall and fire exits will be used;
- b. The use of the installed noise limiter and maximum noise limits set;
- c. How the external doors will be kept closed during the playing of loud music;
- d. A noise monitoring proposal;
- e. A complaints procedure; and
- f. Consider noise from voices outside the venue and in the car park(s).

Following approval, the noise management plan shall be implemented as approved, reviewed at a minimum of at least once annually and shall at any time, upon reasonable request in writing, be submitted to the Local Planning Authority.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

22. There shall be no use of fireworks or Chinese lanterns on the premises at any time.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31; Policy LU9 of the Whitbourne Neighbourhood Development Plan and the National Planning Policy Framework.

23. No amplified music shall be played outside of the buildings on the premises at any time.

Reason: In order to protect the amenity of occupiers of nearby properties so as to comply with Policies SS6 and SD1 of the Herefordshire Local Plan Core Strategy 2011-31; Policy LU9 of the Whitbourne Neighbourhood Development Plan 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. It has subsequently determined to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 2. This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.**
- 3. Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.**
- 4. Informative in respect of foul drainage: (Condition 17) - Discharge of final outfall through a soakaway-spreader field is recommended. No direct discharge of any final outfall from the proposed treatment system to any swale, watercourse, stream or culvert is acceptable unless it can be clearly demonstrated that residual Phosphorous (phosphates) have been removed from the discharge water.**
- 5. This planning permission does not authorise the applicant to carry out works within the publicly maintained highway and Balfour Beatty (Managing Agent for Herefordshire Council) Highways Services, Unit 3 Thorn Business Park, Rotherwas, Hereford, HR2 6JT (Tel: 01432 261800), shall be given at least 28 days' notice of the applicant's intention to commence any works affecting the public highway so that the applicant can be provided with an approved specification, and supervision arranged for the works.**
- 6. Under the Traffic Management Act 2004, Herefordshire Council operate a notice scheme to co-ordinate Streetworks. Early discussions with the Highways Services Team are advised as a minimum of 4 weeks to 3 months notification is required (dictated by type of works and the impact that it may have on the travelling public). Please note that the timescale between notification and you being able to commence your works may be longer depending on other planned works in the area and the traffic sensitivity of the site. The Highway Service can be contacted on Tel: 01432 261800.**
- 7. No work on the site should commence until engineering details of the improvements to the public highway have been approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into. Please contact the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ to progress the agreement.**
- 8. The developer is required to submit details of the layout and alignment, widths and levels of the proposed roadworks, which shall comply with any plans approved under this planning consent unless otherwise agreed in writing, together with all necessary drainage arrangements and run off calculations. It is not known if the proposed roadworks can be satisfactorily drained to an adequate outfall. Adequate storm water disposal arrangements must be provided to enable Herefordshire Council, as Highway Authority, to adopt the proposed roadworks as public highways. The applicant is, therefore, advised to submit the engineering and drainage details referred to in this conditional approval at an early date to the Senior Engineer, PO Box 236, Plough Lane, Hereford HR4 0WZ for assessment and technical approval. No works on the site of the development shall be commenced until these details have been approved and an Agreement under Section 38 of the Highways Act 1980 entered into.**

9. Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.
10. There is increasing concern over the problem of 'sky glow' caused by artificial lighting in towns and cities. Astronomical observations have been severely affected in recent years and there is a growing lobby to curtail lighting which emits light above the horizontal. Highway Authorities pay due regard to this problem when specifying new highway lighting and recommend that all proposals for exterior lighting should also comply with this requirement. Guidance can be found in 'Guidance Notes for the Reduction of Light Pollution', published by The Institution of Lighting Engineers (ILE).
11. The attention of the applicant is drawn to Section 175A(3) of the Highways Act 1980 within which the Highway Authority shall have regard to the needs of disabled persons when considering the desirability of providing ramps at appropriate places between carriageways and footways and to any requirement of the Disability Discrimination Act.
12. The applicant's attention is drawn to the requirement for design to conform to Herefordshire Council's 'Highways Design Guide for New Developments' and 'Highways Specification for New Developments'.
13. The applicant shall be made aware that Herefordshire Council's Environment Health department has legal powers and duties to investigate Statutory Nuisance complaints regarding noise nuisance under the Environmental Protection Act 1990. Where a Statutory Nuisance is found to be established and is likely to occur or recur, our department has powers under the Act for the nuisance to be abated.
14. The permission hereby granted is an amendment to planning permission P163902/F dated 3 August 2017 and, otherwise than is altered by this permission, the development shall be carried out in accordance with that planning permission and the conditions attached thereto.

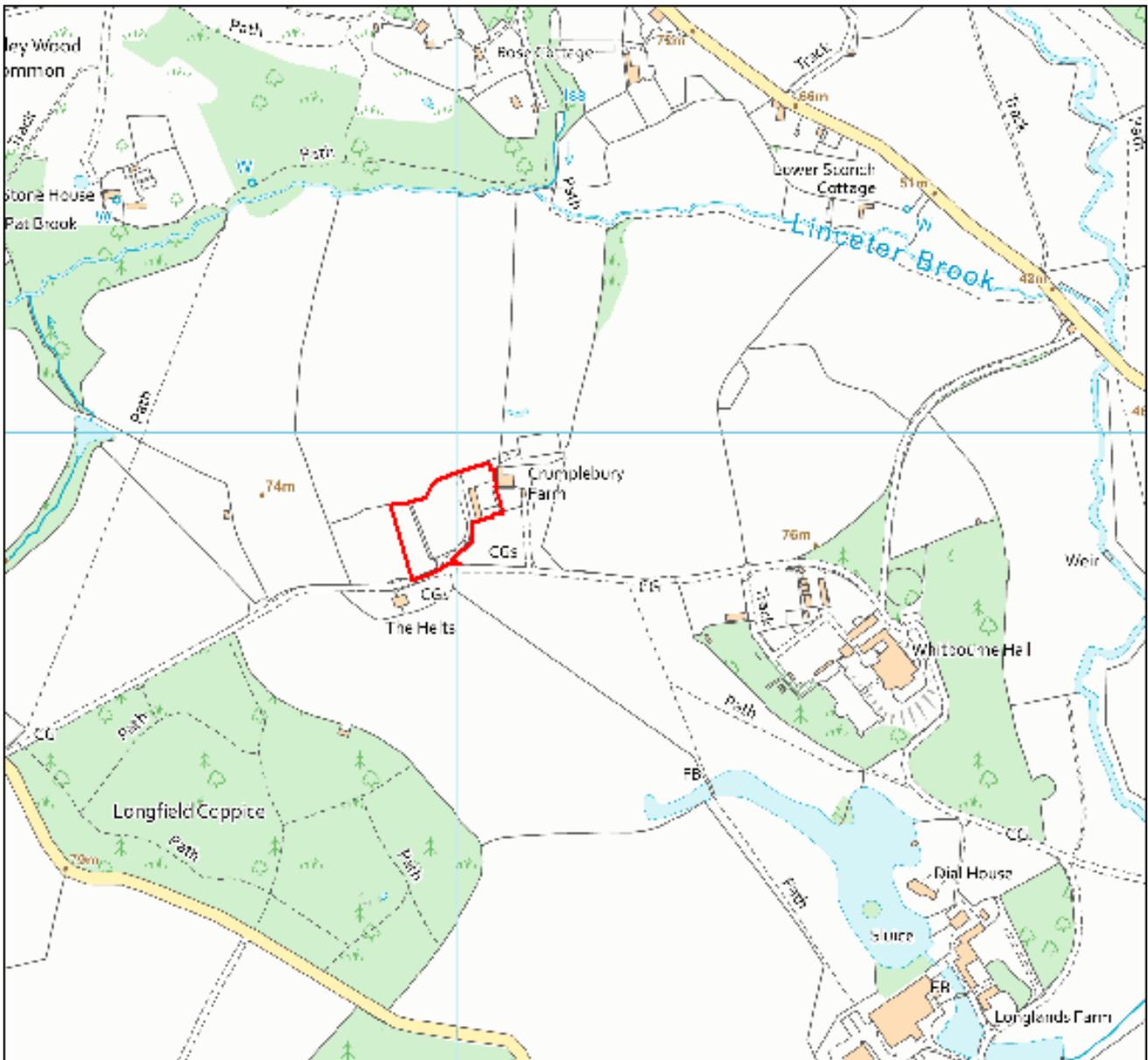
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 210640

SITE ADDRESS : CRUMPLEBURY FARM, WHITBOURNE, WORCESTER, HEREFORDSHIRE, WR6 5SG

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	29th September 2021
TITLE OF REPORT:	210373 – PROPOSED DEMOLITION OF FARM BUILDINGS AND CONSTRUCTION OF 14 DWELLINGS WITH ASSOCIATED ACCESS. AT LAND OFF WYSON LANE, BRIMFIELD, HEREFORDSHIRE, For: Mr Sambrook per Miss Stephanie Cain, Lowfield, Marton, Welshpool, SY21 8JX
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=210373&search-term=210373
Reason Application submitted to Committee – Redirection request by Local Member	

Date Received: 1 February 2021

**Ward: Leominster
North & Rural**

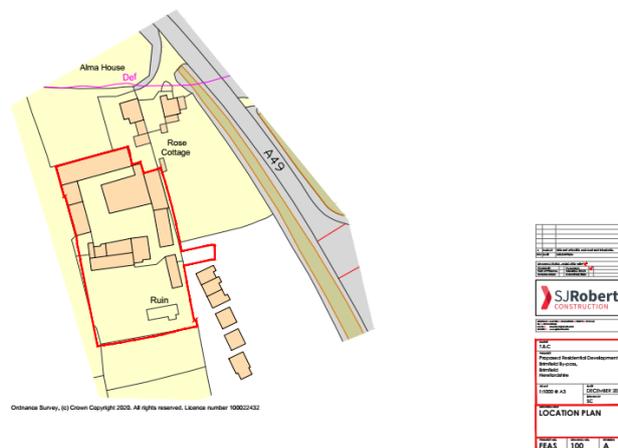
Grid Ref: 352263,268147

Expiry Date: 31 July 2021

Local Members: Cllr John Stone

1. Site Description and Proposal

1.1 The application site comprises disused agricultural buildings and associated land located to the North of the village of Brimfield, covering approx. 0.4 hectares. The site immediately adjoins residential development and/ or curtilages of individual properties to the North and East and South, and formal open space to the West, which separates the site from dwellings on Wyson Avenue. The site is located around 50 metres at its closest point to the West of the A49, however is partly screened by or with intervening residential development, curtilages and green infrastructure. The site's location is shown edged red on the map below –



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

Access and egress to the site is from Wyson Lane via an existing estate road serving ten no. dwellings on the development 'The Coppice'. The Coppice development was approved under Outline planning permission reference 143489/O and built to Reserved Matters approved under reference 190409/RM.

The site and surrounding area is neither within or immediately adjoining an Area of Outstanding Natural Beauty or conservation area, and no designated heritage assets are either on or adjoining the site.

The application is for the proposed demolition of farm buildings and construction of 14 dwellings featuring 6 no. 2 bed units and 8 no. 3 bed units, with associated access. All dwellings are to be affordable dwellings and shall be for shared ownership tenure.

2. Policies

2.1 Herefordshire Core Strategy

SS1 – Presumption in favour of sustainable development
SS2 – Delivering new homes
SS3 – Releasing land for residential development
SS4 – Movement and transportation
SS6 – Environmental quality and local distinctiveness
SS7 – Addressing climate change
RA1 – Rural housing distribution
RA2 – Housing Outside Hereford and the Market Towns
RA3 – Herefordshire's countryside
H1 – Affordable Housing – Thresholds and Targets
H3 – Ensuring an Appropriate Range and Mix of Housing
OS1 – Requirement for open space, sport and recreation
OS2 – Meeting open space, sport and recreation needs
MT1 – Traffic management, highway safety and promoting active travel
LD1 – Landscape and townscape
LD2 – Biodiversity and geodiversity
LD3 – Green infrastructure
LD4 – Historic environment and heritage assets
SD1 – Sustainable design and energy efficiency
SD3 – Sustainable water management and water resources
SD4 – Waste water treatment and river water quality

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/info/200185/local_plan/137/adopted_core_strategy

2.3 Brimfield and Little Hereford Group Neighbourhood Development Plan

2.4 The Neighbourhood Plan was made on 22 July 2016 and now forms part of the Development Plan. The relevant policies of this plan are considered to be:

BLH1 – New housing within the Brimfield settlement boundary
BLH2 – New housing development
BLH3 – Housing to meet local needs
BLH4 – Ensuring an appropriate range of tenures, types and sizes of houses
BLH8 – Building Design Principles
BLH9 – Landscape Design Principles
BLH12 – Water Management
BLH13 – criteria for assessing the suitability of future potential development sites

BLH15 – Design for Flood resilience and resistance
BLH16 – Design to Reduce Surface water run off

2.5 Link to NDP:

<https://www.herefordshire.gov.uk/directory-record/3039/brimfield-and-little-hereford-group-neighbourhood-development-plan-made-22-july-2016>

2.6 **National Planning Policy Framework – NPPF**

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

- Chapter 2. Achieving sustainable development
- 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
- Chapter 16. Conserving and enhancing the historic environment

3. **Planning History**

3.1 None on site

4. **Consultation Summary**

Statutory Consultations

4.1 **Severn Trent Water** confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

4.2 **Welsh Water** comments *We would request that if you are minded to grant Planning Consent for the above development that the Conditions and Advisory Notes provided below are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets –*

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

Sewerage

- The application form indicates that the proposed foul flows are to connect to the mains sewer. However, our records indicate that there are no Welsh Water maintained sewers in the vicinity of the site. We therefore recommend that you seek to utilise alternative sewerage treatment methods.

Surface Water Drainage

- With reference to the surface water we would not permit the communication of flows to the public sewer as it is designated to receive foul water only. Any drainage strategy should consider utilising a sustainable drainage technique. In addition, please note that no highway or land drainage run-off will be permitted to discharge directly or indirectly into the public sewerage system

Advisory Notes

- The applicant is also advised that some public sewers, lateral drains or water mains 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. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

Water Supply

- Dwr Cymru Welsh Water has no objection to the proposed development

- 4.3 In response to precautionary comments received from internal consultees (see below) National Highways (Formally *Highways England* and Natural England have been consulted additionally. Comments have not yet been received and members will be updated.

Internal Council Consultations

- 4.4 The **Council's Transportation Manager** comments *It is noted that the resubmitted drawings do not alter the highways considerations of the site.*

It is noted that this is a full planning permission and as such all matters are considered at this stage. In terms of the highways and transportation aspects of the proposal the primary considerations are access strategy and layout.

The access strategy is based on the previously approved application for the construction of infrastructure to serve 10 dwellings. It is noted that the outline application for this aspect of the previously approved development included consultation with Highways England due to the proximity of the site to the national strategic road network. It is recommended that this is undertaken for this expansion.

In terms of trip generation the additional 14 dwellings are assessed against the NPPF which sets out that development should only be resisted on highways grounds if the cumulative impact could be classed as severe. The additional units are unlikely to generate a significant additional peak hour flow from the site. Whilst it is clear that traffic levels will increase from the site the increase is insufficient to evidence a severe impact on the local road network. As a result of this highways consideration the LHA does not object to the principle of the development. A portion of these movements will be offset by the consideration of the existing permitted use of the site which will be removed, albeit this appears to be to the benefit of the national strategic road network due to the primary access point being onto the A49 in Shropshire.

The site proposal is to take access from an existing development road, essentially increasing the dwellings served from this route. It is understood that this section is to remain private which will result in this development also being private (it is not possible to adopt an 'island' of highway not connected to the highway network). It might be possible to offer the entire length of the road for adoption, however testing on the constructed sections would be required. With reference to the increase volume of dwellings the total number of dwellings served from the route will not exceed the local highway authority threshold for residential units served from a road of this nature. As a result, this aspect of the development complies with the requirements of Herefordshire Council's Highways Design Guide for New Developments.

The geometry proposed in the submission are appropriate. It is noted that the landscaping is arranged to not encroach upon the visibility splays and a footway exists on one side to provide pedestrian linkages consistent with the existing site. In addition, the parking provision is appropriate and includes visitor spaces. This approach will not result in vehicles needing to park injudiciously on either this proposed private infrastructure or the wider public highway.

In order to ensure that the future maintenance arrangements of the proposed site are considered condition CAQ is recommended in the event that permission is granted.

The drainage aspects of the development for the infrastructure will be commented on by the land drainage team as part of the site wide drainage strategy.

All new developments require cycle storage to supplement the access strategy. It is noted that each dwelling includes a shed for this cycle storage. As a result this is considered appropriate.

In conclusion, having regard to both local and national policies there are no objections from the local highway authority on the proposed extension to the existing development site.

4.5 **Principal Natural Environment Officer (*Landscape*)** comments *I have reviewed the revised material, together with the email (agent to planning officer, dated 29 April, 2021) explaining the changes and rationale for the revised design.*

The information provided is satisfactory and accept that some of the request from my previous comments have not been possible due to changes to the layout (i.e. revision to the car parking at the entrance). However some items have been addressed (such as the addition of hedgerows), and the inclusion of the Environmental Colour Assessment, as recommended is appreciated to provide a rationale for the colours, in particular the roof colour.

I note there was confusion on the revised DAS, version 2, on page 5 that showed the revised plan as another completely different site and development. I understood this as an error and assumed the main content related to this development.

As per my previous comments, I approve with conditions:

- *Herefordshire Council reference: CK3 Landscape Scheme*

Reason: To safeguard 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

- *Herefordshire Council reference: CK5 Maintenance Plan*
Include: For a 10 year period

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

- 4.6 **Principal Natural Environment Officer (Ecology)** comments The updated ecology report by Turnstone Ecology (August 2021) is noted. This report with additional optimal period survey information and detailed recommendations for working methods, mitigation, compensation and confirming the need for a protected species licence to be obtained (from Natural England subsequent to any grant of planning consent and prior to any works commencing.) appears relevant and appropriate and should be secured for implementation in full by a condition on any planning consent granted.
- 4.7 **Principal Natural Environment Officer (Arboriculture)** comments *Having viewed the available plans and tree report I can confirm I have no objections to the proposed development, subject to the following conditions.*

Conditions.

- CK9 Trees In accordance with plans

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

- APPENDIX 2: TREE LOCATION AND PROTECTION PLAN – drawing APP2 Revision B
- Tree Condition Report Arboricultural Impact Assessment Root Protection Areas Method Statement.

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

- CKA – Retention of existing trees.

- 4.8 **Open Spaces Planning Officer** comments *It is noted that Amended site plan now includes a bin and a bench in the POS.* This is in accordance with my previous comments. I have no further comments to make.

Original comments stated –

Open Space Policy Requirements: In accordance with CS policy OS1 and OS2 requirements open space, sport and recreation facilities will be sought from all new residential development on a site by site basis in accordance with all applicable set standards.

Minimum Standards: On-site POS/Children's play provision arising from a development of 14 houses in accordance with the standards set out above would only require as a minimum:

- POS: 130sq m
- Children's Play (informal) 250sq m

Total 380sq m

On-Site POS: Given the size of development and minimum requirements for POS I would normally ask for an off-site contribution given the site lies in proximity to an existing POS and play area off Wyson Lane which would benefit from investment, but as the proposal is for a full planning application for 14 affordable houses, this is not possible in accordance with the SPD on Planning Obligations.

Some POS is shown as provided along the eastern edge of the site which looks to meet the minimum requirements described above. The Design and Access statement describes the POS as an essential aspect of any new development in order to encourage physical activity and in accordance with CS policies OS1 and OS2. While this is supported the primary function of the

proposed open space along the eastern boundary is described as to create a buffer between the houses and the A49. As per my pre-application comments, I am still of the opinion that the proposed green space given its size will offer little in physical recreation opportunities and provides little more than some visual amenity value. I do note however that given the number of existing trees and proposed trees that the area will provide landscape and biodiversity value which can be enjoyed by residents. This enjoyment could be enhanced if the space became more of a communal space where residents could perhaps meet up with neighbours and sit and chat. This could be provided through the simple installation of a bench or picnic table and bin. This would also support the on-site POS requirements in accordance with CS policies OS1 and OS2.

Adoption and Maintenance: I cannot see any details of the proposed management of the POS. Suitable management and maintenance arrangements will be required to support any provision of open space and associated infrastructure within the open space in line with the Council's policies. This could be a management company which is demonstrably adequately self-funded or will be funded through an acceptable on-going arrangement; or through local arrangements such as a Trust set up for the new community for example. There is a need to ensure good quality maintenance programmes are agreed and implemented and that the areas remain available for public use.

These could be provided as part of an agreed Heads of Terms or as part of the Landscape Management Plan.

- 4.9 **Environmental Health Service Manager (Contaminated Land)** comments Given the change of use to one which is more sensitive, I'd recommend the following precautionary condition be appended to any approval to ensure the site is safe and suitable for its intended residential use.

Recommended condition

1. No development shall take place until the following has been submitted to and approved in writing by the local planning authority:

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing.

The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health.

2. The Remediation Scheme, as approved pursuant to condition no. (1) above, shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the

development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health.

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

Reason: In the interests of human health.

Technical notes about the condition

1. Assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2019.

2. All investigations of potentially contaminated sites are required to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission.

3. Where ground gas protection measures are required, they shall be validated in accordance with current best practice guidance

4.10 The **Land Drainage Engineer** comments *In principle, we have no objections to the proposed development.*

4.11 **Strategic Housing Manager** comments –

- The mix of 2 and 3 bed units is acceptable
- I note that the units will be delivered by Citizen Housing Group. As such there will be grant funding provided from Homes England to deliver these units. I would advise that as a result there will be no requirement within the S106 for a local connection criteria.
- With regards to the need for additional affordable housing, the emerging Housing Market Area Needs Assessment (HMANA) estimates that there is an additional need of 220 units compared with the Local Housing Market Assessment (LHMA) which estimates 183. This clearly shows that there has been an increase in need for affordable housing in the last 7 years.
- This site will help to deliver much needed affordable housing, by way of affordable home ownership, not just for Brimfield but also for the wider population
- Strategic Housing is in support of this application

5. Representations

5.1 **Bleathwood and Little Hereford Parish Council** comments *The Parish Council stand by their previous comments and object to this application for the reasons outlined below:*

The Parish Council object to this application as it does not adhere to policies BLH1, BLH2 and BLH3 of the Neighbourhood Development Plan. The site is outside the settlement boundary and it does not sit adjacent to it. Although the applicant has advised that a housing needs study for the whole parish has been carried out, we understand that many Little Hereford residents did not receive a survey.

Policy BLH3 states that development will be supported subject to BLH1 and BLH2. The site lies outside the settlement boundary and the local need for more housing does not appear to have been met.

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

Wyson is very congested, further housing developments of this size cannot be supported, a fact that was highlighted when making our plan. The site chosen in BLH1 eases the congestion in the centre of the village, if approved, it will more than meet the current need for affordable housing. Local roads are becoming extremely busy and dangerous for vehicles and walkers through the village. Wyson Lane in particular at both entry and exit points are dangerous, vehicles often have to reverse to let others pass, adding to the danger for pedestrians. The local sewage system struggles to cope with existing capacity, developments of this scale would have a big impact on the system.

Our Neighbourhood Development Plan is more than meeting private and local housing need and with Herefordshire Council's five year land housing supply now at over 4 years, this application should be refused. We further request, via our Ward Member, that this application be decided at a Committee.

- 5.2 **24 letters of objection** have been received, comments are summarised as
- Development is outside the settlement boundary
 - Development is contrary to the NDP
 - Concern over Highway safety especially in and around Wyson Lane
 - Impact on the safety of the strategic road network, especially A49 cross roads
 - Concerns regarding surface water
 - Impact on local infrastructure
 - Lack of facilities in the village
 - Unimaginative design
 - Impact on residential amenity
 - Impact and concerns of construction phase on amenity
 - No local need for the housing
 - Impact on protected species
 - Overdevelopment
 - Reference made to houses for sale, other applications and planning permissions

- 5.3 **2 letters of support** have been received, comments are summarised as
- Welcomed regeneration of a derelict site
 - These affordable homes will help get locals on the housing ladder
 - Access onto Wyson Lane has good visibility
 - No amenity concerns
 - Small developments such as this are better for the village
 - Constraints limit where development is feasible in Brimfield

- 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=210373&search-term=210373

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.” The development plan is the Herefordshire Core Strategy and Brimfield and Little Hereford Group Neighbourhood Development Plan.

- 6.2 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 on 9 November 2020. The level of consistency of the policies in the local plan with the NPPF will be taken into account by the Council in deciding any application.

Herefordshire Local Plan – Core Strategy

- 6.3 Core Strategy Policy SS1 echoes the NPPF’s presumption in favour of sustainable development. Setting out the strategy for delivery of new homes, CS Policy SS2 provides that the majority of housing is directed to Hereford city or one of the five market towns and in the rural areas, housing will be acceptable within identified settlements listed under CS Policy RA2.

- 6.4 One hundred and nineteen settlements have been identified under policy RA2 across the county to be the main focus of proportionate housing development in the rural areas. Residential development is to be located within or adjacent to the main built up area(s) of the named settlements. This is to ensure that unnecessary isolated, non-characteristic and discordant dwellings do not arise which would adversely affect the character and setting of a settlement and its local environment. Outside of Hereford city, the market towns and such settlements listed under RA2 (and their settlement boundaries defined within Neighbourhood Development Plans), sites are considered to be within a countryside location and residential development strictly controlled and limited to exceptions listed under CS Policy RA3.

- 6.5 Outside of the main built form of Leominster and the main built form of any of the 119 settlements listed under Core Strategy policy RA2 sites are considered to be in an open countryside location. Core Strategy policies RA3 restricts residential development within the open countryside to exception criteria which includes the provision *development is rural exception housing in accordance with Policy H2*.

- 6.6 Policy H2 - Rural exception sites allows Proposals for affordable housing schemes in rural areas may be permitted on land which would not normally be released for housing where:

1. the proposal could assist in meeting a proven local need for affordable housing; and
2. the affordable housing provided is made available to, and retained in perpetuity for local people in need of affordable housing; and
3. the site respects the characteristics of its surroundings, demonstrates good design and offers reasonable access to a range of services and facilities normally in a settlement identified in Policy RA2.

In order to enable the delivery of affordable housing some market housing may be permitted as part of the development to subsidise a significant proportion of affordable housing provision. However, evidence will be required – by way of a financial appraisal, in order to demonstrate that the proposed scale of market housing is that required for the successful delivery of affordable housing.

- 6.7 Core Strategy policy SS6 describes proposals *should conserve and enhance those environmental assets that contribute towards the county’s distinctiveness, in particular its settlement pattern, landscape, biodiversity and heritage assets and especially those with specific environmental designations*. Policy SS6 then states in its list of criteria states *Development proposals should be shaped through an integrated approach and based upon sufficient*

information to determine the effect upon landscape, townscape and local distinctiveness, especially in Areas of Outstanding Natural Beauty.

- 6.8 Core Strategy policy SS7 – *Addressing climate change* describes how development will be required to mitigate their impact on climate change, and strategically, this includes:
- focussing development to the most sustainable locations
 - delivering development that reduces the need to travel by private car and encourages sustainable travel options including walking, cycling and public transport
- 6.9 Core Strategy policy RA1 – Rural housing distribution sets out the strategic way housing is to be provided within rural Herefordshire and to deliver a minimum 5,600 dwellings. Herefordshire is divided into seven Housing Market Areas (HMAs) in order to respond to the differing housing needs, requirements and spatial matters across the county.
- 6.10 Core Strategy policy RA2 – *Housing outside Hereford and the market towns* identifies the settlements in each HMA area where both the main focus of proportionate housing development will be directed, along with other settlements where proportionate housing growth is appropriate. Brimfield is one of these settlements and is within the Leominster HMA. Policy RA2 sets Housing proposals will be permitted in the identified settlements where the criteria are met but also directs that Neighbourhood Development Plans will allocate land for new housing.
- 6.11 Core Strategy Policy MT1 – *Traffic management, highway safety and promoting active travel* states Development proposals should incorporate the following principle requirements covering movement and transportation:
1. demonstrate that the strategic and local highway network can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts can be managed to acceptable levels to reduce and mitigate any adverse impacts from the development;
 2. promote and, where possible, incorporate integrated transport connections and supporting infrastructure (depending on the nature and location of the site), including access to services by means other than private motorised transport;
 3. encourage active travel behaviour to reduce numbers of short distance car journeys through the use of travel plans and other promotional and awareness raising activities;
 4. ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services;
 5. protect existing local and long distance footways, cycleways and bridleways unless an alternative route of at least equal utility value can be used, and facilitate improvements to existing or provide new connections to these routes, especially where such schemes have been identified in the Local Transport Plan and/or Infrastructure Delivery Plan; and
 6. have regard to with both the council’s Highways Development Design Guide and cycle and vehicle parking standards as prescribed in the Local Transport Plan - having regard to the location of the site and need to promote sustainable travel choices.
- 6.12 Where traffic management measures are introduced they should be designed in a way which respects the character of the surrounding area including its landscape character. Where appropriate, the principle of shared spaces will be encouraged.
- 6.13 Core Strategy policy LD1 criteria requires new development must achieve the following:
- demonstrate that character of the landscape and townscape has positively influenced the design, scale, nature and site selection, including protection and enhancement of the setting of settlements and designated areas;

- conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including Areas of Outstanding Natural Beauty, through the protection of the area's character and by enabling appropriate uses, design and management

6.14 Core Strategy Policy LD2 – Biodiversity and geodiversity states Development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire, through the:

1. retention and protection of nature conservation sites and habitats, and important species in accordance with their status as follows :
 - a) Development that is likely to harm sites and species of European Importance will not be permitted
 - b) Development that would be liable to harm Sites of Special Scientific Interest or nationally protected species will only be permitted if the conservation status of their habitat or important physical features can be protected by conditions or other material considerations are sufficient to outweigh nature conservation considerations
 - c) Development that would be liable to harm the nature conservation value of a site or species of local nature conservation interest will only be permitted if the importance of the development outweighs the local value of the site, habitat or physical feature that supports important species
 - d) Development that will potentially reduce the coherence and effectiveness of the ecological network of sites will only be permitted where adequate compensatory measures are brought forward.
2. restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks; and
3. creation of new biodiversity features and wildlife habitats.

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

1. *Protect, conserve, and where possible enhance heritage assets and their settings in a manner appropriate to their significance through appropriate management, uses and sympathetic design, in particular emphasising the original form and function where possible*
2. *the conservation and enhancement of heritage assets and their settings through appropriate management, uses and sympathetic design. Where opportunities exist, contribute to the character and local distinctiveness of the townscape or wider environment, especially within conservation areas.*

6.16 Core Strategy Policy SD3 – *Sustainable water management and water resources* states Measures for sustainable water management will be required to be an integral element of new development in order to reduce flood risk; to avoid an adverse impact on water quantity; to protect and enhance groundwater resources and to provide opportunities to enhance biodiversity, health and recreation. This will be achieved by ensuring that:

1. *Development proposals are located in accordance with the Sequential Test and Exception Tests (where appropriate) and have regard to the SFRA 2009 for Herefordshire;*
2. *Development is designed to be safe, taking into account the lifetime of the development and the need to adapt to climate change by setting appropriate floor levels, providing safe pedestrian and vehicular access, where appropriate, implementing a flood evacuation management plan and avoiding areas identified as being subject to rapid inundation from a breach of a Flood Defence;*

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

3. *Where flooding is identified to be an issue, new development should reduce flood risk through the inclusion of flood storage compensation measures, or provide similar betterment to enhance the local flood risk regime;*
4. *Development will not result in the loss of open watercourses and culverts should be opened up where possible to improve drainage and flood flows. Proposals involving the creation of new culverts (unless essential to the provision of access) will not be permitted;*
5. *Development includes appropriate sustainable drainage systems (SuDS) to manage surface water appropriate to the hydrological setting of the site. Development should not result in an increase in run-off and should aim to achieve a reducing in the existing run-off rate and volumes where possible;*
6. *Water conservation and efficiency measures are included in all new developments, specifically:*
 - *Residential development should achieve Housing – Optional Technical Standards – Water efficiency measures. At the time of adoption the published water efficiency standards were 110 litres/person/day; or*
 - *Non-residential developments in excess of 1,000 m² gross floorspace to achieve the equivalent of BREEAM 3 credits for water consumption as a minimum;*
7. *The separation of foul and surface water on new developments is maximised;*
8. *Development proposals do not lead to deterioration of EU Water Framework Directive water body status;*
9. *Development should not cause an unacceptable risk to the availability or quality of water resources; and*
10. *In particular, proposals do not adversely affect water quality, either directly through unacceptable pollution of surface water or groundwater, or indirectly through overloading of Wastewater Treatment Works.*

- 6.17 Development proposals should help to conserve and enhance watercourses and riverside habitats, where necessary through management and mitigation measures for the improvement and/or enhancement of water quality and habitat of the aquatic environment. Proposals which are specifically aimed at the sustainable management of the water environment will in particular be encouraged, including where they are required to support business needs such as for agriculture. Innovative measures such as water harvesting, winter water storage and active land use management will also be supported. In all instances it should be demonstrated that there will be no significant adverse landscape, biodiversity or visual impact.”
- 6.18 Core Strategy Policy SD4 – *Wastewater treatment and river water quality* states Development should not undermine the achievement of water quality targets for rivers within the county, in particular through the treatment of wastewater.
- 6.19 In the first instance developments should seek to connect to the existing mains wastewater infrastructure network. Where this option would result in nutrient levels exceeding conservation objectives targets, in particular additional phosphate loading within a SAC designated river, then proposals will need to fully mitigate the adverse effects of wastewater discharges into rivers caused by the development. This may involve:
- incorporating measures to achieve water efficiency and/or a reduction in surface water discharge to the mains sewer network, minimising the capacity required to accommodate the proposal, in accordance with policy SD3;

- phasing or delaying development until further capacity is available;
- the use of developer contributions/community infrastructure levy funds to contribute to improvements to waste water treatment works or other appropriate measures to release capacity to accommodate new development;
- in the case of development which might lead to nutrient levels exceeding the limits for the target conservation objectives within a SAC river, planning permission will only be granted where it can be demonstrated that there will be no adverse effect on the integrity of the SAC in view of the site's conservation objectives; and
- where the nutrient levels set for conservation objectives are already exceeded, new development should not compromise the ability to reduce levels to those which are defined as favourable for the site.

Neighbourhood Plan

- 6.20 The Brimfield and Little Hereford Neighbourhood Development Plan was made on 22 July 2016 and now forms part of the Development Plan.
- 6.21 The site is not within however adjoins the settlement boundary of Brimfield as defined within the NDP and as such is in a countryside location. NDP policies which are relevant to the application are –
- 6.22 BLH1 – *New Housing Within the Brimfield Settlement Boundary* directs development to such land and sites however also has 6 criteria which are all required to be satisfied, as follows
- A. They are well related to the existing village in terms of accessibility and location, adjoining the built up area and having consideration for relevant footpaths, pavements and cycleways
 - B. They do not lead to the loss of existing community facilities, or designated local green space and access to recreation
 - C. They do not lead to the loss of local employment opportunities, including tourism
 - D. They are not at significant risk of flooding and they can demonstrate they will not increase the risk of flooding elsewhere
 - E. They have suitable provision for access and do not impact adversely on existing highway networks and particularly country lanes
 - F. They do not lead to a loss of residential amenity
- 6.23 BLH2 – *New Housing Development*, along with setting out parameters and aspirations for the allocated site notes its support for at least 38 further dwellings in Brimfield and Little Hereford, with the primary focus being delivery at Brimfield.
- 6.24 BLH3 – *Housing to Meet Local Needs* supports development (noting a requirement of at least 58 units over one or more sites) where it comprises one or a combination of the following –
1. Affordable housing for rental or shared ownership by those with a local connection as defined by Herefordshire Council's local connection policy
 2. Properties should be preferably 1 or 2 bedrooms to meet the needs of first time buyers and small families, but have no more than 3 bedrooms maximum
 3. Properties designed to be suitable for older people should be built to lifetime homes standards and be located close to key facilities

All proposals are required to be accompanied by an up to date housing needs assessment.

- 6.25 BLH8 – *Building Design Principles* which sets out new development must enhance and reinforce local distinctiveness and show how character, scale, mass and layout fits with the 'grain' of the surrounding area through a Design and Access Statement or similar. The policy directs new development to be of a scale, mass and form which responds to the characteristics of the site and its surroundings. Protection of visual amenities and impact on wider landscape views are

prioritised within the policy and the impact on amenity should be minimised along with careful consideration to noise, odour and light. New buildings are required to follow a consistent design approach in the use of materials and fenestration which should complement and add to the quality or character of the area.

- 6.26 BLH9 – *Landscape Design Principles* requires development must preserve or enhance the character of the area and local habitats and wildlife and protect mature and established trees. New locally relevant species planting is promoted and encouraged. All development must incorporate SuDS which are compliant with the most current standards.
- 6.27 BLH12 – *Water Management* requires new development to incorporate suitable sustainable drainage measures and where there are known surface water issues, appropriate mitigation and construction measures required.
- 6.28 BLH16 – *Design to Reduce Surface Water Runoff* requires the maximisation of surface water being retained on site with run off minimised with attenuation measures such as ponds provided within development sites where possible.

National Planning Policy Framework

- 6.29 The NPPF has ‘sustainable development’ central to planning’s remit and objectives. The NPPF also seeks positive improvements in the quality of the built, natural and historic environment and in regards people’s quality of life.
- 6.30 Paragraphs 7 and 8 set out and defines sustainable development and of the three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, the social objective requires planning to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being. This also includes making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 6.31 Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. For decision-taking this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless (having regard to footnote 6) the application of policies of the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.32 With particular reference to the matter of access, the NPPF sets out how transportation, highways impact and non-vehicular movement should be considered, assessed and supported in paragraphs 110 – 113, stating –

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and

- d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

- 6.33 Paragraph 111 explicitly states *Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*
- 6.34 NPPF Paragraph 126 states *The creation of high quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.* Paragraph 130 outlines Planning decisions should ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
 - establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 6.35 Paragraph 131 emphasises *Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change.* Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places
- 6.36 The NPPF paragraph 174 (e) requires the decision making process should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Paragraph 185 requires development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 6.37 NPPF section 16 sets out the position regarding conserving and enhancing the historic environment. Specific principles and policies relating to the historic environment and heritage assets and development are found in paragraphs 189 – 208.
- 6.38 Paragraph 199 advises that *When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is*

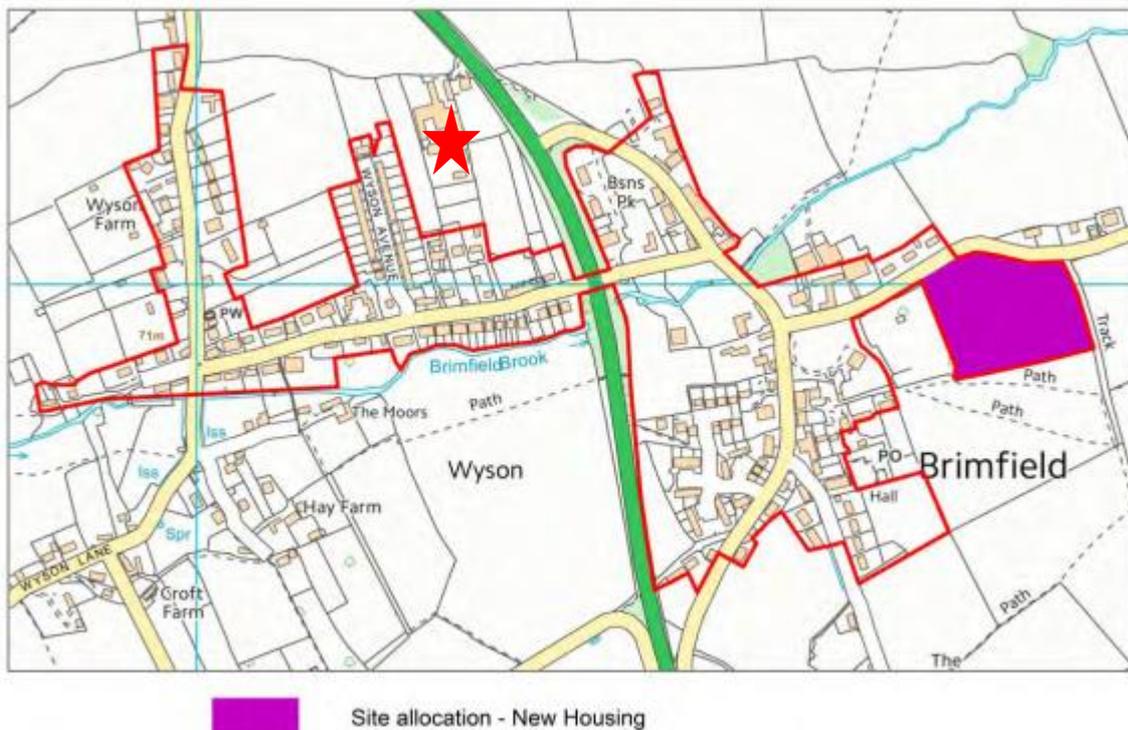
irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

- 6.39 Paragraph 203 states *The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

Assessment

Principle of Development

- 6.40 The site adjoins the main built form of Brimfield as required by CS policy RA3 and H2 and as defined by the settlement boundary of the village detailed in the Neighbourhood Development Plan as shown below, with application site denoted with the red star –



- 6.41 In addition to the definition of the settlement boundary for Brimfield, The NDP aims for provision of at least 75 new houses over the Plan period on sites within the identified Brimfield settlement boundary (shown above). At the time of the NDP's adoption a target of 67 remained. Residential development will be permitted on both identified areas and windfall sites within the settlement boundary where proposals are in accordance with other policies this Plan. Where possible, built form should respect and continue the existing building line and not build up to the edge of the identified settlement boundary. The Core Strategy does not allocate land directly for housing, however the Neighbourhood Development Plan does incorporate such allocations, as shown above.
- 6.42 The principle of development has been established by the site's alignment with the Core Strategy under policy RA3 and satisfying the locational criteria of CS policy H2. There is however a policy tension with CS policy H2 and NDP policy BLH3 as the proposal will not be retained solely for local people in need of affordable housing. This is due to the funding rules from Homes England. However, as the proposal will assist in meeting a proven local and countywide need for affordable housing as demonstrated by the housing needs assessment provided with the application, and the comments of support from the Council's Strategic Housing Officers, the benefits are

considered to outweigh this conflict There is also nothing preventing local people or those with a local connection applying for these dwellings. The affordable housing provided however is made available to, and retained in perpetuity for people in need of affordable housing and this is secured by legal agreement; and the site respects the characteristics of its surroundings, demonstrates good design and offers reasonable access to a range of services and facilities of a settlement identified in Policy RA2

Sustainability and addressing Climate Change

- 6.43 Further to 'principle', described above, the development is located in a sustainable location where residents will have access to local services and facilities, which include Church, Public House and bus services to Leominster and Ludlow, all by foot. The availability of other services and facilities in the surrounding rural hinterland at other RA2 settlements nearby such as Woofferton, Orleton and Kimbolton, or higher level and range of services, facilities, shops and employment at the market town of Leominster around 7 miles away, and provides medical care provision, a railway station with services to Hereford and the North, Secondary School and supermarkets and independent shops. Similar services and facilities are found out of County at the market town of Ludlow, 5 miles to the North and also has a train station, and the market town of Tenbury Wells, 5 miles East.
- 6.44 The development will be designed to meet the requirements of the current Building Regulations, Approved Document Part L – *Conservation of Fuel and Power*, and Part F – *Ventilation*. These documents set out the standards required to achieve good levels of heat retention and ventilation.
- 6.45 All of the dwellings will be built using Timber Frame construction. This method of construction allows for greater levels of thermal performance and increased air tightness, all of which will benefit the occupier and reduce energy consumption and resultant bills. It also uses a completely renewable and therefore sustainable source of material which adheres to policy SD1 of the Herefordshire Core Strategy. Further to this a condition for the efficient use of water is recommended for both environmental and cost saving benefits. All dwellings are also served with cycle storage and EV charging points to encourage more environmentally friendly and sustainable ways to travel. These features are secured and maintained from first occupation through conditions.

Landscape

- 6.46 Both policies RA2 and the NDP housing supply policies are underpinned by Policy LD1 of the Core Strategy – Landscape and townscape. Development proposals need to demonstrate that features such as scale and site selection have been positively influenced by the character of the landscape and townscape, and that regard has also been had to the protection and enhancement of the setting of settlements. Development proposals should also conserve and enhance the natural, historic and scenic beauty of important landscapes and features, including locally designated parks and gardens; and should incorporate new landscape schemes and their management to ensure development integrates appropriately into its surroundings. The proposed layout is shown below –



- 6.47 The site is accessed through the new residential development to the South, which in turn has access and egress on to Wyson Lane. The layout proposed responds to that adjoining development, with the vertical linear layout repeated across the Northern three quarters of the site, and a horizontal orientated group of three number blocks of semi detached dwellings. This enables the efficient use of land in terms of number of units provided whilst also safeguarding adjoining amenity of the dwellings to the South as the aerial picture above demonstrates.
- 6.48 Open space is provided across the proposed development including informal amenity space and natural green space. A mix of planting is proposed throughout the open space providing ecological and biodiversity enhancements. These features assimilate the development into its site and setting.
- 6.49 The proposal will be viewed, and having regard to its scale, mass and height, as a continuation of the existing residential development hereabouts, especially on views towards Brimfield as approach in a southerly direction on the A49 or with views across to the village from the B4362 and A465. The built extent of the village is not increased in an appreciable with regards to harm to the landscape character of the area or setting of Brimfield.
- 6.50 It is concluded that the development of this site in the form proposed would represent development that would be in keeping with the local landscape character and the character and setting of the settlement, and as such satisfies the requirements of policies LD1, SD1 and RA2, and consequently Policy H2 of the Herefordshire Local Plan – Core Strategy, Brimfield NDP and relevant landscape and response to context aims and objectives of the NPPF.

Design and Amenity

- 6.51 Notwithstanding the landscape matters assessed above, CS policy SD1 requires that new buildings should be designed to maintain local distinctiveness through incorporating local architectural detailing and materials and respecting scale, height, proportions and massing of surrounding development. While making a positive contribution to the architectural diversity and character of the area including, where appropriate, through innovative design and safeguard residential amenity for existing and proposed residents. The NPPF 2021 has also raised design standards, paragraph 127 is explicit that *The creation of high quality, beautiful and sustainable*

buildings and places is fundamental to what the planning and development process should achieve.

6.52 The proposal offers 3 different designs over 4 layouts configurations over the 14 houses as shown below. There is a degree of commonality in design terms with the adjoining existing estate –



6.53 The materials palette includes brick and render treatments, and roof tiles coloured russet or slate grey and uPVC windows coloured grey or white. This approach prevents monotony over the development, creates visual interest and helps create a sense of identity to the development which is also complementary to its location and setting.

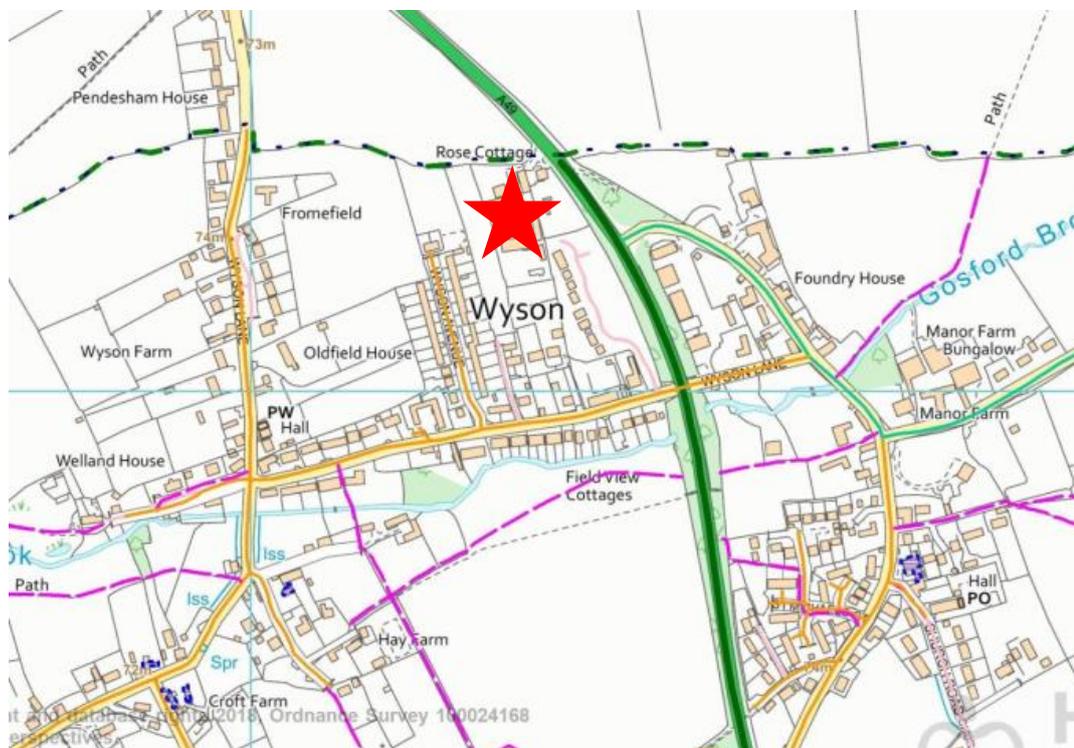
Further information on the subject of this report is available from Mr C Brace on 01432 261947

- 6.54 As such the proposal is considered an appropriate design response to context, building on and reinforcing local character through this complementary development. The proposal is considered to satisfy CS policies SS6, RA2 and LD1, the relevant policies of the Brimfield NDP and relevant design and context aims and objectives of the NPPF.
- 6.55 The proposed layout of the site has been strongly influenced by the fact it is located near to the A49. Houses have been designed to sit along the western edge of the site as this is furthest from the A49. Public Open Space has naturally been provided to the eastern edge of the site in order to create a buffer zone. It is noted the proposed houses are located further to the West of the A40 than the dwellings through which access is gained are.
- 6.56 As discussed above, dwellings annotated 1 – 6 on the proposed site layout are orientated to minimise the impact on amenity of the dwellings they adjoin to the South. All dwellings have an acceptable sized private rear garden. Dwellings 7 – 14 overlook the access drive and open space and planting to the East and their principle elevations, whilst their rear gardens and outlook West is over a recreational open space and play area.
- 6.57 Having regard to the existing site condition and lawful agricultural uses which could be carried out on the land and within the existing buildings, the proposals will greatly enhance both the amenity and setting of Alma House and Rose Cottage to the North and North East of the site, and nos 7 – 10 The Coppice specifically. There will, it is considered, be wider amenity and setting benefits to Brimfield and residents hereabouts from the proposal over the current condition and land uses of the site.
- 6.58 With regards to the amenity of Alma House, given the distance to and from the external wall of the nearest dwelling is over 20 metres, and having regard to orientation, proposed boundary treatments and planting, no significant or unacceptable impact is identified.
- 6.59 The orientation of dwelling no.1 and 2, along with the elevation facing the dwellings on The Coppice to the East, being blank ensures amenity of both sets of occupiers is protected. Permitted development rights are recommended to be removed to ensure this position remains.
- 6.60 Finally, with regard to noise nuisance from the A49, it is noted the new dwellings on The Coppice are located closer to it and noise did not preclude that development coming forward. Furthermore, combined with intervening green and built infrastructure, sufficient amenity will be enjoyed similar to all the existing dwellings hereabouts.
- 6.61 Having regard to all the above it is considered occupiers of the proposals have a good level of amenity and privacy and there is no significant adverse impact on adjoining amenity or privacy created from the proposals. The proposal is considered to satisfy CS policies SS6, RA2, LD1 and SD1, the relevant policies of the Brimfield NDP and relevant amenity aims and objectives of the NPPF.

Heritage

- 6.62 When considering the impact of a development proposal upon the setting of a Heritage Asset, there are several stages. Firstly identifying those assets which may be affected and their significance. Then those aspects of their setting which contribute to the significance are identified and lastly the impact of the development upon this significance. It should be noted that a view to or from a Heritage Asset does not necessarily mean that a site is within that assets setting, this depends upon whether that view contributes to the significance of the asset. Also a site can be within the setting of a heritage asset without their being a direct view under certain circumstances. The fundamental principle is whether or not a development affects the significance of a heritage asset, including those aspects of its setting which contribute to its significance.

6.63 The site is not within a conservation area, and it is noted Brimfield does not have one, nor does the site contain or adjoin any designated heritage assets. The nearest heritage assets are all some way South of Wyson Lane itself and further separated by existing development, fields or green infrastructure. These assets are hatched blue and their relationship with the application site, denoted with the red star, are shown on the map below –



6.64 Based on the evidence before me which includes the site history and my observations from my site visit, there is adequate separation between the site and the nearest listed building's, as shown above, that their setting is not impacted upon. Furthermore, I have concluded as set out above that the development relates to the established linear pattern of Brimfield hereabouts and the scale of development is such it would not appear incongruous in the village context. Consequently, the proposed development would not result in material harm to the character and appearance of any heritage asset hereabouts. Therefore, the proposed development would preserve the character or appearance, and consequently the significance, of these heritage assets. Having reached this conclusion there would be no conflict with CS Policy LD4 or the relevant policies of the Brimfield NDP.

6.65 As such the proposals are not considered to result in harm on designated heritage assets. When assessed against the requirements of the NPPF, the proposal is considered acceptable based on an assessment of the assets value and importance weighed against and considering the wider benefits of the proposal. It is concluded the proposal accord with policies SS6 and LD4 of the Herefordshire Core Strategy, heritage aims and objectives of the NPPF and Section 66 (1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Highways

6.66 Access arrangements serving the proposal have been demonstrated achieve relevant technical standards and required visibility splays to the satisfaction of the Transportation Manager. The access strategy is in compliance with Manual for Streets 2 and Herefordshire Council's Highways Design Guide.

- 6.67 The access arrangements on to the local road network utilise an existing and modern access point on Wyson Lane, increasing the dwellings served from this route. It is understood that this section is to remain private which will result in this development also being private (it is not possible to adopt an 'island' of highway not connected to the highway network).
- 6.68 With reference to the increase volume of dwellings the total number of dwellings served from the route will not exceed the local highway authority threshold for residential units served from a road of this nature. As a result, this aspect of the development complies with the requirements of Herefordshire Council's Highways Design Guide for New Developments.
- 6.69 In terms of trip generation the additional 14 dwellings are assessed against the NPPF which sets out that development should only be resisted on highways grounds if the cumulative impact could be classed as severe. The additional units are unlikely to generate a significant additional peak hour flow from the site. Whilst it is clear that traffic levels will increase from the site the increase is insufficient to evidence a severe impact on the local road network. As a result of this highways consideration the LHA does not object to the principle of the development. A portion of these movements will be offset by the consideration of the existing permitted use of the site which will be removed, albeit this appears to be to the benefit of the national strategic road network due to the primary access point being onto the A49 in Shropshire.
- 6.70 The geometry proposed in the submission are appropriate. It is noted that the landscaping is arranged to not encroach upon the visibility splays and a footway exists on one side to provide pedestrian linkages consistent with the existing site. Due to this and its location, the development has good pedestrian connectivity to services and facilities in the village. In addition, the parking provision is appropriate and includes visitor spaces. This approach will not result in vehicles needing to park injudiciously on either this proposed private infrastructure or the wider public highway.
- 6.71 On this basis and with regards to the Transportation Managers' comments, the proposal addresses highway safety, has connectivity to local services and facilities so to offer sustainable transport options and no *severe* impact justifying refusal as set out within NPPF paragraph 109 is assessed to be created with regards additional vehicular movements associated with the proposals.
- 6.72 All new developments require cycle storage to supplement the access strategy. It is noted that each dwelling includes a shed for this cycle storage. As a result this is considered appropriate and will be secured and retained by condition. Similarly, EV points are required by condition to serve each dwelling.
- 6.73 The proposal complies with CS policies SS4 and MT1, Herefordshire Council's Highways Design Guide and the relevant aims and objectives of the NPPF.

Drainage

- 6.74 Review of the Environment Agency's Flood Map for Planning and the submitted Flood Risk Assessment indicates that the site is located in Flood Zone 1. Review of the EA's Risk of Flooding from Surface Water map indicates that the site is not at risk of surface water flooding. Review of the EA's Groundwater map indicates that the site is not located within a designated Source Protection Zone or Principal Aquifer.
- 6.75 The surface water drainage runoff at this site is managed using soakaways / infiltration methods and the foul water drainage strategy is proposed to outfall via gravity into the existing private foul drainage system operated by Severn Trent Water.
- 6.76 The comments of the Council's Drainage Engineer are noted, along with correspondence from Severn Trent Water, whose final position of no objection subject to requested conditions being

imposed being recorded. As such CS policies SD3 and SD4 are satisfied and suitable drainage arrangements can and will serve the development.

Biodiversity

- 6.77 Policy LD2 states *Development proposals should conserve, restore and enhance the biodiversity and geodiversity assets of Herefordshire, through the:*
1. retention and protection of nature conservation sites and habitats, and important species in accordance with their status
 2. restoration and enhancement of existing biodiversity and geodiversity features on site and connectivity to wider ecological networks; and
 3. creation of new biodiversity features and wildlife habitats.
- 6.78 The advice in Chapter 15 of the NPPF, *Conserving and enhancing the natural environment*, reinforces this, stating *promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*
- 6.79 The site is within 10km of Downton Gorge SAC and located downstream of the SAC/SSSI. Having reviewed all information including Natural England's SAC/SSSI Impact Risk Zone information NO effects are identified from this application in respect of Downton Gorge SAC and no further Habitat Regulations Assessment process is triggered.
- 6.80 The site is within 1km of The River Teme SSSI and the LPA must consider all potential effects that this development could have on this SSSI nature conservation site.
- 6.81 The River Teme SSSI is primarily designated for aquatic habitats and species. Natural England have not currently advised the LPA of any specific constraints on developments that could have an effect on the integrity of the Teme SSSI.
- 6.82 The proposed development would add additional foul water loading on the existing mains sewer network – managed by Severn Trent water. The local waste water treatment plant will have a final outfall within the River Teme SSSI catchment. It is noted Severn Trent in their comments dated 17th February 2021 have not raised any objection to a mains sewer connection for this development and the connection to local mains sewer can be secured by a condition on any planning consent granted. Similar, the surface water management strategy can be secured for implementation through any planning consent granted.
- 6.83 The LPA considers that the proposed foul and surface water management strategies are relevant and achievable and are technically compliant with all relevant local plans and policies. Subject to the strategy being secured for implementation by condition any effects from foul and surface water from the proposed development can be considered as fully mitigated and no adverse effect on the integrity of the River Teme SSSI is identified. The Core Strategy requires development proposals to conserve, restore and enhance biodiversity through the retention and enhancement of nature conservation site and habitats and important species. This is also supplemented and underpinned by Core Strategy policies LD2 – *Biodiversity and geodiversity* and LD3 – *Green infrastructure*.
- 6.84 The ecology appraisal by Turnstone Ecology is appropriate and includes the provision of mitigation and enhancement strategies, including during the construction phase. In line with Conservation of habitats and Species Regulations, NPPF, NERC Act, Core Strategy SS6 and LD2 as well as draft Environment Bill all developments should clearly demonstrate a significant and lasting biodiversity net gain. To secure this a condition requiring a fully detailed plan and specification for proposed biodiversity net gain enhancement features is suggested as a Condition.

- 6.85 Mitigation for the loss of approximately 31m of hedgerow and two trees will feature approximately 110m of additional hedgerow planting will be completed along the northern and western site boundaries and scattered trees will be planted along the southern site boundary. The new hedgerows are recommended to include a mix of native broadleaved species i.e. Hawthorn, Blackthorn, Crab Apple (*Malus sylvestris*) Hazel, Dog Rose (*Rosa canina* agg.), Rowan (*Sorbus aucuparia*), Dogwood (*Cornus sanguinea*), Honeysuckle (*Lonicera periclymenum*) and Field Maple (*Acer campestre*). Any tree planting within the proposed gardens and along the site boundaries should comprise native species such as Rowan, Crab Apple, Field Maple and Alder (*Alnus glutinosa*).
- 6.86 Three suitable hedgehog houses (such as those manufactured by Schwegler) should be installed around the site in suitable habitat and cover. Each fenceline in the gardens of the proposed properties should contain one gravel board with a gap measuring 13 cm by 13cm to allow Hedgehogs to move freely between gardens and across site.
- 6.87 A mix of two House Sparrow (*Passer domesticus*) terrace boxes, two hole fronted nest boxes, two open-fronted nest box and two House Martin nest boxes should be erected on the proposed dwellings (one box per dwelling) as part of ecological enhancement and mitigation measures.
- 6.88 A range of invertebrates, including pollinating insects, were recorded during the site survey and as such it is considered appropriate that enhancements specific to this group should be incorporated in to the proposed development. It is therefore recommended that an invertebrate hotel should be constructed in the area of Public Open Space adjacent to the retained trees along the eastern boundary as this location should offer a degree of shelter.
- 6.89 In conclusion, through the implementation of the safeguards and other requirements of ecological conditions, it is considered that the proposals accord with planning policy with regard to nature conservation at all administrative levels. In addition, it is considered that the proposal would create a net enhancement to biodiversity post development. As such the proposal complies with Herefordshire Core Strategy policies LB2, LD2 and LD3 and the relevant aims and objectives Chapter 15 of the NPPF.

Housing Mix

- 6.90 Policy RA2 (4) seeks to ensure that schemes generate the size, type, tenure and range of housing that is required in particular settlements, reflecting local demand.
- 6.91 The past delivery of affordable housing in Herefordshire has left the Council open to significant criticism at Planning Appeals, despite all the corporate policies seeking to delivery more and attempts to reduce levels of homelessness. A description of affordable housing delivery was described as '*pitiful*' at the recent Land to the North of the Viaduct, Ledbury Public Inquiry.
- 6.92 Considering past delivery of only 1,063 dwellings between 2011/12 and 2018/19 there has been an accumulated shortfall of 4,604 affordable dwellings. This is an affordable housing shortfall of 81% since 2011/12 against a target of 5,667 during the same period; or, put another way, just 19% of need has been provided. The scale of this shortfall is clearly significant and equates to almost 600 affordable homes per annum that are not being provided.
- 6.93 With further regards to the need for additional affordable housing, the emerging Housing Market Area Needs Assessment (HMANA) estimates that there is a need of 597 units per annum. This shows that there has been a further increase in need for affordable housing since the last assessment. This site will help to deliver much needed affordable housing, by way of affordable home ownership, not just for Brimfield but also for the wider population. This document is available to view of the Councils Website at:

- 6.94 The proposal will deliver 14 affordable units in a sustainable location and help meet both evidenced local need and dwelling size and tenures identified in the Brimfield NDP. The comments of the Strategic Housing are noted. The proposal would with a suitable affordable housing with regards type and tenure compliant with Herefordshire Core Strategy policies SS2, SS3, H2, RA2 and RA3 and as such represents development that meets with regards to housing, affordable housing and the social objectives of the NPPF which secure balanced mixed inclusive communities.

Section 106 Agreement / Planning Obligations

- 6.95 The Heads of Terms has been assessed against the adopted Supplementary Planning Document on Planning Obligations dated 1 April 2008, and Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 (as amended).
- 6.96 The Affordable Housing Units will be retained as such in perpetuity however there is no local connection as per the requirement of Homes England funding which finances the development.
- 6.97 The sum of **£5,360.00** (index linked) to provide infrastructure at Tenbury Surgery has been secured from the development. The sum shall be paid prior to the commencement of the development, and may be pooled with other contributions if appropriate.
- 6.98 On site green infrastructure comprising 0.013ha (130sqm) of Public Open Space and 0.0250ha (250sqm) of Informal Children's Play and the maintenance thereof is also secured.
- 6.99 The proposed planning obligations which includes the delivery of community infrastructure towards healthcare, open space and plan and the delivery of 14 affordable housing units will achieve the following ambitions and success measures of the County Plan 2020-2024;

Environment

- Improve resident's access to green space in Herefordshire

Community

- Improve Herefordshire's house affordability ratio, making accommodation more affordable to local people
 - Reduce the number of people admitted to hospital for unplanned events
- 6.100 On the basis of the above and as confirmed by the Planning Obligations Manager, a policy compliant draft Heads of Terms can be agreed.

Summary and planning balance

- 6.101 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states as follows *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."* The development plan is the Herefordshire Core Strategy and Brimfield Neighbourhood development plan.
- 6.102 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. As concluded above the proposals are considered to accord with the development plan through meeting the criteria of relevant plan policies. This includes the policies of the Neighbourhood Development Plan. 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 benefits and impacts of the proposals against each of the three roles or dimensions of sustainable development in turn.

Turning to the three objectives of sustainable development;

Economic Objective

- 6.103 A key aspect of the economic role played by the planning system is to ensure that sufficient land of the right type is available in the right places and at the right time to support growth. The provision of land for housing is part of this overall role.
- 6.104 In this context, the proposals score, in economic terms at least, positively. The proposal could help to support economic growth arising from:
- employment and supply of associated materials, goods and services in the construction phase
 - support to local services and facilities arising from the new resident population
 - economic benefits to the Council through the payment of New Homes Bonus.
- 6.105 However, positive economic benefits arising from the scheme are not unique to this application proposal, but will arise to varying degrees of magnitude on every housing development and I attach only moderate weight to these benefits.

Social Objective

- 6.106 Planning's social role incorporates providing a supply of housing to meet present and future needs and the creation of a high quality built environment. The proposed development will add to the supply of housing, including social housing, which widen opportunities for home ownership and contribute to meeting housing requirements across the district as a whole.
- 6.107 The planning policy requirements are set out in Core Strategy policies RA1 for overall rural housing requirements and H2 for affordable provision. There is an acknowledged need to provide affordable housing in the Leominster Rural HMA, which includes Brimfield. The proposals will assist in reaching the indicative housing growth target set by policy RA1 for the area and so will contribute to meeting identified general countywide housing needs.
- 6.108 The proposal would provide a suitable range or mix of housing as required by CS policies H3 and RA2. I attach significant weight to this issue given the scale of affordable housing to be delivered by the development in a rural location, the overriding need for affordable housing countywide and clear policy requirements including affordable housing delivery, the proposal will help address. These benefits outweigh the tension with policy H2 and the NDP regarding these dwellings should be secured solely for local people.

Environmental objective

- 6.109 The environment objective requires consideration of how the development contributes to protecting and enhancing the natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution and mitigating climate change (low carbon economy).
- 6.110 The proposal will enable more sustainable patterns of activity through providing new homes in a sustainable location at a village with a range of service and facilities and public transport links. The proposal forms redevelopment of an existing derelict site where its lawful land use and activity

is not compatible with adjoining land uses. The proposals represent enhancement to amenity. The setting of the settlement and amenity gains the development delivers are significant and beneficial over the existing situation.

- 6.111 Taking all of the above into account, officers consider that the public benefits arising from the scheme, as outlined above are positive.

Conclusions

- 6.112 Policy SS1 of the CS reflects the presumption in favour of sustainable development in national policy and provides that planning applications that accord with the policies in the Core Strategy will be approved unless material considerations indicate otherwise. Policy SS1 also aligns itself with NPPF paragraph 11 and as a matter of local plan policy states *Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the council will grant permission unless material considerations indicate otherwise.*

- 6.113 The NPPF paragraph 11 provides the mechanism for the determination of the application stating:

For decision Making

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

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

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

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

- 6.114 As detailed above there is conformity with the relevant policies of the development plan which includes the Brimfield and Little Hereford Neighbourhood Plan. These policies are consistent with the guidance contained within the NPPF.

- 6.115 On the basis of the clear direction from NPPF paragraph 11, the local plan policy and NPPF aims and objectives compliance officers would conclude that the proposals comply with the policies of the Development Plan and that there are no technical reasons for any other material considerations that indicate that planning permission should not be granted.

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 subject to either the completion of a Section 106 Town & Country Planning Act 1990 obligation agreement in accordance with the Heads of Terms stated in the report, or a condition requiring the completion of an agreement prior to the commencement of development, officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions considered necessary

That planning permission be granted subject to the following conditions:

Regulatory Conditions

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

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

2 The development shall be carried out strictly in accordance with the approved plans and supporting details:

- *To be completed*

except where otherwise stipulated by conditions attached to this permission.

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy RA2 and SD1 of the Herefordshire Local Plan – Core Strategy, Bosbury and Coddington Neighbourhood Development Plan and the National Planning Policy Framework.

Pre Commencement Conditions

3 Before any work, including any site clearance or demolition begin, or equipment or materials moved on to site, a Construction Environmental Management Plan (CEMP) including a full Ecological Working Method Statement and a specified ‘responsible person’, shall be supplied to the local planning authority for written approval. The approved CEMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework (2018), NERC Act (2006), Herefordshire Core Strategy (2015) policies MT1, SD1 and LD1-3.

4 Before any work, including any site clearance or demolition begin, or equipment or materials moved on to site, a Construction Management Plan (CMP) including a full Construction Working Method Statement and a specified ‘responsible person’, shall be supplied to the local planning authority for written approval. The approved CMP shall be implemented and remain in place until all work is complete on site and all equipment and spare materials have finally been removed; unless otherwise agreed in writing by the local planning authority.

The Construction Management Plan shall include, but is not limited to, the following matters:

- site management arrangements, including on-site storage of materials, plant and machinery; temporary offices, contractors compounds and other facilities; on-site parking and turning provision for site operatives, visitors and construction vehicles (including cycle parking for staff and visitors); and provision for the loading/unloading of plant and materials within the site;
- wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;
- measures for managing access and routing for construction and delivery traffic;
- hours during which construction work, including works of site clearance, and deliveries can take place;
- Tree / hedge protection plan for the phase of development (as per condition 18);

- **Construction Traffic Management Plan, including construction access details if it differs from the access detailed under Condition 12 of this Decision Notice;**
- **Ecological mitigation and protection for the phase of development**

Reason: In the interests of highway safety, in the interests of safeguarding adjoining amenity, protection of retained green infrastructure and to comply with National Planning Policy Framework (2018), policies MT1, SD1 and LD1-3.

- 5 The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority.**

The scheme shall be implemented in accordance with the approved details before the development is first brought into use and occupation and thereafter be maintained as such.

Reason: To ensure adequate drainage arrangements serve the development and to mitigate, prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution and prevent adverse impact on adjoining land and use and to comply with Herefordshire Core Strategy policies SD1, SS3 and SS4 and the Brimfield and Little Hereford Neighbourhood Development Plan.

- 6 Development shall not begin in relation to the provision of road and drainage infrastructure until the engineering details and specification of the proposed roads and highway drains have been submitted to and approved in writing by the local planning authority.**

The development shall be carried out in accordance with the approved details and completed prior to first occupation of the development hereby permitted.

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

- 7 No development shall take place until the following has been submitted to and approved in writing by the local planning authority:**

a) a 'desk study' report including previous site and adjacent site uses, potential contaminants arising from those uses, possible sources, pathways, and receptors, a conceptual model and a risk assessment in accordance with current best practice

b) if the risk assessment in (a) confirms the possibility of a significant pollutant linkage(s), a site investigation should be undertaken to characterise fully the nature and extent and severity of contamination, incorporating a conceptual model of all the potential pollutant linkages and an assessment of risk to identified receptors

c) if the risk assessment in (b) identifies unacceptable risk(s) a detailed scheme specifying remedial works and measures necessary to avoid risk from contaminants/or gases when the site is developed shall be submitted in writing.

The Remediation Scheme shall include consideration of and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination encountered shall be fully assessed and an appropriate remediation scheme submitted to the local planning authority for written approval.

Reason: In the interests of human health and to comply with Herefordshire Core Strategy policy SD1 and the relevant aims and objectives of the National Planning Policy Framework.

8 With the exception of any site clearance and groundwork (excluding any works to retained features), no further development shall commence on site until a landscape design has been submitted to and approved in writing by the Local Planning Authority. The details submitted should include:

- A plan(s) at a scale of 1:200 or 1:500 showing the layout of retained and proposed tree, hedge and shrub planting and grass areas
- A written specification clearly describing the species, sizes, densities and planting numbers and giving details of cultivation and other operations associated with plant and grass establishment
- Existing and proposed finished levels or contours
- Hard surfacing materials
- Minor structures (e.g. play equipment, street furniture, lighting, refuse areas, signs etc.)
- Any retained historic features and proposals for restoration

The approved soft landscaping scheme and planting details shall be carried out concurrently with the development hereby permitted and shall be completed no later than the first planting season following the completion of the development.

Reason: To protect and enhance the visual amenities of the development and wider area and setting of Brimfield hereabouts, to maintain and enhance the character and appearance of the location and setting of Brimfield and to ensure that the development complies with the requirements of Policy SS6, RA1, RA2, LD1, LD4 and SD1 of the Herefordshire Local Plan – Core Strategy, the Brimfield and Little Hereford Neighbourhood Development Plan, and the design and environmental aims and objectives of the National Planning Policy Framework.

Compliance Conditions

9 The ecological protection, mitigation, compensation and working methods scheme and biodiversity net gain enhancements as specified in the ecology report by Turnstone Ecology dated August 2021 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 any protected species licences.

Reason: To ensure that all species are protected and habitats enhanced having regard to the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019' (the 'Habitats Regulations'), Wildlife and Countryside Act 1981, National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1, LD2 and LD3 and Brimfield and Little Hereford Neighbourhood Development Plan.

10 No development in any phase, including any works of site clearance, shall commence during the bird nesting season (1 March – 31 August inclusive) unless it has been demonstrated through the submission of a method statement that shall previously have been submitted to and approved in writing by the local planning authority, that nesting birds can be adequately protected. Development shall be carried out only in accordance with the approved details which may include, but are not confined to, the timing of work, pre-work checks, avoidance of nesting areas, and protection zones around nesting areas.

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

- 11 No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the construction phase and thereafter for 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars.**

Reason: To safeguard the character and amenity of the area and to ensure that the development conforms to Policies LD1 and LD3 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

- 12 The construction phase of the development hereby permitted shall be carried out in strict accordance with the details specifying the measures to be put in place during the construction period for the protection of those trees and hedgerows to be retained, in accordance with the principles set out in BS 5837:2012 as detailed within the Tree Condition Report Arboricultural Impact Assessment Root Protection Areas Method Statement, listed under Condition 2 of this Decision Notice.**

Reason: To safeguard and protect trees and hedgerows to be retained during the construction phase and to comply with Herefordshire Core Strategy policies LD1, LD2 and LD3.

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

Reason: In the interests of human health and to comply with Herefordshire Core Strategy policy SD1 and the relevant aims and objectives of the National Planning Policy Framework.

Prior to Occupation Conditions

- 14 Prior to the first occupation of any dwelling to which this permission relates an area for car parking shall be laid out within the curtilage of that property, in accordance with the approved plans which shall be properly consolidated, surfaced and drained, in accordance with details to be submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any other purpose than the parking of vehicles.**

Reason: In the interests of highway safety and to comply with Herefordshire Core Strategy policies SS4 and MT1.

- 15 No dwelling hereby approved shall be occupied until details including illumination areas, luminance levels and control systems of any floodlighting or external lighting proposed to illuminate any phase of the housing development, as relates to non domestic fixings, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.**

Reason: To safeguard local amenities and adjoining land uses, Dark Skies and to comply with Policy SD1, SS6 and LD1-3 of the Herefordshire Local Plan – Core Strategy, National Planning Policy Framework and Conservation of Habitats and Species Regulations (2018).

- 16 No dwelling hereby approved shall be occupied until arrangements to facilitate broadband and/or high speed internet connection to those dwellings have been implemented in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

Reason: To ensure occupiers have suitable facilities and 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.

- 17 Prior to the first occupation of any dwelling hereby permitted 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.

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

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.

- 19 Details regarding the storage and collection location of bins should be provided and approved in writing by the Local Planning Authority prior to occupation of any dwelling. Bin collection points would need to be provided for any plot located over a 25 metre walking distance from where the RCV can safely access and shall be installed and made available for use prior to the occupation of the dwelling to which it serves.

Reason: In the interests of highway safety, public health and amenity and to comply with Herefordshire Core Strategy policies LD1, MT1 and SD1.

- 20 Before any dwelling is first occupied or brought into use, a schedule of landscape implementation and maintenance of non-private garden areas shall be submitted to and approved in writing by the local planning authority. Delivery and Maintenance shall be carried out in accordance with this approved schedule. The maintained height of existing and proposed hedgerows should be specified within the Schedule and a plan is required to show which areas are covered by the Estate Management Company.

Reason: To ensure the future establishment of the approved scheme, in order to protect and enhance the visual amenities of the area and setting of Brimfield hereabouts, to maintain and enhance the character and appearance of the location and setting of Brimfield and to ensure that the development complies with the requirements of Policy SS6, RA1, RA2, LD1, LD4 and SD1 of the Herefordshire Local Plan – Core Strategy, the Brimfield and Little Hereford Neighbourhood Development Plan, and the design and environmental aims and objectives of the National Planning Policy Framework.

- 21 The provision of covered and secure cycle parking on site and within the curtilage of each dwelling as shown on and within the approved plans and details listed under Condition 2

of this Decision Notice shall be made available for use prior to occupation of the dwelling it serves and thereafter be retained for such use.

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

- 22 The Remediation Scheme, as approved pursuant to condition 7 of this Decision Notice shall be fully implemented before the development is first occupied. On completion of the remediation scheme the developer shall provide a validation report to confirm that all works were completed in accordance with the agreed details, which must be submitted and agreed in writing before the development is first occupied. Any variation to the scheme including the validation reporting shall be agreed in writing with the Local Planning Authority in advance of works being undertaken.

Reason: In the interests of human health and to comply with Herefordshire Core Strategy policy SD1 and the relevant aims and objectives of the National Planning Policy Framework.

- 23 Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, B, C, D and H of Part 1 and of Schedule 2, shall be carried out and furthermore no windows shall at any time be placed in any elevation, or dormer windows in any facing roof slope of the dwellings hereby permitted other than those shown on the approved plans listed under Condition 2 of this Decision Notice..

Reason: In order to protect the character and amenity of the locality, to ensure the design, character and appearance of this high quality development is protected, to maintain the amenities of adjoining property, ensure the development retains a mix of housing sizes and to comply with Policy H1, H3, RA2 and SD1 of the Herefordshire Local Plan – Core Strategy, the Brimfield and Little Hereford Neighbourhood Development Plan and the National Planning Policy Framework

- 24 The development hereby permitted shall be served by vehicular access and egress by the route through and from The Coppice and Wyson Lane only, as shown on the approved plans listed under Condition 2 of this Decision Notice.

Reason: In the interests of highway safety and amenity, to safeguard the strategic road network and having regard to the basis on which the development has been assessed and to comply with Herefordshire Core Strategy policies SS4 and MT1 and the relevant aims and objectives of 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.

- 2 It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.
- 3 The Developer is advised that some public sewers, lateral drains or water mains may not be recorded on Welsh Water’s 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. The presence of such assets may affect the proposal. In order to assist us in dealing with the proposal the applicant may contact Dwr Cymru Welsh Water. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.
- 4 With reference to the surface water, Welsh Water advise they would not permit the communication of flows to the public sewer as it is designated to receive foul water only. Any drainage strategy should consider utilising a sustainable drainage technique. In addition, please note that no highway or land drainage run-off will be permitted to discharge directly or indirectly into the public sewerage system.
- With regards to the requirements of Condition 7 –
- 5
 - Assessment is required to be undertaken in accordance with good practice guidance and needs to be carried out by a suitably competent person as defined within the National Planning Policy Framework 2021
 - All investigations of potentially contaminated sites are required to undertake asbestos sampling and analysis as a matter of routine and this should be included with any submission
 - Where ground gas protection measures are required, they shall be validated in accordance with current best practice guidance
- 6 This planning permission is pursuant to a Section 106 legal agreement dated XXX

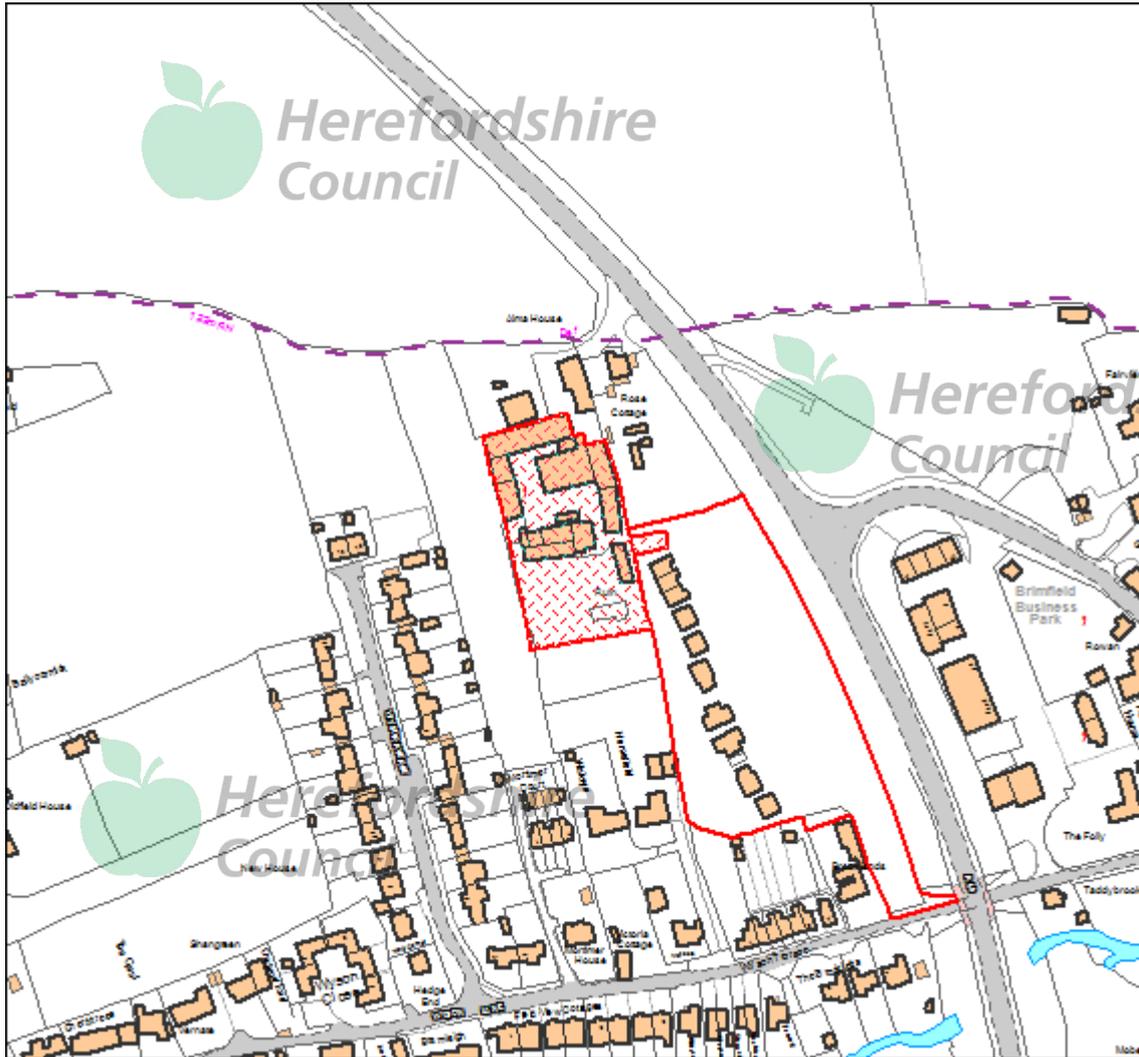
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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

APPLICATION NO: 210373

SITE ADDRESS : LAND OFF WYSON LANE, BRIMFIELD, HEREFORDSHIRE

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

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	29 SEPTEMBER 2021
TITLE OF REPORT:	<p>210222 - APPLICATION FOR CHANGE OF USE FROM AGRICULTURE TO SITING TWO YURTS FOR HOLIDAY USE WITH THE ACCOMPANYING CONVERSION OF ONE GARAGE BAY (OF A PAIR OF GARAGE BAYS PLUS WORKSHOP) TO PROVIDE TWO BATHROOMS AND TWO DISHWASHING FACILITIES AT WILLEY LANE FARM AT TOGPEN, WILLEY LANE, LOWER WILLEY, HEREFORDSHIRE,</p> <p>For: Mr Murray per Mr Paul Murray, Togpen, Willey Lane, Lower Willey, Presteigne, Herefordshire LD8 2LU</p>
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=210222&search-term=210222
Reason Application submitted to Committee – Member Redirection	

Date Received: 21 January 2021
Expiry Date: 1st October 2021

Ward: Mortimer

Grid Ref: 334303,267081

Local Member: Cllr Carole Gandy

1. Site Description and Proposal

- 1.1 The dwelling known as Togpen is located in the north west of Herefordshire in the sparsely developed rural area known as Lower Willey. It is a short distance from the England/Wales border, with the nearest settlements being the village of Lingen approximately 2km to the east and the market town of Presteigne approximately 3.5km to the south west. Togpen lies on the southern side of the unclassified Willey Lane (U91620) as part of a small cluster of dwellings which also includes Willey Lane Farm and a converted barn. It forms part of a wider land holding extending to approximately 36 hectares which comprises mix of grassland and deciduous woodland. The land subject of the current application is situated to the east of the dwellings and sits within a valley where the topography of the land falls way in a southern direction. Surrounding land uses are predominantly agricultural with dwellings being scattered sporadically throughout the surrounding locale.
- 1.2 The current application seeks permission for the change of use of a parcel of land to the east of the dwelling to support the siting of two yurts to be used for holiday accommodation purposes. It is proposed that the yurts would be in situ between the 1st April and 31st October in any given calendar year, being removed for storage during the winter. It is also proposed that a bay of an existing garage structure near the main dwelling would be converted to provide bathroom and washing up facilities in order to support the occupation of the yurts. The scheme would utilise the existing site access onto the adjacent Willey Lane with the existing hardstanding yard areas providing parking space for users of the yurt accommodation.

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

- 1.3 The parcel of land on which the yurts would be sited falls away to the east and is currently predominantly laid to pasture interspersed with a number of trees, with an area at the western end also being set aside for the growing of lavender. It is proposed to site two yurts towards the bottom end of the field approximately 60m and 90m respectively away from the main house (Figure 1 – yurts shown in yellow). They yurts themselves do not constitute operational development, however the Applicant has indicated that they would have a diameter of 4.9m and a maximum height of approximately 3m. The external canvas would be coloured brown. An image of a similar yurt has been provided and is included at Figure 2.



Figure 1: Proposed Block Plan



Figure 2: Example Image of Similar Yurt

- 1.4 In order to allow for the sloping topography of the land, a level surface for each yurt would be created through the construction of a circular timber platform measuring 4.9m in diameter. This would remain in place permanently and would consist of vertical supports mounted in post spikes that are driven into the ground with a ply board deck above to support the yurt (Figure 2). The platforms would be 0.5m above natural ground level at their highest point.

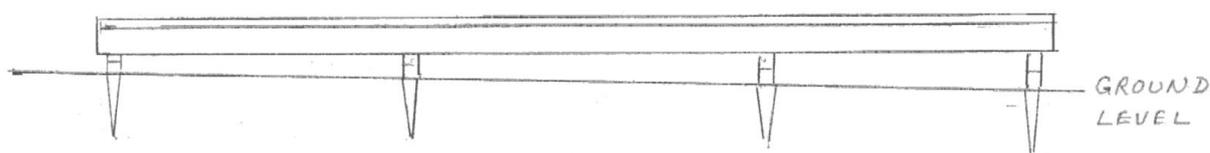


Figure 3: Proposed Platform Cross Section

- 1.5 There would be no additional hardstanding formed as part of the proposal with access to the yurts proposed to be via grass paths through the field from the parking areas to the west. The toilet and washing facilities that are proposed to be provided within the existing garage building will be connected to the utilities of the main house, which includes the discharge of additional foul water to an existing septic tank and associated soakaway field.

2. Policies

2.1 Herefordshire Local Plan Core Strategy (CS)

The following policies from the CS are considered to be of relevance to the current proposal;

- SS1 Presumption in favour of sustainable development
- SS4 Movement and transportation
- SS5 Employment provision
- SS6 Environmental quality and local distinctiveness
- SS7 Addressing climate change
- RA6 Rural economy
- MT1 Traffic management, highway safety and promoting active travel
- E1 Employment provision
- E4 Tourism
- LD1 Landscape and townscape
- LD2 Biodiversity and geodiversity
- LD3 Green Infrastructure
- SD1 Sustainable design and energy efficiency
- SD3 Sustainable water management and water resources
- SD4 Waste water treatment and river water quality

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

The Herefordshire CS 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 **Border Group Neighbourhood Development Plan (NDP)**

The Border Group NDP was 'made' on 25th January 2019. The following policies from the NDP are considered to be of relevance to the current proposal;

- BG1 – Promoting a sustainable community
- BG2 – Development strategy
- BG14 – Supporting local business
- BG17 – Highways and transport infrastructure
- BG18 – Flooding and surface water drainage
- BG20 – Protecting and enhancing the natural environment and landscape

The Border Group NDP 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/directory_record/3032/border_group_neighbourhood_development_plan

2.3 **National Planning Policy Framework (NPPF - July 2021)**

The following Chapters of the NPPF are considered to be relevant to the current proposal

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

The NPPF can be viewed here;

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf

3. **Planning History**

3.1 There are numerous planning applications relating to the site over the period of approximately 20 years. The following are considered to be most relevant to the current proposal;

- DCN052328/F - Proposed conversion of agricultural barn into residential unit - Approved 2005
- P162900/FH - A Retrospective Planning Application for Four Small Outhouses, changes to the Entrance on to the Public Road, the Inclusion of a Wood Burning Stove, the Erection of Fences outside the Development Area and the Resultant Increase in the Curtilage – Allowed on Appeal APP/W1850/W/17/3176885
- P210478/PA7 - Prior approval for proposed lean-to extension to existing agricultural barn – Prior Approval Given

4. Consultation Summary

Statutory Consultations

4.1 Natural England – No Objections

SUMMARY OF NATURAL ENGLAND'S ADVICE: NO OBJECTION

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

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

The Coöperatie Mobilisation case relates to strategic approaches to dealing with nitrogen. It considers the approach to take when new plans/projects may adversely affect the ecological situation where a European site is already in 'unfavourable' conservation status, and it considers the acceptability of mitigating measures whose benefits are not certain at the time of that assessment. Competent authorities undertaking HRA should be mindful of this case and should seek their own legal advice on the implications of these recent ruling for their decisions.

Internationally and nationally designated sites

The application site is within the catchment of the River Lugg which is part of the River Wye Special Area of Conservation (SAC) which is a European designated site, and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended), the 'Habitats Regulations'. The SAC is notified at a national level as the River Lugg Site of Scientific Interest (SSSI) Please see the subsequent sections of this letter for our advice relating to SSSI features.

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

European site - River Wye SAC - No objection

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

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

River Lugg SSSI – No objection

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

4.2 **Welsh Water – No bespoke 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.

As the applicant intends utilising a septic tank facility, we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal.

However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

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.

Internal Council Consultations

4.3 **Transportation Manager – No Objections**

The highways implications of the introduction of 2 yurts in the field adjacent to the main cluster of buildings are considered to be of low impact in this area of the network. The use for the access is considered appropriate, taking into account the character and usage of the highways network adjacent to the application site.

The scheme includes adequate parking for the modest number of yurts and there is ample opportunity for turning in the site.

It would be beneficial if the inclusion of secure cycle parking for guests was delivered to allow active travel options for guest to nearby amenities and points of interest. To ensure that this is followed through the inclusion of condition CB2 is recommended in the event that permission is granted.

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

4.4 **Conservation Manager (Ecology) – No Objections**

The site is within the catchment of the River Lugg (Wye) SAC and this application triggers the requirement for a Habitat Regulations Assessment process. The appropriate assessment completed by the LPA must be subject to a 'no objection' response from Natural England prior to any planning consent being finally granted.

The following notes and comments are made in respect of the HRA process:

- The applicant has advised the existing septic tank and ground discharge soakaway drainage field will be utilised to manage additional foul water flows created by the proposed holiday accommodation occupation.
- The applicant has advised that the existing septic tank has a usable capacity of 3600 litres (3.6Cubic meters) and the location of the drainage field has been shown on supplied plans.
- Under British Water 'flows and loads' a 3600 litre septic tank is suitable for 10-11 people equivalent (10-11P)
- The septic tank currently supports foul water from a 3 bedroom house that 'flows and loads' equates to 5P (people equivalent) or 5x 150 litres = 750 litres

- The proposed two holiday yurts (each designed to accommodate up to two people = total 4P) are 'fully serviced' and 'flows and loads' provides for the same 150 litres per person foul water flows – so 4x150 = 600 litres
- Calculated total foul water flows in to the system would be 1350 litres + required 'headroom' 2000 litres = 3350 litres.
- With a total capacity of 3600 litres the existing septic tank system is demonstrated to have sufficient capacity to accommodate the additional flows from the proposed development.
- The LPA has no reason to consider that the information supplied by applicant is not correct.
- The existing soakaway drainage field location is within the proposed development boundary and under the applicant's ownership/control.
- From supplied plan and available information – including data supplied to the LPA by Natural England the LPA has no reason to consider that as an existing drainage field it is not compliant with relevant current criteria that as agreed with Natural England demonstrate beyond all reasonable scientific doubt that there are no 'phosphate pathways' created by the proposed development. (Criteria: Distance from recorded watercourse, distance from designated nature conservations site, ground water levels, slope, distance from any other foul water drainage field, expedited pathways such as local geology)
- Any additional surface water created will be minimal and can be accommodated within the proposed development location.
- The agreed foul water and surface water management systems can be secured by condition on any planning consent granted.

Subject to Natural England having 'no objection' to the HRA appropriate assessment completed by the LPA a relevant condition is requested on any planning consent granted:

Other ecology comments: Based on available information the LPA has no reason to consider that there are likely to be any effects on 'protected species from the proposed development. The applicant and their contractors in respect of all demolition, site preparation and construction works have their own legal duty of care to wildlife protection as afforded by the Wildlife & Countryside Act that lies above any conditions the LPA could include; with any breach being investigated by the local Wildlife Crime Officer from West Mercia police. A relevant informative is suggested for inclusion on any planning consent granted.

The site is in an area with an intrinsically dark landscape that benefits local amenity and nature conservation, including nocturnal protected species known to be present in the. A condition to ensure all external lighting is kept to the essential minimum and any systems installed compliant with current best practice is requested.

Excepting any required planting or other works in respect of the wider site and any landscape conditions, given the location, nature and scale of the development it is not appropriate for ecology to require any specific biodiversity net gain enhancement for this specific application.

4.5 **Environmental Health (Noise and Nuisance) – No Objections**

My comments are with regard to potential noise and nuisance issues that might arise from development. Our department has no objections on these grounds provided that the following conditions are imposed:

There shall be no playing of amplified music nor the use of fireworks outside at any time.

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

4.6 **Conservation Manager (Landscape) – No Objections**

Final Comments 21st May 2021

I refer to correspondence dated 08/04/2021 between the applicant and planning officer, explaining the proposal in response to the landscape officer comments.

Concerns raised have been clarified. I.e. the use of a dark coloured material (brown), not white to reduce visual contrast with the landscape; the yurt base is circular and integrated; siting rationale has been conveyed; and the yurts will be temporary in nature, for example, removed in the winter months.

On the basis of this, I have no objection

Initial Comments 1st April 2021

Yurts can be white and contrasting within the rural landscape. In this instance, given the lack of detail (i.e. design, colour, chimney stack etc.), it is difficult to ascertain how the yurts will appear within this landscape setting.

There is a simplicity to the temporary and low impact nature of the development proposal, other than permanent timber platforms located in a field. There are potentially other associated elements and paraphernalia that may come with visitor demands and request that may provide unintended or unforeseen impacts (hard pavements during wet and muddy conditions; accessibility requirements for wheelchairs; handrails; bike lockers; chimneys; outdoor picnic tables; additional paving for outdoor use; and campfire rings etc.), that could change the degree of simplicity and therefore visual impact.

The development would impact the visual amenity of open countryside and local distinctiveness contrary to Local Plan, Core Strategy LD1 and SS6

5. Representations

5.1 **Border Group Parish Council** – Support the application. No bespoke comments.

5.2 **Nine Letters of Objection** have been received. They are summarised as follows;

- Increased traffic on single track rural lanes causing safety and maintenance issues
- Unsuitable development for an unspoilt rural area
- Contrary to policies of Border Group Neighbourhood Plan BG1, BG14, BG17, BG20
- Potential for adverse effect on the character of the rural landscape
- Additional guests would disturb neighbours and tranquillity of the area (noise, lighting)
- Concerns regarding adequacy of drainage arrangements and effect on River Lugg and nearby Limebrook
- Potential for overlooking and lack of privacy adversely affecting neighbouring amenity
- Application is disingenuous as ‘agricultural diversification’
- There is a general lack of demand for holiday accommodation in the area
- Lack of facilities nearby to support holiday accommodation
- Rural location of site would increase car dependency
- Increased demand on private water supplies
- Concerns regarding scope for further growth

5.3 **Four Letters of Support** have been received. They are summarised as follows;

- Proposal would support local community and rural economy
- Proposals would support low impact sustainable tourism

Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

- Proposal fully accords with national policies and local development plan
- Sufficiently remote to avoid any detriment to neighbours
- The proposal would generate minimal amounts of traffic

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=210222&search-term=210222

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

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

6. Officer’s Appraisal

6.1 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) and the ‘made’ Border Group Neighbourhood Development Plan (NDP). The recently revised National Planning Policy Framework (July 2021) is also a significant material consideration.

6.3 As noted at Section 2.1, the Herefordshire CS is now over five years old and is currently at the early stage of review as required by Chapter 33 of the NPPF. The level of consistency of the policies in the CS with the NPPF, and the weight to be attributed to them, must be taken into account by the decision maker when determining any application. In this case, Officer’s consider the most relevant policies of the CS – namely those relating to tourism and development in the context of the rural economy – to be consistent with the principles set out with the NPPF. As such, the policies of the CS are considered to continue to attract significant weight.

6.4 At the heart of the NPPF lies the presumption in favour of sustainable development, which must be applied in all aspects of plan-making and decision-taking. In the context of the latter, the application of the positive presumption means that development proposals which accord with an up-to-date development plan without delay. Where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, then 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 refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The positive presumption is reflected in the policies of the local development plan.

6.5 The proposal in this case seeks to provide tourism accommodation in the rural context as a form of business diversification. The guidance set out at Chapter 6 of the NPPF is therefore pertinent, which broadly sets out that planning policies and decisions should help to create conditions which contribute to the creation of a strong and competitive economy. In the specific context of the rural economy, Paragraph 84 directs that the planning system should support the sustainable growth and expansion of all types of businesses in rural areas. This includes through diversification of agricultural businesses and through support for sustainable rural tourism and leisure development which respect the character of the countryside.

6.6 Strategic Objective 9 of the Core Strategy broadly aligns with the NPPF and seeks to develop Herefordshire as a destination for quality leisure visits and sustainable tourism by the provision of new, and the enhancement of existing, tourism infrastructure. More detailed policy guidance in this regard is provided by RA6 and E4. Broadly, E4 seeks to promote Herefordshire as a destination for quality leisure visits and sustainable tourism by utilising, conserving and enhancing

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the county's unique environmental and heritage assets and recognising the intrinsic character and beauty of the countryside. It encourages the provision of new accommodation and attractions throughout the county which will help to diversify the tourist provision, extend the tourist season and increase the number of visitors staying overnight. In rural areas specifically, it directs that proposals for new tourist accommodation must be of an appropriate scale and character for their surroundings. Policy RA6 relates more broadly to proposals that effect the rural economy, and confirms that proposals which help diversify the rural economy, including those which support the retentions and diversification of existing agricultural business and support the promotion of sustainable tourism, will be supported subject to certain criteria being met, as follows;

- The development should be of a scale which is commensurate to its location and setting
- The development should not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, or by noise, dust, lighting and smell
- The proposal should not generate traffic movements which cannot be safely accommodated within the local road network
- The proposal should not undermine the achievement of water quality targets in accordance with policies SD3 and SD4

6.7 From the Border Group NDP, Objective Two of the plan is to encourage diversification within the rural economy of the group parish through supporting tourism, broadening the base of agricultural businesses and creating a balance between providing homes and jobs. Policy BG1 reflects the objectives and sets out a range of principles that seek to promote sustainable development. Under point c), it states that a high level priority will be to support the development of the local rural economy by enabling the diversification of businesses and employment opportunities but ensuring any new development does not detract from features that support the local tourism industry. BG14 states that proposals for the development of local businesses will be supported where they result in sustainable economic growth. The policy requires in all instances that the development should be in scale with the rural character of the area in which the site is located and sets out a criterion based approach for assessing whether a proposal can be considered 'sustainable'. These are as follows;

- a. The amenity of nearby residents is not adversely affected; There will be no detrimental effect upon the local highway network as a consequence of traffic generated by the proposal;
- b. Opportunities should be taken to develop routes and off-site measures which facilitate and encourage active travel;
- c. Small scale light or general industry, in particular craft-based operations or sustainable technologies will be encouraged to locate in suitably converted rural buildings, or on brownfield sites provided they comply with the general criteria set out in this policy;
- d. There will be an emphasis upon the use and conversion of rural buildings to employment uses;
- e. Proposals should avoid obtrusive external storage and paraphernalia or provide effective screening where this is necessary;
- f. Potential polluting effects of any enterprise should be fully mitigated, and where they cannot, permission will be refused;
- g. Diversification proposals meeting the above criteria will in particular be supported where this retains essential services and facilities through increasing their viability.
- h. Tourism enterprises will be supported where they are appropriate to the area's rural character in terms of their nature and scale;

6.8 It is understood from the supplied Design and Access Statement that the Applicant operates a small scale and low intensity agricultural business from the premises and on the surrounding land holding of approximately 36 hectares. This appears to consist of sheep grazing, land stewardship and a small operation growing lavender. The proposal seeks to diversify the operation further and provide two yurts as accommodation for tourists. The proposal broadly aligns with the objectives of the CS and the NDP to support the tourism sector in the county and would bring benefits by

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expanding the accommodation offer, increasing visitor numbers and promoting additional expenditure in the local economy. The proposal is hence considered to benefit from 'in principle' policy support, as set out above. In order to be permitted however, the full details of the proposal must be assessed to determine whether the scheme is representative of sustainable tourism development. The main issues to consider in this regard are set out below.

Site Location and Sustainability

- 6.9 Unlike with housing orientated policies, the tourism policies of the development plan do not specifically define what is considered to be an appropriate location for new tourist accommodation. Rather, a criteria based approach is adopted which includes that proposals should be of a scale that is commensurate with the location whilst respecting the character of the area within which the site is set. Policies E4 and BG14 do however seek to ensure that measures for active travel such as walking and cycling are encouraged, and this aligns with national and local policies which broadly seek to ensure that new development be directed to the most sustainable locations which reduce the need to travel, reduce dependency on the use of private cars, and promote alternative means of sustainable transport as much as possible. That being said however, in the context of proposals which support the rural economy Paragraph 85 is specific in directing that planning decisions should recognise that sites to meet local business needs in rural areas may have to be found in locations that are adjacent or beyond existing settlements and in locations that are not well served by public transport. In these circumstances, it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).
- 6.10 It is noted that the rural location of the site and the limited facilities available in the surrounding area is a common theme in the representations received from local residents. In this sense, it is acknowledged that the site is in relatively isolated rural location with the nearest village of Lingen offering basic services (such a public house) being around 2km away to the east. The site is not served by public transport. With this in mind, it is a reasonable assumption that future users would have a high dependency on the use of a private car during their stay and it must be acknowledged that this creates a degree of tension the policy objectives to promote sustainable alternative transport means. However, the rural location of the site is not untypical of the type of accommodation that is commonly sought by visitors to the county and the NPPF is explicit that decision makers must recognise that sites to support the rural economy may have to be found in locations that are beyond settlements and not served by public transport. The competing objectives in this regard, as well as the benefits and harms associated with them, must be weighed by the decision maker in the final planning balance.

Landscape Character

- 6.11 Policy E4 the CS states that proposals for new tourism development will be supported where they protect the county's unique environmental and heritage assets and recognise the intrinsic character and beauty of the countryside. In a similar vein, policy BG14 h) of the NDP sets out that new tourism enterprises will be supported where they are appropriate to the area's rural character in terms of their nature and scale. More broadly, policy SS6 of the Core Strategy states that development proposals should be shaped through an integrated approach to planning a range of environmental components from the outset, including the character of the landscape and local distinctiveness. This is further supported by policy LD1 which states that proposals should demonstrate that they have been positively influenced by the character of the landscape in terms of the site selection and the scale; nature and design of the development. Similar requirements are set out within policy BG20 of the NDP. In the context of rural tourism, RA6 and BG14 both set out similar requirements to ensure that proposals are appropriate to the area's rural character in terms of their nature and scale.

- 6.12 In considering the impact of the proposal upon the landscape, Member's must be mindful that the proposal in this case is primarily concerned with the material change of use of the land. There is a limited amount of physical works proposed as part of the scheme that are considered to constitute operational development having regard to the definitions set out at Section 55 of the Town and Country Planning Act (1990). Broadly, the operational development is confined to the building of the two timber platforms upon which the yurts would sit. The yurts themselves are not considered to be buildings for the purposes of the Act.
- 6.13 The site here lies within a narrow valley which rises from Lingen in the east towards Stapleton Hill and Hell Peak in the west. The surrounding area is distinctly rural in character, with the land predominantly being a patchwork of fields and woodland interspersed with sporadic dwellings. The Council's Landscape Character Assessment (2004) identified the area to be within the 'Wooded Hills and Farmland' landscape type, which is typified by sloping topography and a strong hedgerow field pattern interspersed with the patches of semi-natural woodlands.
- 6.14 In terms of the scale and nature of what is proposed, the two yurts provide a modest amount of accommodation and the physical impacts of the scheme are naturally limited by the temporary nature of the structures and the use of existing buildings to provide supporting facilities. It is therefore considered that the proposal is commensurate to the site context and that would not be at odds with the sparsely developed character of the surrounding locale. No conflict with this element of RA6 or BG14 h) is hence identified.
- 6.15 In terms of siting, the yurts are proposed to be positioned on an area of pasture land to the east of the main house at Togpen. The main views of the yurts would be gained at relatively close range from the adjacent Willey Lane, which is separated by an established hedgerow. Although the site has a more open aspect to the east, the enclosed topography of the valley and the absence of any PROW's in this direction limits longer distance of the site from public vantage points. Nonetheless, the introduction of the yurts has the potential to impact the character of the landscape character and this must be carefully considered. Specialist advice from the Council's Conservation Manager (Landscape) has been sought in this regard and, following clarification on a number of points, it has been confirmed that no objections are offered to the scheme in landscape character terms. Although there would be potential for impact as a result of the scheme, this is considered to be mitigated to acceptable levels by the temporary nature of the yurts and the choice of external fabric colour. The nature of the yurt tents is such that they are inherently experienced as transient, rather than permanent, features within the landscape in any case, and that would be reinforced further here by the Applicant's undertaking to remove them from the land between 1st November and 31st March. This removal during the winter months can be secured by condition. The Applicant has also specified that the external fabric of the yurts would be coloured brown (rather than the typical white), which is visually recessive within the landscape and serves to reduce the prominence of the yurts further. Again, this can be secured by condition. The timber bases are the only elements of the yurt arrangement which would remain permanently in situ, and the low height and nature of these is such that they would be minimally intrusive upon the character of the area. The scheme does not seek to provide any new hardstanding or similar infrastructure to support the use of the land, and the conversion of the existing garage bay to provide washing and toilet facilities would have a negligible impact on the character of the landscape. On the basis of the above therefore, it is considered that no significant harm to the character of the landscape would occur which brings the proposal into conflict with development plan policies LD1, BG20, RA6 or BG14.

Highways and Access

- 6.16 Policies RA6 and BG14 both seeks to ensure that proposals in the context of the rural economy do not adversely effect the integrity of the highways network. Policy MT1 of the CS offers more detailed requirements in this sense, directing that all development proposals should demonstrate that the strategic and local highways networks can absorb the traffic impacts of the development without adversely affecting the safe and efficient flow of traffic on the network or that traffic impacts

can be managed to acceptable levels to reduce or mitigate any adverse impact from the development. Developments should also ensure that developments are designed and laid to achieve safe entrance and exit, and have appropriate operational, manoeuvring and parking space having regard to the standards set out in the Council's Design Guide for New Developments. At a local level, policy BG17 sets out a range of highways related requirements including that safe access onto roads should be delivered and adequate off-street parking should be provided. BG1 also sets out the principle that developments should not result in danger from vehicles or traffic that cannot be accommodated upon the local highway network, both in terms of highway capacity and effect upon local amenity. These policies reflect the principles established at Chapter 9 of the NPPF, particularly Paragraph 110 which states that applications should be assessed to insure (inter alia) that safe and suitable access can be achieved for all uses and that any significant impacts on the network in terms of capacity can be mitigated cost effectively to an acceptable degree. At Paragraph 11, it states that development should only be refused on highways grounds where the residual impact on the road network would be severe.

- 6.17 The proposal in this case would utilise the existing vehicular access to the site off the unclassified Willey Lane. The existing access point offers good levels of viability and the single track nature of the highway in this location means that traffic speeds and volumes are relatively low. Given the modest nature of the accommodation proposed, the levels of additional traffic generated by the development are also low and it is considered that the minor uplift in vehicle movements could be satisfactorily accommodated by the local network. As such, the effects of the development on the road network in terms of safety or traffic generation could not reasonably be described as being 'severe' as defined by the NPPF. There is also adequate space available within the site for parking and turning. It is noted that the Council's Transportation Manager has not identified any issues with the scheme in this respect and hence no objections are offered. Conditions are recommended to secure a scheme of secure cycle storage prior to the first occupation of the accommodation, which is in line with the policy aspirations to encourage the use of active travel measures wherever possible. Subject to this, the scheme is considered to accord with policies RA6, BG14, MT1 and BG17 in highways terms.

Neighbouring Residential Amenity

- 6.18 Policy SD1 of the CS requires that development proposals safeguard good standards of residential amenity for existing and proposed residents, for instance in terms of overlooking, overshadowing or overbearing. Policies RA6 and BG14 are also relevant in the context of development in the rural economy. The former requires that proposals should not cause unacceptable adverse impacts to the amenity of nearby residents by virtue of design and mass, or by noise, dust, lighting and smell; whilst the latter offers support to rural diversification provided that the amenity of nearby residents will not be adversely affected. These accord with the principles set out at Paragraph 130 of the NPPF with regards to creating places that deliver high standards of amenity for both existing and future occupiers.
- 6.19 It is noted that a number of local representations have been received which raise concerns that the development could detrimentally affect the amenity of existing residents. The key concerns identified in this sense are through additional noise, additional lighting and additional traffic.
- 6.20 In the first instance, the occupation of the yurts as tourism accommodation is not a use that is considered to be a particular source of noise or nuisance. The use as tourist accommodation is akin in nature to the use of residential properties in the surrounding locale and hence the proposal does not give rise to any compatibility issues in this sense. The views of the Council's Environmental Health Officer (Noise and Nuisance) have been sought in this regard and no concerns have been raised. Conditions have however been recommended to restrict the use of fireworks and amplified music, and further conditions are also recommended to limit the installation of external lighting to ensure that neighbouring amenity (as well as landscape character and the area's dark skies) are maintained. In respect of potential for overlooking or loss of privacy, the degree of separation between the proposed location of the yurts and nearest

neighbouring properties is sufficient to ensure that no harm in these terms would occur. Likewise, the limited additional traffic that would be generated by the proposal could not reasonably be described as having the potential to adversely affect amenity over and above the current movements on the network. As such, Officers consider that the proposal would not have any demonstrable adverse impact on the amenity of nearby residents. There is hence no conflict with SD1, RA6 or BG14 found.

Protected Species and Biodiversity

- 6.21 Policy LD2 of the CS seeks the conservation, restoration and enhancement of biodiversity and geodiversity assets. As such, development will not be permitted where it has the potential to harm these assets or reduce the effectiveness of the ecological network of sites. The introduction, restoration and enhancement of biodiversity and geodiversity features will be actively encouraged. Similarly, policy BG20 of the NDP seeks to ensure that all development should not adversely affect important biodiversity habitats and species. These policies reflect the principles established at Chapter 15 of the NPPF.
- 6.22 The proposal site in this case comprises an area of grassland interspersed with a small number of fruit trees. The yurts would be sited in the open areas between the trees and operational works would be limited to the erection of the base structures, which involves posts being driven into the ground and a level platform being formed atop this. Having regard to the nature of the site and the limited disturbance associated with the proposal, the Council's Ecologist advises that there is no reason to believe that the scheme would have any adverse effect upon protected species or features of biodiversity. A condition will be attached to restrict the provision of external lamination that may otherwise be detrimental to the dark skies of the area and an informative note is recommended to remind the Applicant of their responsibilities should protected species be encountered on the site. Subject to this, the scheme is considered to accord with policies LD2 and BG20.

Drainage and Habitats Regulations Assessment

- 6.23 In relation to foul water management, policy SD4 sets out a hierarchal approach whereby a connection to the mains sewer is the preferred option of management. Where this is not possible, private alternatives should be provided with the order of preference being package treatment plants with discharge to a soakaways, septic tanks, and (in exceptional circumstances) cess pits. In all circumstances, proposals will need to demonstrate that the development would have no likely significant unmitigated adverse effect on water quality and the River Wye Special Area of Conservation (SAC). This requirement is reinforced by policy LD2 and the Council has a statutory duty to consider the impact of development upon the River Wye SAC under the Conservation of Habitats and Species Regulations.
- 6.24 Toilets and welfare facilities would be provided through the conversion of part of an existing garage block, with additional waste water being managed through a connection to the existing septic tank which served the host dwelling and, in turn, discharges treated effluent to a soakaway drainage field. The Applicant has provided details of the tank and calculations to confirm that the system has adequate capacity to support the additional loadings created by the development in accordance with British Water Flows and Loads. Officers have no reason to doubt the veracity of these calculations and hence the arrangement proposed is considered to be acceptable with regards to the requirements of policy SD4.
- 6.25 With respect of the Council's duties under the Habitats Regulations, the site here lies within the catchment of the River Lugg which, in turn, is a sub-catchment of the River Wye SAC. Members will no doubt be aware however that the River Lugg is currently failing its conservation targets for phosphate levels. Following a 2018 judgement in the Court of Justice of the European Union on the interpretation of the Habitats Directive ('The Dutch Case'), it has been clarified that where a site is failing its water quality objectives, and is therefore classed as being in an unfavourable

condition, there is limited scope for the approval of additional damaging effects. In essence, this means that the Council is currently unable to positively assess applications in the Lugg catchment unless it can be shown with certainty to have a neutral impact upon the integrity of the designated site. Natural England, as the relevant statutory body, have provided advice on situations that would allow the Council, as the competent authority, to conclude that the development would have a neutral impact in this regard. This includes where discharge of treated effluent to a drainage field is proposed and a range of criteria are met. This guidance is set out within the Council's April 2021 Position Statement, which is available here;

<https://www.herefordshire.gov.uk/downloads/file/22149/position-statement-update-april-2021>

- 6.26 The Council's Ecologist is responsible for assessing the proposal with regards to the Habitats Regulations and has completed an Appropriate Assessment as required by Section 63 of the regulations. The assessment has regard to information supplied by the Applicant, as well as GIS data supplied to the Council by Natural England. The assessment concludes that having regard to the information available, the existing drainage system on the site would comply with the relevant criteria and hence there would be no pathway for the development to have an adverse impact on the integrity of the River Lugg and River Wye SAC. This assessment has been subject to consultation with Natural England and their response (Section 4.1) confirms that they agree with the Council's conclusion that the development would have no adverse impact on the integrity of the River Lugg or River Wye SAC, subject to conditions being imposed to secure the drainage arrangement in perpetuity. The scheme is hence considered to safeguard water quality and designated conservation sites and there is no conflict with development plan policies LD2 and SD4, or the requirements of the Conservation of Habitats and Species Regulations (2017) (as amended).

Planning Balance and Conclusions

- 6.27 The application is to be considered in the context of the presumption in favour of sustainable development as required by the NPPF. This means approving development that accords with the development plan without delay. The Framework sets out that the achievement of sustainable development is dependent on three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are an economic objective, a social objective and an environmental objective.
- 6.28 In the first instance, it is noted that the development plan lends 'in principle' support for proposals which support the rural economy and promote Herefordshire as a tourism destination. The proposal here would align with these objectives. The provision of the yurts would support the diversification of a rural business and would expand the overnight rural accommodation offer which, in turn, would promote additional expenditure in the local economy. This is a tangible benefit that contributes to the achievement of the economic objective of sustainable development as defined by the NPPF. Moreover, the economic benefits of the scheme, particularly in terms of the income offered for the applicant and the financial stimulus provided to local business by visitors, would also lead to knock-on benefits in the social sphere in terms of increasing the vitality and resilience of the rural community. In the environmental sphere, it is considered that the scheme would have a negligible impact on the highways network and residential amenity, whilst potential impacts upon the character of the landscape and biodiversity have been adequately mitigated against. However, a degree of harm has been identified as a result of the site's isolated rural location; which increases car dependency and does not align with policy objectives to promote sustainable alternative means of travel.
- 6.29 Considering the proposal holistically, it is considered that the benefits of the scheme are not outweighed by the limited harms that have been identified. When viewed in the round, the proposal is representative of sustainable tourism development which accords with the relevant policies of the development plan – notably RA6, E4 and BG14. It hence benefits from the positive

presumption that is enshrined within the NPPF and approval is recommended accordingly, subject to the conditions set out below.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

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

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

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

Reason. To ensure adherence to the approved plans in the interests of a satisfactory form of development which complies with policies E4, RA6, LD1, SD1 and MT1 of the Herefordshire Local Plan Core Strategy, policies BG1, BG14, BG17 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework.

- 3. There shall be no more than two yurts sited upon the land subject of this permission at any time and they shall be sited in accordance with the locations shown on the approved site block plan supplied to the Local Planning Authority on the 24th August 2021.**

Reason: In order to define the terms of the permission and to minimise the potential for visual intrusion within the landscape as required by policies SD1, LD1, RA6 and E4 of the Herefordshire Local Plan – Core Strategy, policies BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework

- 4. The yurts subject of this permission shall only be in place and/or occupied between the 1st April and 31st October in any given year. Outside of these periods, the yurts shall be dismantled and removed from the land along with all associated paraphernalia (with the exception of the permanent base structures).**

Reason: In order to define the terms of the permission and to minimise the potential for visual intrusion within the landscape as required by policies SD1, LD1, RA6 and E4 of the Herefordshire Local Plan – Core Strategy, policies BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework

- 5. The yurts hereby permitted shall only be used for holiday purposes by tourists. No person or group of persons shall occupy the accommodation for more than 28 days consecutive days at a time and no same person or group of persons shall occupy the accommodation for more than 156 days in any one calendar year. The owners/operators of the site shall maintain an up-to-date register of the names of all occupiers of the accommodation and of their main home address (i.e. place of residence) and shall make this information available at all reasonable times to the Local Planning Authority.**

Reason: To ensure that the development hereby permitted is used for the specific use applied for and to prevent the proliferation of uncontrolled residential uses in the open countryside in accordance with polices SS4, SS7, RA6, E4 and RA3 of the Herefordshire Local Plan Core Strategy, polices BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework

6. **The external surfaces of the yurts hereby approved shall be permanently coloured dark brown, unless a suitably recessive alternative colour is first agreed in writing with the Local Planning Authority.**

Reason: To ensure that the yurt structures assimilate appropriately into the landscape in the interests of protecting the character of the locale in accordance with the requirements of policies SD1, LD1, RA6 and E4 of the Herefordshire Local Plan – Core Strategy, policies BG1, BG14 and BG20 of the Border Group Neighbourhood Development Plan and the principles set out in the National Planning Policy Framework.

7. **All foul water shall discharge through a connection to the existing septic tank and ground discharge drainage field as advised in supplied Design & Access Statement and accompanying site plans; and all surface water shall to discharge to soakaway infiltration features on land under the applicant’s ownership; unless otherwise agreed in writing by the Local Planning Authority.**

Reason: In order to comply with The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD2, SD3 and SD4

8. **At no time shall any external lighting except in relation to safe use of the approved development 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 the Local Planning Authority. All lighting installed shall demonstrate compliance with latest best practice guidance relating to lighting and protected species-wildlife available from the Institution of Lighting Professionals.**

Reason: To ensure that all species and local intrinsically dark landscape are protected having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’), Wildlife & Countryside Act (1981 amended); National Planning Policy Framework, NERC Act (2006) and Herefordshire Local Plan - Core Strategy policies SS1, SS6, LD1-3

9. **There shall be no playing of amplified music nor the use of fireworks outside at any time.**

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

Prior to the first use of the yurts hereby permitted, full details of a scheme for the provision of covered and secure cycle parking facilities shall be submitted to the Local Planning Authority for their written approval. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved

details and available for use prior to the first use of the development hereby permitted. Thereafter these facilities shall be maintained for the lifetime of the development.

Reason: To ensure that there is adequate provision for secure cycle accommodation within the application site, encouraging alternative modes of transport in accordance with both local and national planning policy and to conform to the requirements of policies SS4, MT1, RA6 and E4 of Herefordshire Local Plan – Core Strategy, policies BG14 and BG17 of the Border Group Neighbourhood Development Plan 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.
2. The proposed development may not have access to mains water and be reliant on a private water supply. The applicant is advised that the Private Water Supplies (England) Regulations 2016 (as amended) and the Water Supply (Water Quality) Regulation 2016 are likely to apply. In accordance with these Regulations and the Building Regulations 1984 the water must be of a potable and safe standard.

If the supply is to be used for shared or commercial purposes including renting, the Private Water Supplies (England) Regulations 2016 specify that the water supply cannot be used until it has been risk assessed by the local authority’s private water supplies team (01432 261761) and found compliant.

Applicants that are connecting to existing private water supplies or accessing sources of water on land over which they have no control are advised to give careful and specific attention to contractual/civil arrangements including rights of access, maintenance arrangements, provision of alternative water supply are agreed in writing at the outset.

3. The Authority would advise the applicant (and their contractors) that they have a legal Duty of Care as regards wildlife protection. The majority of UK wildlife is subject to some level of legal protection through the Wildlife & Countryside Act (1981 as amended), with enhanced protection for special “protected species” such as all Bat species, Great Crested Newts, Badgers and other wildlife 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 further advice from a local professional ecology consultant is obtained.

Decision:

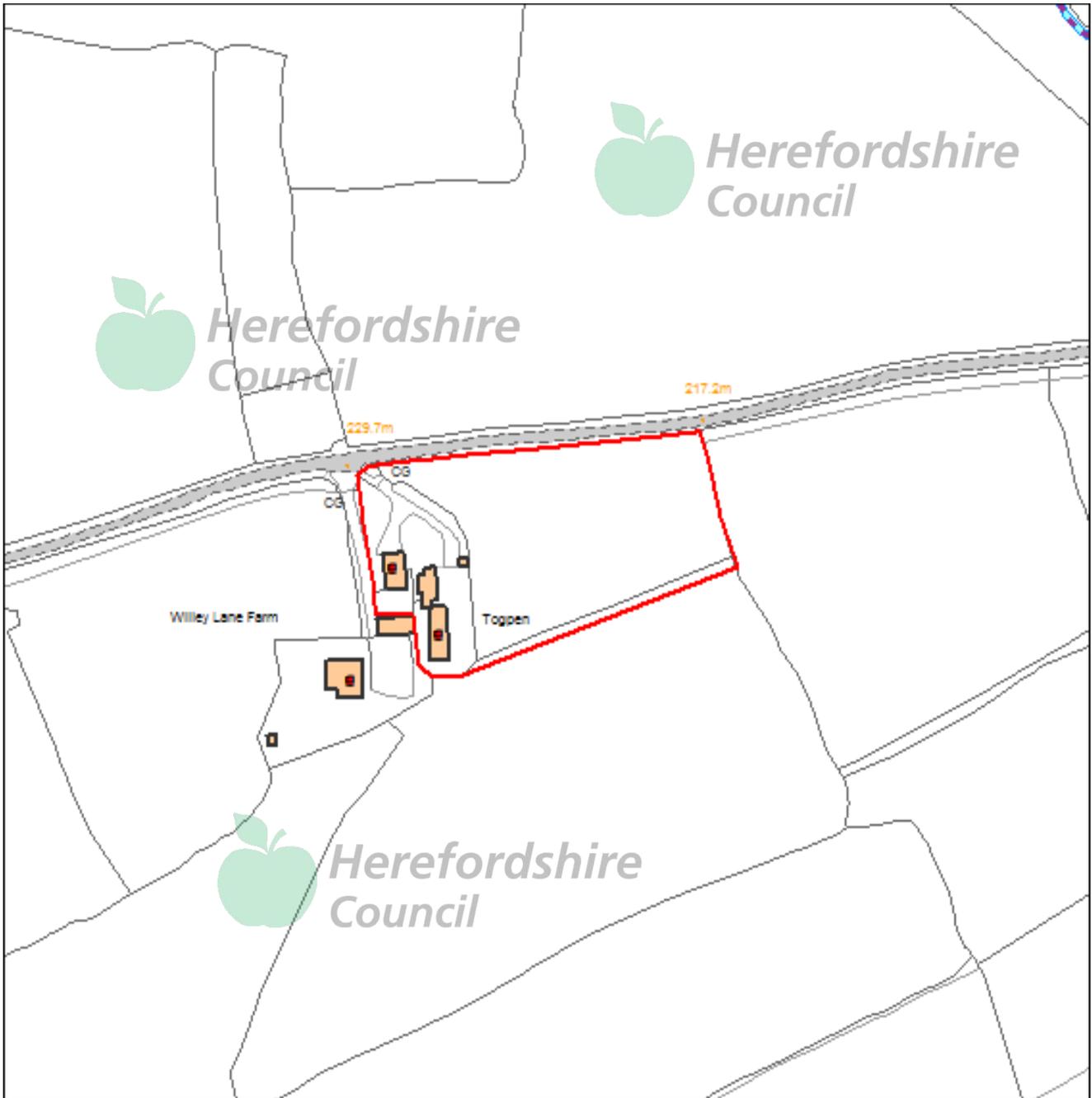
Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 210222

SITE ADDRESS : TOGPEN, WILLEY LANE, LOWER WILLEY, HEREFORDSHIRE

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Further information on the subject of this report is available from Mr Adam Lewis on 01432 383789

MEETING:	PLANNING AND REGULATORY COMMITTEE
DATE:	29 SEPTEMBER 2021
TITLE OF REPORT:	202412 - ERECTION OF 1 NO. DWELLING AND ASSOCIATED WORKS INCLUDING ACCESS, LANDSCAPING, OUTBUILDINGS, INFRASTRUCTURE, LAKE CREATION AND OTHER ENGINEERING WORKS AT FLOW HOUSE - LAND NORTH OF SHEEPCOTTS COURT, ULLINGSWICK, HEREFORDSHIRE, HR1 3JQ For: Mr & Mrs Perry per Mr Matt Tompkins, 10 Grenfell Road, Hereford, Herefordshire, HR1 2QR
WEBSITE LINK:	https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202412&search-term=202412
Reason Application submitted to Committee – Re-direction	

Date Received: 27 July 2020

Ward: Three Crosses

Grid Ref: 359238,250185

Expiry Date: 28 May 2021

Local Member: Cllr Lester

1. Site Description and Proposal

- 1.1 The site comprises 4 no. parcels of land to the north, north-east, east and south-east of Sheepcotts Court, approximately 1 mile north-east of Ullingswick and 6.5 miles south-west of Bromyard. The site is viewed to be in open countryside, beyond any settlement designated under Core Strategy Policy RA2 as a focus of proportionate housing development.
- 1.2 With an agricultural land classification of Grade 3 (Good to Moderate), the site comprises a larger and broadly 'L' shaped arable field to the north, an irregularly shaped field accommodating a large ornamental pool to the east of Sheepcotts Court, and two smaller fields adjacent to the latter, as well as a woodland block immediately north of Sheepcotts Court. The site totals approximately 12.3 hectares.
- 1.3 Topography rises from the southeast to the northwest of site. Bridleway UW1 intersects the site (which forms part of the Three Rivers Ride), as well as bridleway UW12, which runs south-east of site, leading to the Ullingswick Conservation Area, notably incorporating the Grade II* Listed St Luke's Church. Apart from Sheepcotts Court, which lies to the south-western boundary, the site is surrounded by arable land with an area of woodland (Red Hill Coppice), 90 metres northeast of the northernmost part of site. The site's northern boundary is along a local ridgeline with field boundaries comprising native species hedgerow with occasional field oaks. Field boundaries are demarked by unmanaged native species hedgerow with a cluster of field oaks to the north-west, as well as being partially wooded with mature oak and willow. There are gaps in the hedgerow where it has died back. The western boundary flanks the drive to Sheepcotts Court, which has a byway open to all traffic (BOAT) (U66006/UW12). The drive is bounded on both sides by native species hedgerow with ornamental trees on intervening wide grass verges.

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

- 1.4 The application seeks planning permission for the erection of 1 no. dwelling and associated development including access, landscaping, outbuildings, infrastructure, lake creation and other engineering works.
- 1.5 The proposal is submitted, in the view of the applicant, to satisfy paragraph 80(e) of the NPPF (July 2021), as a design of exceptional quality that is truly outstanding, reflecting the highest standards in architecture, helping raise standards of design more generally in rural areas, significantly enhancing its immediate setting, and being sensitive to the defining characteristics of the local area. Proposals have, prior to submission, been considered by an independent and impartial design review panel, MADE, whom have provided formal feedback.
- 1.6 Since validation, the NPPF has been updated with Paragraph 80 superseding what was Paragraph 79 under the previous incarnation of the NPPF (2018 version) and 55 (2012 version). Officers refer to the proposed site plan and elevations of the proposed dwelling, and visual illustrations of the proposed dwelling:



OPG11 – Natural Environment
OPG12 – Historic Environment
OPG13 – Design and Access

The Ocle Pychard Group NDP 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/directory-record/3091/ocle-pychard-group-neighbourhood-development-plan>

2.3 National Planning Policy Framework – updated on 20 July 2021

2 – Achieving Sustainable Development
4 – Decision-Making
5 – Delivering a sufficient supply of homes
8 – Promoting healthy and safe communities
9 – Promoting sustainable transport
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, which sets out the government's planning policies for England and how these are expected to be applied, can be viewed through the following link:-
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

2.4 Planning Practice Guidance

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

3. **Planning History**

None

4. **Consultation Summary**

Statutory Consultations

4.1 **Natural England – No response received**

4.2 **Forestry Commission – No comments to offer**

“Thank you for seeking the Forestry Commission's advice about the impacts that this application may have on Ancient Woodland. As a non-statutory consultee, the Forestry Commission is pleased to provide you with the attached information that may be helpful when you consider the application:

- *Details of Government Policy relating to ancient woodland*
- *Information on the importance and designation of ancient woodland*

Ancient woodlands are irreplaceable. They have great value because they have a long history of woodland cover, with many features remaining undisturbed. This applies equally to Ancient Semi Natural Woodland (ASNW) and Plantations on Ancient Woodland Sites (PAWS).

It is Government policy to refuse development that will result in the loss or deterioration of irreplaceable habitats including ancient woodland, unless “there are wholly exceptional reasons

and a suitable compensation strategy exists” (National Planning Policy Framework paragraph 175).

We also particularly refer you to further technical information set out in Natural England and Forestry Commission’s [Standing Advice on Ancient Woodland](#) – plus supporting [Assessment Guide and Case Decisions](#).

As a Non Ministerial Government Department, we provide no opinion supporting or objecting to an application. Rather we are including information on the potential impact that the proposed development would have on the ancient woodland. Subsequent Enforcement Notices, may be materially relevant to planning applications in situations where the site looks to have been cleared prior to a planning application having been submitted or approved.

If the planning authority takes the decision to approve this application, we may be able to give further support in developing appropriate conditions in relation to woodland management mitigation or compensation measures. Please note however that the Standing Advice states that “Ancient woodland, ancient trees and veteran trees are irreplaceable. Consequently you should not consider proposed compensation measures as part of your assessment of the merits of the development proposal.” We suggest that you take regard of any points provided by Natural England about the biodiversity of the woodland.

We also assume that as part of the planning process, the local authority has given a screening opinion as to whether or not an Environmental Impact Assessment is needed under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. If not, it is worth advising the applicant to approach the Forestry Commission to provide an opinion as to whether or not an Environmental Impact Assessment is needed under the Environmental Impact Assessment (Forestry) (England and Wales) Regulations 1999, as amended.”

4.3 Welsh Water – No comments to offer

“We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development. Since the proposal intends utilising an alternative to mains drainage we would advise that the applicant seek advice from Natural England and or the Building Regulations Authority / Approved Building Inspector as both are responsible to regulate alternative methods of drainage. Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.”

4.4 The Ramblers Association – No response received

4.5 Open Spaces Society – No response received

Internal Council Consultations

4.6 Senior Landscape Officer – Recommends approval with conditions

“Thank you for the opportunity to make comment on the landscape for the above mentioned development. It is an ambitious project, with the landscape being a significant part of the scheme. The design review by MADE supports the landscape led approach, and based on the information provided and site visit undertaken I approve of the landscape with conditions.

It goes without saying that most built intervention on the landscape will incur some form of direct and indirect visual and physical change or impact on the landscape. This development through the use of three distinct zones: Parkland, Orchard and Meadow provides a variety of landscape mechanisms that mitigate visual impacts, offset physical impacts and makes landscape

enhancement. This is not to say that the main dwelling and outbuildings may have some visibility, particularly from the Public Right of Way (PROW), known as Three Rivers Ride, I provide a landscape recommendation for the car park area of the dwelling that will stand out.

There are areas of the development (predominately the northern part, with the main dwelling and Perry Mill outbuilding, zoned as the Meadow and Orchard landscapes) that I would like to have specific conditions.

The southern area (Parkland zone) is heavily planted with trees and designed as a parkland setting, that makes an enhancement to the local landscape setting, and would only require standard conditions, such as the provision of hard and soft landscape plan, written specification (setting out species, size, quantity, density and cultivation details.), management and maintenance schedule.

1. Mitigate views from Public Right of Way (PROW)

The freestanding wall at the highest point (containing the car parking area) will be a dominant element in the landscape. This wall extrudes the horizontal length of the building, but is not a functional requirement of the building and is questionable if it is an essential item. The recommendation at this location is to consider treating the north-east corner of the site (car park/service area) and drawn further southward along the boundary as a Woodland zone. This will connect the mass of the building with the existing woodland to the east.

2. Ensure the driveway with grass strip is installed and maintained post occupancy

The proposed driveway implies a low key double row of stone with grass in-between, and is an important treatment in this low impact, landscape led scheme. This approach will need to be conditioned with the provision of details and assurance it will be retained post occupancy. I focus on this element, as the relatively steep topography, with storm water runoff, with a high clay content may change this intent to a more engineered and standard road surface, and therefore will impact the landscape visually amenity.

3. Reduce the width of the 'driveway' as it approaches the car park

The driveway appears to 'flair-out' in width (approximately to 7-8 metres) as it approaches the carpark. This will produce a large area of unnecessary hardstand and increase visual impact. Reduce this width to the same width as per the typical driveway.

4. Provide a soil analysis/strategy and implementation and management report for the wildflower meadow.

The excavation of soil for the dwelling (depths of up to approximately 7-8 metres) and ponds results in over 7000m³ of heavy clay proposed to be distributed over topsoil with potential to be within close proximity to existing trees and hedgerow. The new surface due to the heavy clay will be prone to erosion of fine sediment and will influence growing conditions. The excavation methodology and post care of the soil (aeration, soil health, storage etc.) will need to be carefully managed. It is advisable to condition the submittal of a Soil Resource Survey (SRS) and Soil Resource Plan (SRP) in accordance with the 'Construction Code of Practice for the Sustainable Use of Soils in Construction Sites' (DEFRA 2009), together with a thorough written specification of soil conditions, species, planting procedures and management (minimum 10 years) of the wildflower meadow. The correlation between soil, appropriate wildflower mix and post care defines how important the Meadow landscape is for this development, and the enhancement from mono-culture agriculture use (i.e. Maize crop growing at the time of the site visit) to a biodiverse wildlife rich meadow. Ensure there is no alteration of soil levels within the Root Protection Areas of any hedgerow/tree/group of trees to be retained.

5. Implementation of the Perry Orchard and Perry Mill

There is a direct historic link of an orchard plantation on the site, as shown on a historic map, dated 1819. Note, records from 1843-1893 onwards show no indication of orchards on the site, but show an extensive matrix of orchards around the Ullingswick area, therefore there is a

reasonable argument for the restoration of an orchard. This vision is supported with the construction of a Perry Mill and is an integral factor in the approval of landscape zone. As stated above, the ground condition, grasses and wildflowers are equally as important as the trees, so this needs to be included as part of the submittal of conditions. The orchard is proposed to reflect the traditional orchard, and is therefore is a long term legacy landscape. The appropriate 'in perpetuity' management and maintenance duration (i.e. minimum 30 years), will need to be defined to ensure that biodiversity net gain benefits are secured, and the intent of the orchard as traditional orchard fulfilled. The selection of species, with the correct root stock is essential, and should be provided as part of the conditions submittal. The Perry Mill is an integral part of the enhancement of the landscape character, and a suitable condition for this to be constructed prior to or simultaneously with the main dwelling should be applied to maintain the totality of this landscape led development. Further information, such as the submittal of materials, finishes and colour as part of the conditions will be required.

6. *Hydrology systems and water features implementation*

The engineering of water across the site via rills, channels and water courses into various water bodies on varying topography (some steep) will most likely require a series of 'weirs' and engineering to address interfaces with the surrounding landscape. The provision of levels, sections and details will be required to ascertain how the landscape is manipulated, and treated to appear as a seamless introduction to the landscape. It is unclear if the water elements are natural edged or constructed with hard elements. Respect existing trees, with appropriate setbacks will be critical (particularly) at the lower south-east corner, due to excavation and potential water logging.

7. *Provide hard and soft landscape information with management and maintenance in general for all three landscape zones (Meadow, Orchard and Parkland) and any other associated landscapes (i.e. aquatic planting), provide:*

- *Plan showing existing and proposed finished levels or contours.*
- *Drawing detailing hard surfacing materials*
- *Boundary treatments and means of enclosure.*
- *Trees and hedgerow to be removed.*
- *Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012.*
- *Soil Resource Survey (SRS) and Soil Resource Plan (SRP) in accordance with the 'Construction Code of Practice for the Sustainable Use of Soils in Construction Sites' (DEFRA 2009) – as stated above.*
- *All proposed planting, accompanied by a written specification setting out species, size, quantity, density and cultivation details. Any special conditions, should be outlined (i.e. orchard species/root stock, wildflower mix, aquatic species, nuts and parkland trees).*
- *A plan detailing water attenuation schemes.*
- *Management plan and maintenance schedule soft landscape (To the appropriate durations 'in perpetuity' for establishment, long term health, form and care of the plants and their associated habitats).*
- *Maintenance schedule hard landscape (5 year period)*

Reason: To safeguard and enhance the character and amenity of the area in order to conform with policies LD1, LD2, LD3 and SS6 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework”

4.7 **Ecologist – Qualified comments and conditions recommended**

“The principle of the supplied Nutrient Neutrality (NN) and P calculator results is all very positive and there are no reasons that this would not be acceptable. The calculations should be updated to include the lowland grazing aspect of the Orchard area as this would be the normal best

practice management for this habitat. A legal agreement for the lifetime of the development (in perpetuity) will be required to secure the agreed:

- *Management, maintenance and monitoring of the PTP and the ongoing replenishment of any chemical dosing/phosphate stripping system.*
- *Management and monitoring of the wetland secondary/tertiary treatment system and final outfall quality to the local watercourse – as this system provides security of agreed NN if the PTP fails for any reason as it provides some nutrient removal in its own right.*
- *The agreed use, monitoring, management and maintenance of all areas being turned from arable to other uses to secure the agreed NN. (eg orchard area) At no time should any aspect of land within the red line development boundary be changed without the prior approval of the LPA due to potential effects on phosphate pathways so created.*

The detail of the proposed process and detail of securing the above, and an agreed and legally securable methodology to ensure this is all secured must be in place PRIOR to grant of consent to provide the required legal and scientific certainty. Any final legal agreement must be full approved and secured as a charge on the property PRIOR to any development above damp proof course level/first occupation subject to a relevant condition.

Once the legal certainty has been agreed with the LPA, approved by the council's relevant legal team/officers the final Habitat Regulation Assessment 'appropriate assessment' can be completed by the LPA Ecology team and submitted to Natural England for their formal 'approval'."

4.8 Trees Officer – No objections; conditions recommended

*"This proposal appears to offer low arboricultural impact on existing trees. The accompanying tree report identifies 3 trees in total which are to be removed which I do not object to, considering that there'll be substantial planting introduced should approval be granted. The new avenue of lime trees is welcomed, they are a naïve species which have traditionally been used for this purpose but more information is needed which my colleague has requested as a condition in their landscape comments. I do however request that small leaved limes (*Tilia cordata*) is the lime species used. In my opinion the proposal is compliant with policies LD1 & LD3 in relation to arboriculture and I support subject to conditions below:*

Conditions

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan: Udall Martain Associates - Arboricultural Survey, Impact Assessment and Method Statement for Development Purposes (BS5837: 2012) 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."

4.9 Land Drainage – Conditions recommended

"We note that the most recent update to the Surface and Foul Water Drainage Strategy, dated 7th May 2021, provides details of the phosphate calculations in line with the updated position statement. This has been provided to address the ecology concerns relating to the potential phosphate delivery to the Lugg Catchment. We defer to the Ecology team to provide their response to these updated phosphate calculations. From a land drainage perspective, our comments remain largely unchanged. However, I have noticed that our previous comments contained an error in our request for conditions. Previously we have requested a condition for a detailed foul drainage strategy, however the condition should be for a detailed foul and surface water drainage strategy, as the detailed design will be required for both elements of the drainage system, and not just for the foul system.

Given the large area of available land, we feel that an agreeable drainage strategy can be achieved at this site, from the perspective of land drainage, however we note that our comments do not take any precedence over that of ecology.”

4.10 Building Conservation Officer – No objections

“Summary: No objection is raised based on heritage as no harm has been identified to the nearby conservation area or the setting of nearby listed buildings.

Comments: The application site lies within open countryside near the small, rural settlement of Ullingswick in north-eastern Herefordshire. Mentioned in the Domesday Book of 1086 as “Ullingwic”, the settlement is characterised by dispersed, agricultural development surrounding the medieval Church of St. Luke.



Historic mapping for the area shows this character has remained relatively unaltered since the mid-C19, many of the farmsteads identified on the historic mapping are still evident today. Ullingswick is designated as a conservation area (CA) and encloses a small number of buildings surrounding the church at its core. The boundary is outline in blue above. The church dates to the C12 but was heavily restored in the 1860s. There are several listed building in the vicinity, the closest include:

- A cluster of listed buildings within the conservation area designation including the Church of St. Luke, grade II*, Upper Court grade II, Lower Court grade II, Barn E of Lower Court grade II, and Barn and Hop Kiln N of Upper Court grade II.
- Three Crowns Inn grade II, further south-east.
- Lower Hope and Adjoining Hop Kiln grade II to the west.

Due to the significant age of the settlement, it is likely that some of the surrounding buildings would be considered non-designated heritage assets based on age and local character. However a comprehensive record of non-designated assets does not yet exist for Herefordshire.

Proposal: The proposal calls for the construction of a “passivhaus” with associated outbuildings and landscaping on a site north of Sheepcotts Court. The scheme is designed to flow with the existing landscape character and be visually unobtrusive.

Impact on the conservation area: At their closest points, the CA boundary lies c. 65m east of the application site. While this seems relatively close, large sections of the site will remain open landscape and as such there is over half a kilometre between the proposed dwelling and the CA. A large dwelling, isolated like this within a designed landscape can be compared to the large estates constructed by landed gentry and aristocracy throughout history. As such a dwelling of this scale with extensive ground would not be wholly uncharacteristic. The settlement pattern of the area as existing is dispersed. The identified site for the dwelling, isolated from other development in the surrounding area, would not disrupt this existing settlement character. It is felt the proposal would not alter how the existing CA is viewed and experienced and as such no harm is identified.

Impact on settings of listed buildings: There is little inter-visibility between the proposed site of the dwelling and the cluster of listed buildings to the south east. The Church of St. Luke is closest in terms of geography, located approx. 750m south-east at its closest point to the site of the proposed dwelling. While it is possible there may be some limited views, this would not impact how the setting of the church was viewed or experienced, based on this no harm is identified. Further, no harm is identified to the settings of the other listing buildings mentioned above."

4.11 **Transportation Area Engineer – No objections**

"The local highway authority has no objection to the application. 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 and <https://www.herefordshire.gov.uk/info/200196/roads/707/highways>"

4.12 **Public Rights of Way Officer – Qualified comments**

"The new dwelling would not appear to obstruct public bridleway UW1. Any new gates across the bridleway must have written permission from the PROW Team Leader before installation".

4.13 **Environmental Health (Contaminated Land) Officer – No response**

5. **Representations**

5.1 **Ocle Pychard Group Parish Council – Objection**

"Ocle Pychard Group Parish Council wish to object to this application as it lies outside the settlement boundary within the NDP"

5.2 The remaining representations from 16 different parties object to this application, raising the following considerations:

- Dwelling would not significantly enhance immediate setting and has no architectural merit;
- Proposal would incur significant landscape harm and dominate a rural setting;
- Impact on Ullingswick Conservation Area;
- Light and noise pollution;
- Contrary to development plan;
- Site Notice protocols not followed;
- Site is not 'isolated';
- Impact on wildlife/biodiversity;
- Impacts during construction phase;
- Description of development;
- Impact on 'green belt';
- Impact on ancient woodland;
- Impact on hydrology/phosphates;
- Impact on PROW/Bridleway; and
- Inaccurate plans showing the access as private drive when it is public highway.

5.3 All consultation responses can be viewed on the Council's website using the following link:- https://www.herefordshire.gov.uk/info/200142/planning_services/planning_application_search/details?id=202412&search-term=202412

5.4 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) and the Ocle Pychard Group Neighbourhood Development Plan (Ocle Pychard Group NDP). The National Planning Policy Framework (NPPF) is a significant material consideration.
- 6.3 Policy SS1 of the CS sets out that proposals will be considered in the context of a 'presumption in favour of sustainable development', which is at the heart of national guidance contained within the NPPF at paragraph 11. Applications that accord with the policies in the CS (and, where relevant, with policies in other DPDs and NDPs) will be approved, unless material considerations indicate otherwise.
- 6.4 The Council is able to demonstrate a five-year housing land supply (6.9 years). The tilted balance set out at Paragraph 11d of the NPPF does not apply. Housing policies in the adopted CS and policies within the Ocle Pychard Group NDP can be considered up-to-date and given full weight. Hence, proposals are considered in relation to compliance with the Development Plan unless other material considerations indicate otherwise.

Location and principle of residential development

- 6.5 The application is to be considered against Paragraph 80(e) of the NPPF. Paragraph 80(e) is clear that planning decisions should avoid creating isolated homes in the countryside unless certain circumstances apply. One exception is where the design is of exceptional quality, in that the proposal:
- "- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area"
- 6.6 CS Policy RA3 supports proposals which comply with Paragraph 55 of the original NPPF (2012), which, as stated in Section 1.6 of this report, has now been superseded by paragraph 80 of the recently revised NPPF (July 2021). The Ocle Pychard Group NDP at Policy OPG2(4) acknowledges new residential development in open countryside outside the defined settlement boundaries can be supported, where this meets CS Policy RA3, to confirm the principle of development.
- 6.7 The revised NPPF has led to much discussion in terms of identifying what is 'isolated', which needs to be ascertained first, to benefit under paragraph 80. The case of *Braintree District Council v Secretary of State for Communities and Local Government; Greyread Ltd; and Granville Developments* [2017] EWHC 2743 (Admin), is a commonly referenced judgement to which the term 'isolated', should be given its ordinary meaning of far away from other places, buildings or people; remote".
- 6.8 Subsequently, the judgement in *City & Country Bramshill Ltd v Secretary of State for Housing, Communities And Local Government & Ors* [2021] EWCA Civ 320, is a very recent example concerning the meaning in the NPPF of "isolated homes in the countryside". The Court held, perhaps unsurprisingly, that the inspector had been correct to adopt the interpretation given to the predecessor to that policy by the *Braintree* decision. At [32] of *Bramshill*, the Court affirmed

that the essential conclusion in Braintree expressed at [42] was that in determining whether a particular proposal is for "isolated homes in the countryside", the decision-maker must consider *"whether [the development] would be physically isolated, in the sense of being isolated from a settlement"*.

- 6.9 Essentially, a decision maker needs to consider whether the development would be physically isolated, in the sense of being isolated from "a settlement" rather than simply isolated from "other dwellings. The questions of what is a "settlement" and whether the development would be "isolated" from a settlement, are matters of planning judgment on the facts of the particular case.
- 6.10 The proposed dwelling is 420 metres from the closest building, an outbuilding at Sheepcotts Court. A cluster of industrial buildings operated by 'Turners Farm Equipment Suppliers' is 430 metres north of the proposed dwelling. These are not viewed as a 'settlement' given the small number of buildings at each location and are in sole ownership. The nearest 'settlement' would comprise the loosely knit cluster of buildings which form the Ullingswick Conservation Area, 570 metres southeast of the proposed dwelling. In the view of officers, given these distances to a 'settlement', this site is viewed to be 'isolated' and can benefit from under paragraph 80.
- 6.11 To assess whether a proposal accords with criterion (e), this raises various questions including: Whether a proposal is truly outstanding? Whether the proposals reflect the highest standards in architecture? Would a proposal help raise standards of design more generally in rural areas? Would a proposal significantly enhance both its immediate setting? Would it be sensitive to the defining characteristics of the local area?
- 6.12 Answers to these questions will form the view as to whether this proposal fulfils paragraph 80(e), which is underpinned by how the proposed design is considered in terms of its rationale and impacts. This is dictated by a number of technical material considerations, which amount to: the design itself, landscape, biodiversity and heritage. Subsequently, it is also important to consider other technical considerations including highways, drainage, HRA, arboriculture, as well as any other technical considerations raised through consultees and third party representations. This is discussed in turn.

Design and Sustainability Measures

- 6.13 Designs submitted under paragraph 80(e) should only be achievable on the site which it is located. This application is presented following extensive pre-application advice and is the culmination of some 4 years of on-going discussions, negotiations, refinement, independent design review processes and consultations. This is extensively set out in supporting documents, namely the Design & Access Statement, prepared by the applicant's architect.
- 6.14 The proposal was, on officers' advice, submitted to MADE, an independent design review panel in March 2019, attended by Council officers'. This approach was taken to gain an independent, impartial review of the proposal, and to provide guidance and design support. Members will acknowledge the report findings, concluding they were very supportive of the proposals, and broadly supportive of the architectural concept, with a positive response received. The summary states:

"The Panel welcomed the landscape led approach being adopted for this site and considered it essential to delivering a proposal that would meet the requirements of paragraph 79. The landscape strategy overall was well considered and appropriate, notwithstanding the specific areas for further consideration raised in this report. The plan form of the dwelling was a rational response to the site but its architectural treatment was thought to be not yet fully resolved. The contrasting treatment of the two upper floors was questioned and a simpler more coherent architectural design approach was suggested. In taking this aspect forward the Panel suggested that more analysis of the local topography was required to enable a greater exploration of the views into and out of the site. The proposed dwelling if built in this location would be a prominent

addition to the local and wider landscape. This should be acknowledged with the aim of creating a positive addition in the landscape. Having said that, the Panel considered the scheme to be strong and had real potential to meet the requirements of Paragraph 79.”

- 6.15 An independent design review panel has confirmed this scheme has the potential to meet the relevant criteria of, what is now, paragraph 80 (previously 79). Paragraph 133 of the NPPF (2021) advises that local planning authorities should ensure that they have access to, and make appropriate use of the tools and processes for assessing and improving the design of development. These include design advice and, in assessing applications, they should have regard to the outcome from these processes, including recommendations made. MADE's recommendations raised many positives about the scheme. This included the architectural design, which expressed a distinctive plan form and many positive sustainable design features. It has the prospect to achieve exceptional architectural quality within a convincing landscape strategy. It was recognised that through a comprehensive understanding of both immediate and wider local contexts, a narrative is established, allowing the dwelling to become part of the landscape, sitting 'in' rather than 'on' site, merging sensitively into its setting, respecting and enhancing its environment and setting an example of truly outstanding design in a rural area. The architecture - both building and landscape - as well as ecology and energy, all work collectively as one - they are inseparable.
- 6.16 Following this assessment, further discussions between the applicants', architects and officers' have taken place. Whilst the concepts, rationale and plan organisation, which were all supported by the panel, have not changed, the courtyard arrangement, position of the dwelling and treatment of the facades have been thoroughly revised and improved considerably as a result of this review, as suggested by MADE. This has included the omission of a rooftop room, which in turn has significantly simplified the design and aided enhanced detailing.
- 6.17 The concept is a 'flowing' design, predicated on the flowing contours of site, the organic 'flowing' ancient woodland and flow of water throughout. The dwellings' solid massing at its central point gives way to a split-level form to its sides, with the second storey being set back significantly from the first. The route and curvature of the dwelling and access track follow the site's contours, siting the roof line below the ridge at the north of the site. The overall effect is a dwelling which flows into and out of the landscape and which is of the hillside rather than merely on it, despite its distinctive form. The upper level has been further revised to create a loggia type arrangement, with the façade set far back behind a stone outer layer, which will then be able to support a large roof overhang, minimising light pollution, as well as reducing any visual impact of the glazing from long distance views. Special glass has also been specified to reduce light spill and reflection further.
- 6.18 The resulting two storey stone facade with recessed areas for balconies on the upper level produces a unified design, with the arrangement of the arrival and parking courtyard also revised, simplifying it, leading to less excavation and allowing the building to be located further up site. The cars and service areas are hidden to the north, leaving clear views out to the south and decluttering them from views towards the house. Arrival on the upper level leads to upside-down living, with the main living spaces on the upper level. All spoil taken from the areas cut out (other than what is used to construct the rammed earth spine wall) will be kept on site and used to fill other areas of the site.
- 6.19 Locally sourced stone (of varying colours), render and timber will feature in the immediate vicinity of the site. This along with other slight adjustments, including provision of lots of storage has been allowed for in and adjacent to the garages around the courtyard, as well as on the lower level adjacent to the pool, reducing the need to incorporate further ancillary buildings. The main skin of the building facing south will be comprised of locally sourced stone cladding with the upper level recessed walls of vertical larch cladding and the Upper Level Central spine of rammed earth and the roof of grey derbigum olivine membrane.

- 6.20 The upper level is set back from the lower level, creating outside space on the main living level, which is to be covered to protect it from the rain, and summer overheating. Windows on the lower level will be set to the inside of the thick walls and will have secondary frames projecting out to prevent overheating from high summer sun. This has led to a two storey “skin” which wraps around the house and follows the flowing form. The edges of this “skin” extend outwards beyond the building envelope, allowing the house to flow into and out of the landscape.
- 6.21 Being south-facing, this allows the northern side of the dwelling to be semi-submerged into the slope, insulating it, with no to minimal additional glazing required. The form of the roof has been considered with a flat roof allowing for minimal impact as the building is mostly seen from below. It emphasises the horizontality of the building, minimising impact and embedding the house into the landscape. A flat roof keeps the form of the building as low as possible, meaning the building doesn’t interrupt the tree line behind and the form does not project above the skyline as a more vertical form may well do, and allows for uninterrupted appreciation of the southerly view from the area above the house.
- 6.22 The proposed dwelling will be designed to passivhaus standard, and renewable technologies are also to be incorporated to provide the relatively small amount of energy that the building requires given the energy that will be generated, in the most efficient way possible, without reliance on fossil fuels. The TESLA powerwall scalable battery system is key to this. The sophisticated battery unit has an internal inverter built in which manages the DC input from Photovoltaic Thermal (PVT) panels and manages its storage in DC batteries. The unit then converts this DC stored energy into AC to power domestic power loads from electric constables. Once the batteries are fully charged the powerwall is able to divert excess energy to the heat store.
- 6.23 The matter of storing excess heat generated during the summer for use in the winter is done through an Earth Energy Bank (EEB). Essentially, the solar Photovoltaic Thermal panels (PVT) which are proposed to be location on the roof, will generate far more heat than is needed during summer months, and this heat will be pumped into the ground under the house, via a series of boreholes filled with glycol. By insulating the perimeter of the EEB, the soil acts as a battery, storing summer heat for use during the winter for heating and hot water. PVT panels include a thermal layer (a glycol loop behind the PV cells) which actively cools the PV.
- 6.24 It is understood that what is proposed here is what officers believe will be the first ever installation of an EEB with heat pump, PVT and Ground Supercharger. The Ground Supercharger is effectively a fan coil that connects to the EEB. It injects up to 20Kw into the ground from ambient conditions with little energy cost (small pump and a fan) whenever the air temperature is greater than the ground temperature. This would be fitted near the extract ducts of the MVHR system to provide additional heat recovery. This approach, as it is understood, is the first of its kind in the UK, and is a great example of a dwelling which demonstrates how innovative use of energy generation and conservation techniques can truly minimise the need for ‘on grid’ energy.
- 6.25 The effect is the achievement of a dwelling of an individual, unique and in the view of officers, based on MADEs outcomes and subsequent amendments, an outstanding design which is carefully positioned to maximise views from the development and limit potential landscape and visual impact. This is achieved by its flowing form, appropriate material choice, extensive and robust landscaping (particularly to the foreground of views from the south). The application, in design and sustainability terms, is considered to accord with Policies SS4, SS6, SS7 and SD1 of the CS, which is consistent with Sections 2, 12 and 14 of the NPPF and Policies OPG1 and OPG13 of the Ocle Pychard Group NDP.
- 6.26 The proposed design has been recognised by an independent design review panel as having clear potential to meet this criteria, and has been refined further since. The building has a bold appearance yet is one which is a part of the landscape. It also utilises sustainable building techniques and energy generation measures, and minimises building miles through sourcing materials locally. The scheme also delivers an internal design which is both functional and highly

attractive. For these reasons, the proposals are viewed to reflect amongst the highest of architectural standards and a great prospect of a leading case study for the Council's to promote in terms of achieving sustainable building design.

Landscape

- 6.27 Inextricably linked into design is landscape. Landscape cannot be considered as an afterthought under paragraph 80(e), rather landscape is a fundamental aspect of the whole scheme in terms of design. It is considered such a proposal should be presented on the basis of the whole site and context rather than just the house, hence the red line submitted.
- 6.28 Landscape consideration, context and understanding has underpinned and influenced the proposal as a whole. The extensively detailed Landscape and Visual Appraisal (hereafter, LVA) explains the site is entirely within the Principal Timbered Farmlands Landscape Character Type, characterised by rolling lowland landscapes with occasional steep-sided hills and low escarpments. They have a small-scale, wooded, agricultural appearance and are complex - in places intimate - made up of a mosaic of small to medium-sized fields, irregularly-shaped woodlands and winding lanes. These factors all contribute to the organic character of this landscape.
- 6.29 The proposals are truly landscape-led and have been subject to the iterative design process embracing ecology and green infrastructure as well as landscape architecture, comprising an in-depth survey and analysis of surrounding landscapes and the amenity of those who use them.
- 6.30 The LVA explains how the proposal delivers a characteristic development. It sets out that, "*in this case, whilst the new dwelling would introduce new built form into a relatively sparsely-settled landscape, due to its nature it would be characteristic. Furthermore, the new house relates well with existing built form in the area, in terms of both balance and communication*". At paragraph 8.5.1, the LVA summarises that the proposals would have the following impacts on character. Effects on national landscape character would be Negligible Positive. Effects on regional landscape character would be Minor Positive. And effects on local landscape character would be between Minor and Moderate Positive.
- 6.31 The content and depth of analysis offered by the LVA demonstrates that the proposals have been clearly influenced by the local landscape character type, as required by CS Policy LD1, which is consistent with Section 15 of the NPPF, and Policies OPG1 and OPG11 of the Ocle Pychard Group NDP. The siting, layout and design has been finalised after rigorous assessment of character and following fine tuning in the wake of pre-application advice by officers and the MADE Design Review Panel's advice. The compliance with Policy LD1's requirements in respect of landscape character is underscored by net positive effects on character.
- 6.32 Regarding visual impact, officers view that the development give rise to certain beneficial effects on landscape character, and subsequently, associated visual effects would also be beneficial. However, 'subjectivity' must be considered, in and that whilst there are few objectively beneficial impacts, such as removing an eye-sore, design may be perceived as a positive or negative, depending on the viewership, hence why going through MADE has allowed for industry professionals to provide impartial input. It must also be borne in mind that, as is good practice, the applicant's Landscape Consultant has assumed a worst-case scenario in their assessment. Thus, the impacts could be far lesser in magnitude and viewed more positively.
- 6.33 The proposed landscape enhancement measures have been designed to reflect their local landscape context, and would noticeably/quantifiably improve many aspects of the existing landscape/ecological baseline situation. This is not the easiest to achieve, particularly given the land is not degraded in any way, often difficult to achieve under paragraph 80(e). MADE's recommendations welcome the 'landscape led' approach being developed for this highly sensitive

and prominent site in open countryside. The restoration of historic landscape elements was supported and confirmed that this would lead to enhancement of the local landscape. The overall landscape strategy for the site and access route is considered appropriate and based on a thorough analysis and understanding of the local topography and landscape. Enhancements are details below.

- 6.34 Analysis of old maps revealed there had originally been an orchard in the lower half of the arable field. Reinstating this is characteristic and would bring huge ecological benefits, not least for bats as traditional orchard is a national and county Priority Habitat. A Perry Pear Orchard is proposed which would also play a big part in how the site is experienced. The journey through the orchard towards the house would allow for occasional glimpses of parts of the house without divulging all of it until revealing itself at the final gateway to the meadow in which it sits. The orchard will screen the house from the Three Rivers Ride which runs along the southern boundary of it, allowing privacy, whilst maintaining stunning views out further south, looking over the trees. Furthermore, historic maps also revealed that there had been a hedge dividing the arable field in two, shown on a map from 1964 hence reinstating this is appropriate and characteristic, providing further enhancement.
- 6.35 Screening planting will be introduced along the boundary with Shepcotts Court, together with introducing an avenue of lime trees either side of the driveway through the historic parkland setting in front of Shepcotts Court. The gateway has been designed with an eye-catching approach that grabs the attention before reaching the entrance to Shepcotts Court. This gateway will use the same materials and language as the house, giving a clue of what's to come. The existing lake will be retained, improving aquatic and riparian habitats around it, and adding a boat house bat habitat. And the traditional open hay meadow setting will form the context of the new house, allowing it to be at one with and rise out of the landscape. The route of the driveway is a mechanism for curating the journey through the site and that way the house and the views are experience
- 6.36 In addition to the flowing route of the access road through the site, water flowing through the site is a key theme. The contours of site are a important driver of both design and its flowing form. The water body in the south east corner of the orchard will also serve as a focal point for the users of the Three Rivers Ride bridle path, which runs alongside. A decorative "cider mill" building is proposed, and to house Horseshoe bats. There will also be a lakeside seating area with interpretation boards, providing a public benefit to understanding the character and history of the area. Opposite the cider mill building, on the south side of the lake, a seating area welcomes users of the Three Rivers Ride. There will also be interpretation boards incorporated, which will include details of the diversity of habitats on the site and the rare and notable faunal species which are to be encouraged to use the site. This, taken together, will improve public understanding of the site.
- 6.37 The enhancements respond directly to Policies LD1 and LD3 of the CS, which is consistent with Section 15 of the NPPF, and Policies OPG1 and OPG11 of the Ocle Pychard Group NDP, insofar as they extend tree cover, protect existing trees and help assimilate the architecture into its context. The planting scheme, particularly hedgerow restoration and extensive orchard planting, represents an uplift in character, helps assimilate the architecture with its context and better reveals the significance of the architecture. There is genuine synergy between the landscaping and architecture whereby the landscaping is a fundamental part of the development. The scheme would not achieve paragraph 80(e) status, if it were not for the way in which the landscaping scheme frames the way the architecture is experienced.
- 6.38 The enhancements are a significant benefit and are of a type and extent which would be unique to this particular site. The proposals have been assessed thoroughly and robustly and have been subject of an iterative design process. The Council's senior landscape officer reports positive effects on landscape character and, necessarily assuming the worst-case scenario and factoring in subjectivity, finds visual effects which do not cause conflict with Core Strategy Policies SS6 or

LD1. Further, the significant landscape enhancements, go over and above that which might ordinarily be expected of a residential development. Members will acknowledge that the Council's senior landscape officers recommends approval of this application with conditions, which will effectively secure the implementation of all element, as well as maintenance and long-term management of all these aspects, which is necessary to secure Paragraph 80(e) status.

Biodiversity

- 6.39 The submitted Ecology Appraisal is an extended phase one habitat survey, great crested newt HSI assessment, badger survey, bat roosting potential survey, bat activity surveys and hazel dormouse check. It identifies that there are no statutory or non-statutory designations at the site but that there are two SWS within 2km of the site. The report describes the arable and grassland fields which make up the application site as of, limited botanical interest/ecological value but that their mature boundary hedgerows are of good quality and medium ecological value having good potential for faunal species.
- 6.40 The accompanying Ecological Enhancement Strategy and Management Plan explains in depth all of the measures that are being taken to ensure that this project delivers a significant net gain in biodiversity. These are summarised here:
- National and county BAP habitats are proposed to enhance the biodiversity of the site and provide opportunities for significant biodiversity gains for the project.
 - The mature hedgerows and trees on the site will be retained.
 - There are opportunities for the remaining habitats to be significantly enhanced for wildlife and nature conservation.
 - The arable field and poor semi-improved grassland fields currently provide poor potential habitat for faunal species and therefore, further habitat creation and native planting would significantly improve the land for wildlife and by providing habitat linkages and strengthening ecological networks on the site and into the countryside in the vicinity.
- 6.41 The following habitat creation is proposed: orchard planting, parkland planting, native species-rich hedgerow planting, wildlife pond creation, native species-rich wildflower meadow sowing and planting additional native trees, understorey and ground flora in the existing planted woodland. It is proposed the gaps in the existing hedgerows will be planted up with a variety of native shrubs, the ditch on the south eastern boundary of the arable field be dug out and a proportion of the vegetation removed and the two wildlife ponds in the south east corner of the owners landholding are managed for great crested newts and other wildlife.
- 6.42 Faunal species enhancements proposed comprise the following: creation of a bat void in in a proposed boat house (for Daubenton's bats *Myotis daubentonii* and other bat species) and a bat void in a proposed cider mill (for horseshoe bats *Rhinolophidae* sp.), swallow (*Hirundo rustica*) and house sparrow *Passer domesticus*) nest boxes on the above new buildings, bat box scheme, bird box scheme (including barn owl *Tyto alba* boxes) and dormouse box scheme in the planted woodland and mature hedgerows, insect boxes and hedgehog boxes in the mature hedgerows and the creation of an artificial badger sett. An interpretation board will be installed near the new cider mill building, wildlife pond and the Three Rivers Ride Trail.
- 6.43 The creation of native species-rich wildflower meadow and a wildlife pond and planting of an orchard, parkland and native species-rich hedgerows on the site provides potential habitat for a range of protected and notable faunal species including great crested newt, reptiles, badger, roosting, foraging and commuting bats, hazel dormouse, birds and a variety of invertebrates. Mature orchard fruit trees provide potential habitat for a range of invertebrates including notable beetles and moths. All five habitats proposed are Priority Habitats of conservation concern on the national and county BAPs. The additional faunal enhancements, including bat houses for rare bat species, provide further wildlife/biodiversity gains.

- 6.44 On the above basis, the proposals preserve priority species and their habitats in accordance with protective parts of Core Strategy Policy LD2 and NDP Policy OPG11. Specifically, through the extensive and integral biodiversity enhancement scheme, that will work in tandem with the approved landscaping, the proposals wholly fulfil the provisions of CS Policy LD2(2), which requires restoration and enhancement of existing biodiversity features and connectivity to wider ecological networks, LD2(3), which seeks creation of new biodiversity features and wildlife habitats and OPG11(4) which, in essence, amalgamates those two provisions.

Heritage

- 6.45 There are no listed buildings on the site, nor is the site directly affected by any other heritage designation. Nonetheless, this assessment has identified listed buildings and a conservation area within the study area. The provisions of the Planning (Listed Buildings & Conservation Areas) Act 1990 are relevant to the determination of this application and the specific impact of the development proposal on the significance of these assets is discussed herein. Under Section 66 (1), the local planning authority is required, when considering development which affects a listed building or its setting, “*to have special regard for the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*” With particular regard to Conservation Areas, Section 72 of the Act goes on to say, “*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*”.
- 6.46 Ullingswick Conservation Area is 570 metres to the south-east of the location of the proposed dwelling and 70 metres east of the closest part of the site. The Conservation Area is the historic core of the village and comprises a scattered group of farm buildings and other buildings having a distinctly rural setting. St Luke’s Church is Grade II* listed and is approximately 250 metres to the south-east of the closest part of the site, but 750 metres to the south-east of the location of the proposed dwelling. The following Grade II listed buildings are also within the study area: Barn and Hop Kiln North of Upper Court (Grade II) – 290 metres to the south-east; Upper Court (Grade II) – 310 metres to the south-east; Lower Court (Grade II) – 400 metres to the south-east; and Barn East of Lower Court (Grade II) – 420 metres to the south-east.
- 6.47 As explained in the NPP, significance also derives from the setting of heritage assets. The Framework defines setting as: “*The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*”
- 6.48 The Council’s Building Conservation officer concludes that with regards to the impact on the Conservation Area, at their closest points, the Conservation Area boundary lies c. 65m east of the application site. While this appears relatively close, large sections of the site will remain open landscape and as such there is over half a kilometre between the proposed dwelling and the Conservation Area. A dwelling of this scale with extensive ground would not be wholly uncharacteristic. The settlement pattern of the area as existing is dispersed. The identified site for the dwelling, isolated from other development in the surrounding area, would not disrupt this existing settlement character. It is felt the proposal would not alter how the existing Conservation Area is viewed and experienced and as such no harm is identified.
- 6.49 Officers concur with these conclusions. The proposals would not affect the setting, experience and significance of heritage assets. Accordingly, the scheme would conserve the setting of heritage assets through sympathetic design and appropriate landscaping in accordance with the provisions of Core Strategy LD4 and NDP Policy OPG12 (1 & 2), which is consistent with Section 16 of the NPPF. Given no harm has been identified, the scheme is considered to have a neutral impact on the historic setting of the site and there is no need to undertake the paragraph 202 test of the NPPF, and that the statutory duties of Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Transportation

- 6.50 Access arrangements propose utilising the existing access to Sheeppotts Court, via the U66005, and subsequently leave the public highway, through the formation of the gravelled access drive that winds its way through the site and up to the proposed dwelling. No objections have been raised by the highways area engineer. a 3.5m wide 'driveway with a crushed stone surface and a central grassed strip will be provided to serve the dwelling from the existing access point to the courtyard where the entrance to the dwelling, garages and parking is located. The main entrance gate will be set back from the road to allow vehicles to pull safely off the road before stopping to open the gate. A discreet call point, accessible whilst in the vehicle or indeed by foot, will link to the dwelling, to allow the occupiers to open the gate remotely. Further gates with call points linked to the dwelling are located at the entrance to the orchard and the entrance to the meadow. Manual gates suitable for use by horse riders without dismounting will be located along the Three Rivers' Ride, adjacent to the vehicular gate.
- 6.51 The proposals include garage based parking for 2 cars. Further parking is available in the courtyard and "show garage". All spaces are designed to be suitable as disabled parking bays, measuring 6.2m by 3.6m, in accordance with the overall design philosophy to create a lifetime home. 4 bicycle parking spaces are provided in the secure garage and also a charging point for the charging of plug-in and other ultra-low emission vehicles, as strived for by the NPPF, Policy SS7 of the CS and Policy OPG13 of the NDP, can be secured by written condition.
- 6.52 Whilst inevitably a new dwelling will lead to some intensification in vehicular traffic on the surrounding local highway network, it is viewed this would not result in a severe impact upon the operation of the surrounding local highway network, and as such there are no significant highways and transportation matters that should preclude the granting of planning permission. The application is in compliance with CS Policies SS4 and MT1, which is consistent with Chapter 9 of the NPPF, having particular regard for paragraph 111, as well as Policy OPG13 of the Ocle Pychard Group NDP.

Drainage

- 6.53 Drainage arrangements are set out in the revised Surface Water Management Plan and Foul Water Drainage Strategy. Existing water on the site relates to springs in the northern boundary of the field to the east of the site flow partly over and partly underground until they join the ditch on the boundary, at which point there is a constant natural flow of running water, which feeds into the watercourse that continues around the north and east of Ullingswick and off to the south. Water supply to the new property will be via a borehole. Surface water drainage will be partly into the pool to the north side of the house and partly to underground pipes, both of which will feed into the proposed pool to the south side of the house. This will feed via a rill that will flow down to a small attenuation lake in the south east corner of the meadow. This then joins the existing watercourse and flows along the hedgerow around the eastern side of the orchard field and finally into a lake in the south east corner of the orchard field, before flowing into the watercourse that continues around the north and east of Ullingswick and off to the south. Foul drainage will be collected by a dedicated, sealed and separate sewer system. Treatment will be provided via a package sewage treatment plant, feeding a drainage mound and constructed wetland. This will produce a highly treated effluent that is safe to be discharged into the small attenuation lake and subsequently to the watercourse. In terms of additional tertiary treatment, the small attenuation lake will provide further effluent treatment due to dilution effects plus expose of the flow to both sunlight and aerobic conditions.
- 6.54 Members will note that Land Drainage have reviewed the proposals. They have no objections to the application, however wish to see the detailed design of the foul and surface water drainage

strategy added as a condition should the LPA decide to grant planning permission. Given the large area of available land, they feel that an agreeable drainage strategy can be achieved at this site. The proposed drainage arrangements are considered to be acceptable in line with Policies SD3 and SD4 of the CS, which is consistent with Section 14 of the NPPF and Policies OPG1 and OPG13 of the NDP.

Habitat Regulations Assessment (HRA)

- 6.55 Paragraphs 179 – 182 of the NPPF outlines the requirement for planning policies and decision to protect and enhance biodiversity and geodiversity. Paragraph 182 clearly states: “*The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site*”. Paragraph 181 clearly confirms that Special Areas of Conservation should be given the same protection as habitats sites.
- 6.56 The application site lies within the Lugg catchment (Lugg-Little Lugg sub-catchment), which comprises part of the River Wye Special Area of Conservation (SAC); a habitat recognised under the Habitats Regulations, (The Conservation of Habitats and Species Regulations 2017 as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019’ (the ‘Habitats Regulations’)) as being of international importance for its aquatic flora and fauna. At present, levels of phosphates in the River Lugg exceed water quality objectives and it is therefore in unfavourable condition. Where a European designated site is considered to be ‘failing’ its conservation objectives there is limited scope for the approval of development which may have additional damaging effects. The competent authority (in this case the LPA) is required to consider all potential effects (either alone or in combination with other development) of a proposal upon the European site through the HRA process.
- 6.57 Planning Permission can only be granted if there is legal and scientific certainty that no unmitigated phosphate pathways exist and the HRA process can confirm ‘no adverse effect on the integrity of the River Lugg (Wye) SAC’. Natural England, the statutory nature conservation body, have advised the Council that recent case law requires effective mitigation to be demonstrated on a case by case basis whilst the River Lugg Nutrient Management Plan is reviewed to ensure greater certainty that this can provide large scale mitigation development in the area. The ‘Wealden’ case judgement also confirms that it is not just individual applications (projects) that must be considered but any potential cumulative or ‘in combination’ effects (which applies to SSSI and SAC designated sites).
- 6.58 Case law (*People over Wind and Peter Sweetman v Coillte Teoranta (Case C-323/17)*) requires the decision maker, when considering the effect that a proposal may have on such a European Site either individually or in combination with other development, to consider mitigation within an appropriate assessment rather than at screening stage. In the absence of mitigation measures and using a precautionary approach, run off from drainage associated with the development may affect the nutrient levels and therefore, the water quality of nearby watercourses. The balance of which could impact on the habitat supporting wildlife and further exacerbate the unfavourable water quality condition within the SAC. As such, there is a risk of a significant effect on the internationally important interest features of the SAC.
- 6.59 Whilst previously Natural England and the Council had considered that development that accorded with the Nutrient Management Plan (NMP) for the River Wye SAC, that aimed to reduce phosphate levels to below the target by 2027, might be acceptable, the position has changed in light of more recent caselaw (*Cooperatie Mobilisatie for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Cases C-293/17 and C-294/17)*). This decision suggests that where a designated European conservation site is failing its water quality objectives there is no, or very limited scope for the approval of development that may have additional damaging effects.

- 6.60 Advice from Natural England dated 5 August 2019 to the Council confirms that reasonable scientific doubt remains as to whether the NMP would provide appropriate mitigation. However, specifically in relation to the use of private foul water treatment systems discharging to soakaway drainage fields at some distance from watercourses, criteria are set whereby there would be sufficient scientific certainty to ensure that all phosphate pathways to the River Lugg would be mitigated, as set out in the Council's most recent position statement for development in the Lugg catchment dated April 2021. The key requirement within the Position Statement for this development is to demonstrate neutrality or benefit in relation to phosphate amounts.
- 6.61 The planned development takes existing farmland that has been used for arable farming out of production. The phosphate generated by the farmland and mitigated for by the new orchard would exceed the phosphate due to human activities associated with the new dwelling and this would lead to a net decrease of phosphate into the wider water environment. Developing the site from a arable field into a single dwelling house, utilising a combined treatment facility consisting of a package treatment work, drainage mound and a wetland, with an orchard being installed in some 2/3 of the site's area, would lead to a Phosphate reduction on an annual basis.
- 6.62 To provide legal and moreover, scientific certainty, the Council's phosphate calculator has been used to establish the principle of the supplied Nutrient Neutrality (NN) and P calculator results is all very positive, in the view of the Council's Ecologist, and there are no reasons that this would not be acceptable. A legal agreement for the lifetime of the development (in perpetuity) will be required to secure the management, maintenance and monitoring of the PTP and the ongoing replenishment of any chemical dosing/phosphate stripping system; management and monitoring of the wetland secondary/tertiary treatment system and final outfall quality to the local watercourse – as this system provides security of agreed NN if the PTP fails for any reason as it provides some nutrient removal in its own right and the agreed use, monitoring, management and maintenance of all areas being turned from arable to other uses to secure the agreed NN. (eg orchard area).
- 6.63 The detail of the proposed process and detail of securing the above, and an agreed and legally securable methodology to ensure this is all secured must be in place prior to grant of consent to provide the required legal and scientific certainty. Currently, the LPA is unable to undertake a HRA Appropriate Assessment however, the recommendation is proposed, following discussions with the applicant, that committee are content delegate these matters to officers and are content with granting planning permission. This is given that the applicant is does not wish to commit to further expenses unless a positive resolution was forthcoming. The position has been discussed with legal who are content for such an approach to be considered.

Arbicultural

- 6.64 An arbicultural survey of the site has been conducted to BS5837:2012. The survey area comprised the arable field and extended to the south where the new access track is proposed to the new dwelling from the existing access drive to Sheepcotts Court. Recommendations were made for trees which are not to be felled, but are in close proximity to the proposed development area, to ensure that these trees are not adversely affected by the development proposals. Recommendations have also been made for arbicultural works to some trees in the interest of health and safety.
- 6.65 Members will recognise the Council's Tree Officer identifies that proposal appears to offer low arbicultural impact on existing trees. The tree report identifies 3 trees in total which are to be removed, which they do not object to, considering that the substantial planting being introduced, should approval be granted. Officers view the proposal is compliant with policies LD1 & LD3 and Policies OPG1 and OPG11, in relation to arbiculture.

Other considerations

- 6.66 A bin 'presentation point' will be provided adjacent to the entrance gates for refuse collection. Outside of these times provision for storage and separation of waste and recycling will be provided within the kitchen and utility areas of the main dwelling. The main bin store will be located in the garage.

Planning Balance, Summary and Conclusions

- 6.67 The application is assessed against Policy RA3 of the CS, which is consistent with Paragraph 80(e) of the NPPF and Policy OPG2(4) of the made NDP, namely a proposed scheme, which in the view of the applicant, amounts to a design of exceptional quality. At section 6.11, officers raised a number of questions associated with paragraph 80(e), in terms of what is required to meet the benchmark. These questions are answered below.
- 6.68 The proposed dwelling has a flowing form predicated upon the topography and contours of site, putting forward a material palette and choice which accentuates the building's form, assimilating it with its natural context, including the flowing outlines of nearby ancient woodland. The building's massing at its central point gives way to a split-level form to its sides, with the second storey being set back significantly from the first. The route which the curvature of the dwelling and access track follow are based on the contours of the site. The effect is a dwelling which flows into and out of the landscape and which is of the hillside rather than on it.
- 6.69 There is extensive landscaping (particularly at the foreground of views from the south), and a consistent vegetative backdrop, ensuring the building avoids breaking the skyline when viewed from public vantage points. For these reasons, and as a result of the iterative and engaging design process, the scheme's architecture is viewed to be exemplary and demonstrably influenced by its landscape setting.
- 6.70 The dwelling is a bold, unique and attractive building which, by virtue of its exciting and vibrant design, embracing strong architectural and landscape design principles, would be a positive element in the landscape. Using two different locally-sourced stones across the building to recess the subordinate edges of the building, this will enhance the more dominant central part. Further, through adopting a landscape-led design approach, the proposal would have a positive effect on landscape character, minimise visual intrusion, and deliver significant biodiversity benefits whilst being neutral in terms of its impact on the historic environment. On this basis, the proposals are sensitive to the defining characteristics of the area and would significantly enhance the immediate setting.
- 6.71 Officers have given considerable weight to the conclusions of MADE, who considered the scheme's potential of being an outstanding design, which should be identified as being quite considerable given this has come from impartial industry professionals. Paragraph 133 of the NPPF (2021) identifies that local planning authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development. These include design advice and in assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels.
- 6.72 The public benefits that the proposal will bring include improving accessibility and understanding to an extensive network of public footpaths and can provide a shining example as to what can be truly achieved in terms of design, but also enhancing landscape, biodiversity and particularly sustainability credentials, further raising of the bar. The use of an Earth Energy Bank with GSHP, PVT and Ground Supercharger installed together will be, as officers understand, would be the first of its kind anywhere. The reinstatement of a traditional orchard, creation of a parkland setting and a hay meadow and new water bodies are also the forefront of the proposals, not merely an after-thought and truly is, a landscape-led proposal of merit.

- 6.73 A Paragraph 80 dwelling should be considered a 'landmark building', akin to our listed buildings of the future. In the view of officers, the proposals accord with the provisions of Paragraph 80(e) of the NPPF and thus the scheme constitutes an exceptional form of development which is permitted by CS Policy RA3 and, by extension, NDP Policy OPG2. The proposals cause no technical harm as has been considered and assessed throughout this report. To achieve this, and given the uniqueness of this scheme, it is advised that permitted development rights be removed.
- 6.74 The formal recommendation proposed is to grant planning permission subject to completion of a legal agreement to secure, in perpetuity, the management, monitoring and maintenance of the proposed foul drainage arrangements, wetlands and all areas being turned from arable use to other uses, to secure betterment/nutrient neutrality. This is then to allow a positive Habitat Regulations Assessment Appropriate Assessment to be undertaken. Subject to no new additional material planning considerations raised, it is felt this can be delegated to officers.

RECOMMENDATION

Subject to the completion of a legal agreement to secure, in perpetuity, the management, monitoring and maintenance of the proposed foul drainage arrangements, wetlands and all areas being turned from arable use to other uses, to secure nutrient neutrality and to allow the LPA to undertake a positive Habitat Regulations Assessment Appropriate Assessment, and subject to no new additional material planning considerations raised, that officers named in the Scheme of Delegation to Officers are authorised to grant planning permission, subject to the conditions below and any other further conditions considered necessary by officers:

- 1. C01 - Time limit for commencement (full permission)**
The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
- 2. C06 – Development in accordance with approved plans**
The development shall be carried out strictly in accordance with the approved plans, except where otherwise stipulated by conditions attached to this permission.

Reason: To ensure adherence to the approved plans in the interests of a satisfactory form of development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policies OPG1, OPG2 and OPG13 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework.
- 3. CBK (Restriction on hours during construction phase)**
During the construction phase, no machinery shall be operated, no process shall be carried out and no deliveries taken at or despatched from the site outside the following times: Monday-Saturday 7.00 am-6.00 pm nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of local residents and to comply with Policy SD1 of Herefordshire Local Plan – Core Strategy, Policy OPG13 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework.
- 4. CKP – Ecological Protection & Protected Species**
The ecological protection, mitigation, compensation and working methods scheme including recommended Biodiversity Enhancement and any required European Protected Species Licence, as recommended in the ecology report by Udall-Martin Associates Ltd

dated March 2019 shall be implemented in full as stated, and hereafter maintained, unless otherwise approved in writing by the local planning authority.

Reason: To ensure Biodiversity Net Gain as well as species and habitats enhancement having regard to the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations (2017), National Planning Policy Framework, NERC Act (2006), Herefordshire Local Plan - Core Strategy (2015) policies LD1, LD2 and LD3 and Policies OPG1 and OPG11 of the Ocle Pychard Group Neighbourhood Development Plan.

5. CNS – Non-standard condition

Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following documents and plan: Udall Martin Associates - Arboricultural Survey, Impact Assessment and Method Statement for Development Purposes (BS5837: 2012)

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, Policies OPG1 and OPG11 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework

6. CAT – Construction Management Plan

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

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

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

Reason: In the interests of highway and pedestrian safety and to conform to the requirements of Policy MT1 of Herefordshire Local Plan – Core Strategy, Policy OPG13 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework.

7. CK6 – Landscape Scheme – Implementation

No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include as a minimum:

- a) A statement setting out the design objectives and how these will be delivered;
- b) A Soil Resource Survey (SRS) and Soil Resource Plan (SRP) in accordance with the ‘Construction Code of Practice for the Sustainable Use of Soils in Construction Sites’ (DEFRA 2009);
- c) A plan showing existing and proposed finished levels or contours;
- d) A drawing detailing hard surfacing materials;
- e) Boundary treatments and means of enclosure;
- f) Vehicle/Pedestrian/Bridleway access, including surfacing materials;
- g) Trees and hedgerow to be removed;
- h) Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837:2012;
- i) All proposed planting, accompanied by a written specification setting out species, size, quantity, density and cultivation details (i.e. orchard species/root stock, wildflower mix, aquatic species, nuts and parkland trees, where applicable); and

- j) A plan detailing water attenuation schemes, to include provision of levels, sections and details of the approved hydrology systems.

Reason: To safeguard 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, Policy OPG11 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework

8. C13 – Samples of External Materials

With the exception of any site clearance and groundwork, no further development shall take place until details or samples of materials to be used externally on walls and roofs 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, Policies OPG1 and OPG13 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework.

9. CNS (Non-standard condition)

No development shall take place until a detailed design of the foul and surface water drainage strategy is submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and completed prior to first occupation of the dwelling hereby approved.

Reason: In order to ensure that satisfactory drainage arrangements are provided, to ensure that the development does not give rise to potential surface water flooding risk, to ensure no impacts on existing drainage arrangements and no ground pollution and to comply with Policies SD3 and SD4 of the Herefordshire Local Plan – Core Strategy and the National Planning Policy Framework.

10. CH8 – Joinery Works

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

- Full size or 1:2 details and sections, and 1:20 elevations of each joinery item cross referenced to the details and indexed on elevations on the approved drawings.
- Method & type of glazing.
- Colour Scheme/Surface Finish

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

Reason: To safeguard the interest and character of the approved scheme, in accordance with policies SD1 and LD1 of the Herefordshire Local Plan - Core Strategy, the National Planning Policy Framework and Policies OPG1 and OPG13 of the Ocle Pychard Group Neighbourhood Development Plan.

11. C12 – Rainwater Goods

Details of the material, sectional profile, fixings and colour scheme for Rainwater goods (to include any gutters, downpipes, hopper-heads and soil pipes) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of this element of works. The development shall be carried out in accordance with the approved details.

Reason: To safeguard the interest and character of the approved scheme, in accordance with policies SD1 and LD1 of the Herefordshire Local Plan - Core Strategy, the National Planning Policy Framework and Policies OPG1 and OPG13 of the Ocle Pychard Group Neighbourhood Development Plan.

12. CNS (Non-standard condition)

Prior to first occupation of the dwelling, written and illustrative details of the number, type/specification and location of 1 no. charging point to enable the charging of plug in and other ultralow emission vehicles (e.g. provision of cabling and outside sockets) to serve the occupants of the dwelling, shall be submitted to and approved in writing by the local planning authority. The charging point 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 and Ecology Emergency declared by Herefordshire Council, to accord with the provisions at paragraphs 107 and 112 of the National Planning Policy Framework and Policies OPG1 and OPG13 of the Ocle Pychard Group Neighbourhood Development Plan.

13. CK7 – Landscape Implementation

The hard and soft landscape works shall be carried out in accordance with the approved details pursuant to condition 7 before any part of the development is first brought into use in accordance with the agreed implementation programme. The completed scheme shall be managed and maintained in accordance with an approved scheme of management and maintenance pursuant to condition 14.

Reason: To ensure implementation according to the hard and soft landscape works plan agreed with local planning authority and in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, Policies OPG1 and OPG11 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework.

14. CK8 – Landscape Maintenance

Before the development is first brought into use, a schedule of landscape management and maintenance plans for all three landscape zones (Meadow, Orchard and Parklands) and associated landscapes (i.e. aquatic planting), shall be submitted to and approved in writing by the local planning authority. The relevant time period shall be in perpetuity in relation to soft landscaping and 10 years in relation to hard landscaping. Maintenance shall be carried out in accordance with the approved schedule.

Reason: To ensure the successful establishment of the approved scheme, local planning authority and in order to conform with policies SS6, LD1 and LD3 of the Herefordshire Local Plan - Core Strategy, Policies OPG1 and OPG11 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework.

15. CC1 – Lighting

Details of any additional external lighting proposed to illuminate the development, except as otherwise indicated in the approved plans, shall be submitted to and approved in writing by the local planning authority prior to installation. Development shall be carried out in accordance with the approved details.

Reason: To safeguard local amenities and to comply with Policies SD1 and LD1 of the Herefordshire Local Plan – Core Strategy, Policies OPG1, OPG11 and OPG13 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework.

16. **CE2 – Solar panels or other external renewable energy installations**
Within six months of any of the photovoltaic thermal panels hereby permitted becoming redundant, inoperative or permanently unused, those panels and all associated infrastructure shall be removed and re-used, recycled, the materials recovered, or be finally and safely disposed of to an appropriate licensed waste facility, in that order of preference. They shall be replaced with new photovoltaic thermal panels, within three months of their removal, unless an alternative timetable is otherwise agreed in writing with the Local Planning Authority prior to removal.

Reason: To ensure a satisfactory form of development, avoid any eyesore from redundant plant, prevent pollution, and safeguard the environment when the materials reach their end of life, in accordance with Policies SD1 and SD2 of the Herefordshire Local Plan – Core Strategy, Policy OPG13 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework

17. **C64 – Restriction on Separate Sale (Red Line)**
No part of the approved development, defined within the residential curtilage and its extent is as indicated by the location plan, as shown in drawing number 110-P-05-A dated 4 November 2020, shall be sold, leased or let separately from each other, unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of maintaining paragraph 80 status, it would be contrary to policy of the local planning authority to grant permission for a separate dwelling in this location having regard to Policy RA3 of the Herefordshire Local Plan – Core Strategy, Policy OPG2 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework, with particular reference to paragraph 80.

18. **C65 – Removal of Permitted Development Rights**
Notwithstanding the provisions of article 3(1) and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015,(or any order revoking or re-enacting that Order with or without modification), no development which would otherwise be permitted under Classes A, AA, B, C, D, E and H of Part 1 and Class A of Part 2 of Schedule 2, shall be carried out.

Reason: In order to protect the character and amenity of the locality, to allow the Local Planning Authority the opportunity to assess future development in light of the paragraph 80 status of the approved development and to comply with Policy SD1 of the Herefordshire Local Plan – Core Strategy, Policies OPG1 and OPG13 of the Ocle Pychard Group Neighbourhood Development Plan and the National Planning Policy Framework.

INFORMATIVES:

1. **IP2 (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. **I05 - No drainage to discharge to highway**
Drainage arrangements shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage or effluent from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

3. **I11 – Mud on highway**
It is an offence under Section 148 of the Highways Act 1980 to allow mud or other debris to be transmitted onto the public highway. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site or any works pertaining thereto.

4. **I10 – Access via public right of way**
Access to the site is via a public right of way and the applicant's attention is drawn to the restrictions imposed by Section 34 of the Road Traffic Act 1988 regarding the prohibition of driving motor vehicles elsewhere than on roads.

5. **I33 – Ecology General**
The attention of the applicant is drawn to the provisions of the Wildlife and Countryside Act 1981 (as amended). This gives statutory protection to a number of species and their habitats. Other animals are also protected under their own legislation. Should any protected species or their habitat be identified during the course of the development then work should cease immediately and Natural England should be informed. They can be contacted at: Block B, Government Buildings, Whittington Road, Worcester, WR5 2LQ. Tel: 0300 060 6000. The attention of the applicant is also drawn to the provisions of the Conservation of Habitats and Species Regulations 2010. In particular, European protected animal species and their breeding sites or resting places are protected under Regulation 40. It is an offence for anyone to deliberately capture, injure or kill any such animal. It is also an offence to damage or destroy a breeding or resting place of such an animal.

6. **I65 – Surface Water Drainage and Waste Disposal**
The attention of the applicant is drawn to the terms of Condition 9 above which requires measures to be undertaken that may be above the minimum standards set out in the Building Regulations Approved Document Part H Drainage and Waste Disposal.

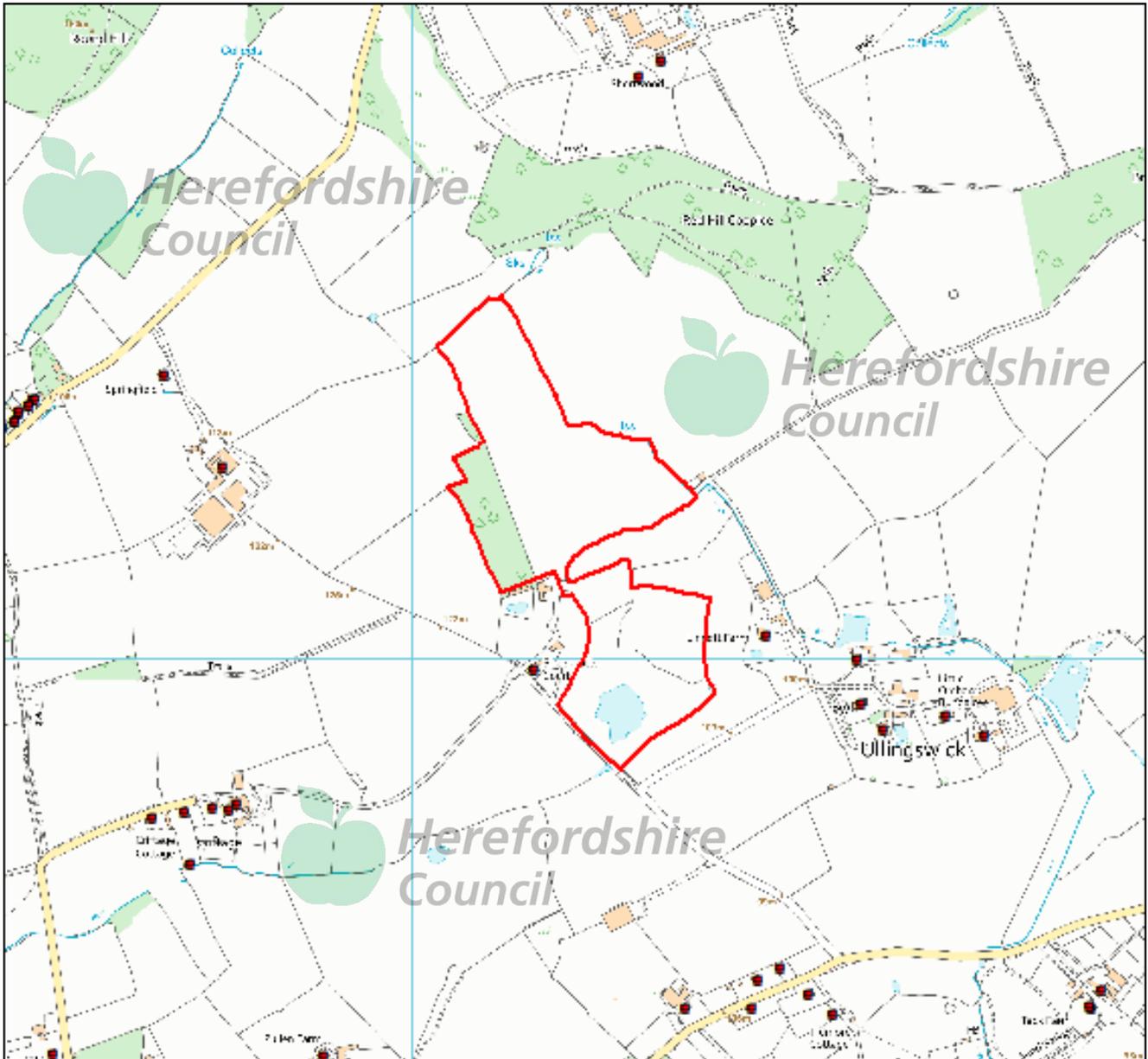
7. **INS – Non-standard informative**
The local planning authority advises the applicant that if there is a requirement to carry out works in the highway, one should see the various guidance on Herefordshire Council's website: www.herefordshire.gov.uk/directory_record/1992/street_works_licence and <https://www.herefordshire.gov.uk/info/200196/roads/707/highways>"

Decision:

Notes:

Background Papers

Internal departmental consultation replies.



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APPLICATION NO: 202412

SITE ADDRESS : FLOW HOUSE - LAND NORTH OF SHEEPCOTTS COURT, ULLINGSWICK, HEREFORDSHIRE, HR1 3JQ

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